

**THE PUNJAB TENANCY ACT, 1887**  
(Act XVI of 1887)

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*THE SCHEDULE [Repealed]*

# THE PUNJAB TENANCY ACT, 1887

(Act XVI of 1887)

[23rd September, 1887]

**An Act to amend the law relating to the tenancy of land in the Punjab.**

WHEREAS it is expedient to amend the law relating to the tenancy of land in the Punjab ;

It is hereby enacted as follows :—

## CHAPTER I

### PRELIMINARY

1. (1) This Act may be called the Punjab Tenancy Act, 1887. Title, extent and commencement.

<sup>1</sup>[(2) It extends to the whole of the Punjab] ; and

(3) It shall come into force on such day as the <sup>2</sup>[Provincial Government], by notification, appoint in this behalf.

2. [Power to make rules in anticipation of commencement.] Rep. by the Repealing and Amending Act, 1891 (XII of 1891), s. 2 (1). Definitions.

3. [Repeal.] Rep. by the Repealing and Amending Act, 1891 (XII of 1891).

4. In this Act, unless there is something repugnant in the subject or context :—

(1) “Land” means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture or for pasture, and includes the sites of buildings and other structures on such land :

<sup>3</sup>[(1-A) “Government” shall, unless the context otherwise provides, mean the Provincial Government: ]

(2) “pay”, with its grammatical variations and cognate expressions, includes, when used with reference to rent, “deliver” and “render”, with their grammatical variations and cognate expressions :

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1. Subs. by Pb Act XV of 1955.

2. Subs. by A.O., 1937, for “Local Government”.

3. Add. by W.P. Act XVI of 1957.

(3) "rent" means whatever is payable to a landlord in money, kind or service by a tenant on account of the use or occupation of land held by him; <sup>1</sup>[but it shall not include any cess, village cess or other contribution or due or any free personal service ]:

(4) "arrear of rent" means rent which remains unpaid after the date on which it becomes payable :

(5) "tenant" means a person who holds land under another person, and is or but for a special contract would be, liable to pay rent for that land to that other person : but it does not include—

(a) an inferior land-owner, or

(b) a mortgagee of the rights of a land-owner, or

(c) a person to whom a holding has been transferred, or an estate or holding has been let in farm, under the <sup>2</sup>Punjab Land Revenue Act, 1887, for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear, or

(d) a person who takes from the <sup>3</sup>[Government] a lease of unoccupied land for the purpose of sub-letting it :

(6) "landlord" means a person under whom a tenant holds land, and to whom the tenant is or but for a special contract would be, liable to pay rent for that land :

(7) "tenant" and "landlord" include the predecessors and successors-in-interest of a tenant and landlord, respectively :

(8) "tenancy" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions :

(9) "estate", "land-owner" and "holding" have the meanings respectively assigned to those words in the <sup>2</sup>Punjab Land Revenue Act, 1887 :

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1. Add. by Pb Act XVII of 1950.

2. Since rep. by Pb Land Revenue Act, 1967.

3. Subs. by W.P.A.O., 1964, for "Crown".

(10) "land revenue" means land revenue assessed under any law for the time being in force or assessable under the <sup>1</sup>Punjab Land Revenue Act, 1887, and includes—

(a) any rate imposed in respect of the increased value of land due to irrigation ; and

(b) any sum payable in respect of land, by way of quit-rent or of commutation for service, to the <sup>2</sup>[Government] or to a person to whom the <sup>2</sup>[Government] has assigned the right to receive the payment :

(11) "rates and cesses" means rates and cesses which are primarily payable by land-owners, and includes—

(a) <sup>3</sup>[ \* \* \* \* \* ]

(b) the local rate, if any, payable under the <sup>4</sup>Punjab District Boards Act, 1883, and any, fee leviable under section 33 of that Act from land-owners for the use of, or benefits derived from such works as are referred to in section 20, clauses (i) and (j) of that Act ;

(c) any annual rate chargeable on owners of lands under section 59 of the <sup>5</sup>Northern India Canal and Drainage Act, 1873 ;

(d) the zaildari and village officers' cesses ; and

(e) sums payable on account of village expenses :

<sup>6</sup>[12] "village cess" means any cess, contribution or due which is customarily leviable, from land-owners and non-land-owners alike, within an estate for the common purposes of the inhabitants thereof, and is neither a payment for the use of any private property or for personal service, nor imposed by or under any enactment for the time being in force, and does not mean any cess, contribution or due leviable, for the benefit of any individual residents or class of residents in the estate, or in relation to any property which is not meant for the common use of all the residents :

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1. Since rep. by the Pb. Land Revenue Act, 1967.

2. Subs. by W.P.A.O., 1964, for "Crown".

3. Del by Act XII of 1891.

4. Since rep. by the Basic Democracies Order, 1959.

5. Now the Canal and Drainage Act, 1873.

6. Subs. by Pb Act XVII of 1950.

*Explanation*—If any question arises whether any cess, contribution or due is or is not a village cess, the decision of the <sup>4</sup>[Board of Revenue] shall be conclusive and shall not be liable to be questioned in any Court:]

(13) "Village Officer" means a chief headman, headman or Patwari :

(14) "Revenue Officer" or "Revenue Court", in any provision of this Act, means a Revenue Officer or Revenue Court having authority under this Act to discharge the functions of a Revenue Officer or Revenue Court, as the case may be, under that provision :

(15) "Jagirdar" includes any person, other than a village servant, to whom the land revenue of any land has been assigned in whole or in part <sup>2</sup>[by the Government] or by <sup>3</sup>[a servant of the State] :

(16) "legal practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879, except a mukhtar :

(17) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the <sup>4</sup>[Provincial Government] may, by notification, appoint for any local area :

(18) "notification" means a notification published by authority of the <sup>4</sup>[Provincial Government] or <sup>5</sup>[the Board of Revenue] in the Official Gazette :

(19) "improvement" means with reference to a tenancy, any work which is suitable to the tenancy and consistent with the conditions on which it is held, by which the value of the tenancy has been and continues to be increased, and which, if not executed on the tenancy, is either executed directly for its benefit, or is, after execution made directly beneficial to it ;

*Explanation I*—It includes, among other things—

(a) the construction of wells and other works for the storage or supply of water for agricultural purposes ;

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1. Subs., for "Provincial Government", by W.P. Act XVI of 1957.
  2. Subs., for the words "by the Crown", by W.P.A.O., 1964.
  3. Subs. *ibid.*, for the words "an officer of the Crown."
  4. Subs. by A.O., 1937, for "Local Government."
  5. Ins. by W.P. Act XVI of 1957.

- (b) the construction of works for drainage and for protection against floods ;
- (c) the planting of trees, the reclaiming, enclosing, levelling and terracing of land for agricultural purposes and other works of a like nature ;
- (d) the erection of buildings required for the more convenient or profitable cultivation of a tenancy ; and
- (e) the renewal or reconstruction of any of the foregoing works, or such alterations therein, or additions thereto, as are not of the nature of mere repairs and as durably increase their value ;

But it does not include such clearances, embankments, levellings, enclosures, temporary wells and water channels as are made by tenants in the ordinary course of cultivation and without any special expenditure, or any other benefit accruing to land from the ordinary operations of husbandry ;

*Explanation II*—A work which benefits several tenancies may be deemed to be, with respect to each of them, an improvement ;

*Explanation III*—A work executed by a tenant is not an improvement if it substantially diminishes the value of any other part of his landlord's property ; and

4(20) "Muqarraridar" means any person who holds land in 2[the Attock and Rawalpindi Districts] and who, on the date of the commencement of the Punjab Tenancy (Amendment) Act, 1952, was recorded in the revenue records as muqarraridar in respect of such land or who, after the said date, was so recorded with his consent and the consent of the proprietor of such land and includes the successors-in-interest of a muqarraridar.

## CHAPTER II

### RIGHT OF OCCUPANCY

#### 5. (1) A tenant—

- (a) who at the commencement of this Act has, for more than two generations in the male line of descent through a grandfather or granduncle and for a

Tenants  
having right  
of occupancy.

1. Add. by Pb Act XI of 1925.

2. Subs. by Pb Act XXXVIII of 1975. The amendment was made effective from 2nd December, 1974.

period of not less than twenty years, been occupying land paying no rent therefor beyond the amount of the land revenue thereof and the rates and cesses for the time being chargeable thereon, or

- (b) who having owned land, and having ceased to be land-owner thereof otherwise than by forfeiture to the Government or than by any voluntary act, has, since he ceased to be land-owner, continuously occupied the land, or
- (c) who, in a village or estate in which he settled along with, or was settled by, the founder thereof as a cultivator therein, occupied land on the twenty-first day of October, 1868, and has continuously occupied the land since that date, or
- (d) who, being jagirdar of the estate or any part of the estate in which the land occupied by him is situate, has continuously occupied the land for not less than twenty years, or having been such jagirdar, occupied the land while he was jagirdar and has continuously occupied it for not less than twenty years,

has a right of occupancy in the land so occupied, unless, in the case of a tenant belonging to the class specified in clause (c), the landlord proves that the tenant was settled on land previously cleared and brought under cultivation by, or at the expense of, the founder.

(2) If a tenant proves that he has continuously occupied land for thirty years and paid no rent therefor beyond the amount of the land revenue thereof and the rates and cesses for the time being chargeable thereon, it may be presumed that he has fulfilled the conditions of clause (a) of subsection (1).

(3) The words in that clause denoting natural relationship denote also relationship by adoption, including therein the customary appointment of an heir and relationship, by the usage of a religious community.

Right of occupancy of other tenants

6. A tenant recorded in a record-of-rights sanctioned by the 1[Provincial Government], before the twenty-first day of

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1. Subs. by A.O., 1937, for "Local Government".



## CHAPTER III

## RENT

*Rents generally*

Respective  
rights of  
land-lord  
and tenant to  
produce.

12. (1) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.

(2) A tenant shall be entitled to tend, cut and harvest the produce of his tenancy in due course of husbandry without any interference on the part of his landlord.

(3) Except where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(4) Where rent is taken by division of the produce :—

- (a) the tenant shall be entitled to the exclusive possession of the whole produce until it is divided ;
- (b) the landlord shall be entitled to be present at, and take part in, the division of the produce ; and
- (c) when the produce has been divided, the landlord shall be entitled to the possession of his share thereof.

Commuta-  
tion and  
alteration  
of rent.

13. (1) Where rent is taken by any of the following methods, namely :—

- (a) by division or appraisement of the produce,
- (b) by rates fixed with reference to the nature of the crops grown,
- (c) by a rate on a recognised measure of area,
- (d) by a rent in gross on the tenancy, or
- (e) partly by one of the methods specified in clauses (a), (b) and (c) of this sub-section and partly by another or others of them,

one of those methods shall not be commuted in whole or in part into another without the consent of both landlord and tenant.

(2) In the absence of a contract or a decree or order of competent authority to the contrary, a tenant whose rent is taken by any of the methods specified in clauses (a), (b) and

(c) of sub-section (1), or by the methods specified in clause (d) of that sub-section, shall not be liable to pay for a tenancy rent at any higher amount, as the case may be, than the rate or amount payable in respect of the tenancy for the preceding agricultural year.

14. Any person in possession of land occupied without the consent of the landlord shall be liable to pay for the use or occupation of that land at the rate of rent payable in the preceding agricultural year, or, if rent was not payable in that year, at such rate as the Court may determine to be fair and equitable.

Payments for land occupied without consent of landlord.

15. When two or more persons are landlords of a tenant in respect of the same tenancy, the tenant shall not be bound to pay part of the rent of his tenancy to one of those persons and part to another.

Collection of rents of undivided property.

<sup>1</sup>[15-A. Subject to the provisions of paragraph 25 of the Land Reforms Regulation 115, the landlord and the tenant shall share the produce in the same ratio in which they used to share it on the 20th day of December, 1971.]

Rights and liabilities regarding rent and government due.

#### *Produce rent*

16. Where rent is taken by division or appraisement of the produce, if the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due division or appraisement thereof, or deals therewith in a manner contrary to established usage, the produce may be deemed to have been as the fullest crop of the same description on similar land in the neighbourhood for that harvest.

Presumption with respect to produce removed before division or appraisement.

17. If either the landlord or the tenant neglects to attend, either personally, or by agent, at the proper time for making the division or appraisement of the produce, or if there is a dispute about the division or appraisement, a revenue officer may, on the application of either party, appoint such person as he thinks fit to be a referee to divide or appraise the produce.

Appointment of referee for division or appraisement.

18. (1) When a Revenue Officer appoints referee under the last foregoing section, he may, in his discretion, give him instructions with respect to the association with himself of any

Appointment of assessors and procedure of referee.

1. Add. by Pb Act VII of 1952 and later subs. by Pb Act XXXVIII of 1975. ✓

other persons as assessors, the number, qualifications and selection of those assessors and the procedure to be followed in making the division or appraisement.

(2) The referee so appointed shall make the division or appraisement in accordance with any instructions which he may have received from the Revenue Officer under the last foregoing sub-section.

(3) Before making the division or appraisement, the referee shall give notice to the landlord and the tenant of the time and place at which the division or appraisement will be made, but if either the landlord or the tenant fails to attend either personally or by agent, the referee may proceed *ex parte*.

(4) For the purpose of making the division or appraisement, the referee, with his assessors, if any, may enter upon any land on which or into any building in which the produce is.

Procedure  
after division  
or appraise-  
ment.

19. (1) The result of the division or appraisement shall be recorded and signed by the referee, and the record shall be submitted to the Revenue Officer.

(2) The Revenue Officer shall consider the record, and, after such further inquiry, if any, as he may deem necessary, shall make an order either confirming or varying the division or appraisement.

(3) The Revenue Officer shall also make such order as to the costs of the reference as he thinks fit.

(4) The costs may include the remuneration of the referee and of the assessors, if any, and may be levied from the applicant before the appointment of the referee subject to adjustment at the close of the proceedings.

Enhancement  
of produce  
rents of  
occupancy  
tenants.

20. Where the rent of a tenant having a right of occupancy in any land is a share of the produce, or of the appraised value thereof, with or without an addition in money, or is paid according to rates fixed with reference to the nature of the crops grown, or is a rent in gross payable in kind, the tenant shall be entitled to occupy the land at that rent :

Provided that, when the land or any part thereof previously not irrigated or flooded becomes irrigated or flooded, the rent

in respect of the land or part may, subject to the provisions of this Act, be enhanced to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for irrigated or flooded land of a similar description and with similar advantages.

21. When the land, or any part of the land, held by a tenant having a right of occupancy to whom the last foregoing section applies ceases to be irrigated or flooded, the rent payable in respect of the land or part may be reduced to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for unirrigated or unflooded land of similar description and with similar advantages.

Reduction of rents referred to in the last foregoing section.

*Cash-rents paid by tenants having rights of occupancy*

22. (1) Where a tenant having a right of occupancy pays his rent entirely by a cash rate on a recognized measure of area or by a cash rent in gross on his tenancy, the rent may be enhanced on the ground that after deduction therefrom of the land revenue of, and the rates and cesses chargeable on the tenancy, it is—

Enhancement of cash rents of occupancy tenants.

- (a) if the tenant belongs to the class specified in clause (a) of sub-section (1) of section 5, less than two annas per rupee of the amount of the land revenue;
- (b) if he belongs to any of the classes specified in clauses (b), (c) and (d) of that sub-section, less than six annas per rupee of the amount of the land revenue ;
- (c) if he belongs to the class specified in section 6, or if his right of occupancy is established under section 8 and his rent is not regulated by contract, less than twelve annas per rupee of the amount of the land revenue.

(2) In a case to which sub-section (1) applies, the rent may be enhanced to an amount not exceeding two, six or twelve annas per rupee of the amount of the land revenue, as the case may be, in addition to the amount of the land revenue of the tenancy and the rates and cesses chargeable thereon.

<sup>1</sup>[(3) For the purposes of this section, a muqarraridar shall be deemed to be a tenant of the class specified in clause (a) of sub-section (1) of section 5.]

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1. Add. by Pb Act XI of 1925.

Reduction of rent referred to in the last foregoing section.

23. The rent payable by a tenant to whom the last foregoing section applies may be reduced on the ground that the productive powers of his tenancy have been decreased by a cause beyond his control.

*General provisions relating to suits for enhancement or reduction of rent*

Enhancement and reduction of rent by suit.

24. (1) A Revenue Court, on the suit of either landlord or tenant, may, subject to the provisions of this and other sections of this Act, enhance or reduce the rent of any tenant having a right of occupancy.

(2) Where a decree for the enhancement of the rent of such a tenant has been passed under the Punjab Tenancy Act, 1868, a suit for a further enhancement of his rent shall not lie till the expiration of five years from the date of the decree, unless in the meantime the local area in which the land comprised in the decree is situate has been generally reassessed and the revenue payable in respect of that land has been increased.

(3) Subject to the provisions of sub-section (2), a suit instituted for the enhancement of the rent of a tenant having a right of occupancy shall not be entertained in either of the following cases, namely :—

- (a) if within the ten years next preceding its institution his rent has been commuted under section 13 or enhanced under this section ;
- (b) if within that period a decree has been passed under this Act dismissing on the merits a suit for the enhancement of his rent ;

unless the land or some part of the land comprised in his tenancy, not having been irrigated, or flooded at the time of such commutation, enhancement or decree, has become irrigated or flooded.

[(4) For the purposes of this section a muqarraridar shall be deemed to be a tenant having a right of occupancy.]

Discretion as to extent of enhancement or reduction.

25. In enhancing or reducing the rent of any land, under the foregoing provisions of this Chapter, the Court shall, within the limits prescribed by those provisions, enhance or

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1. Add. by Pb Act XI of 1925.

reduce the rent to such an amount as it considers fair and equitable, but shall not in any case fix the rent at a sum less than the amount of the land revenue of the land and the rates and cesses chargeable thereon.

26. (1) Unless the Court decreeing an enhancement of rent otherwise directs, the enhancement shall take effect from the commencement of the agricultural year next following the date of the decree.

Time for  
enhancement  
or reduction  
to take  
effect.

(2) A Court decreeing a reduction of rent shall specify in the decree the date on and from which the reduction is to take effect.

*Adjustment of rents expressed in terms of the land-revenue.*

27. (1) Where the rent of a tenancy is the whole or a share of the land revenue thereof, with or without an addition in money, kind or service and the land revenue of the holding in which the tenancy is situate is altered, a Revenue Officer having authority under section 56 of the <sup>1</sup>Punjab Land Revenue Act, 1887, to determine the land revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situate shall determine also the amount of the land revenue of the tenancy, or the proportionate share thereof, payable by the tenant as rent.

Adjustment  
of rents ex-  
pressed in  
terms of the  
land revenue.

(2) Where an addition referred to in sub-section (1) is a percentage fixed with reference to the land revenue of the tenancy, or the whole or a share of the rates and cesses chargeable thereon, or both, the Revenue Officer shall in like manner from time to time alter the amount of the addition in proportion to any alteration of such land revenue or rates and cesses.

(3) The sum or sums determined under the foregoing sub-sections, together with any addition previously payable other than the additions referred to in sub-section (2), shall be the rent payable in respect of the tenancy until there is again an alteration of the land revenue thereof or of the rates and cesses chargeable thereon or until the rent is enhanced by a suit under this Act.

(4) An alteration of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

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1. Since rep. by the Pb. Land Revenue Act, 1967.

<sup>1</sup>(5) For the purposes of this section a muqarraridar shall be deemed to be a tenant having a right of occupancy].

<sup>1</sup>*Adjustment of rents paid by occupancy tenants in Attock District.*

Adjustment  
of rents paid  
by occup-  
ancy tenants  
in Attock  
District.

27-A. (1) Where a tenant having a right of occupancy in land in the Attock District pays wholly or partly in cash a rent not falling within the scope of section 27 and the land revenue of the holding in which the tenancy is situate is altered—

a Revenue Officer having authority under section 56 of the <sup>2</sup>Punjab Land Revenue Act, 1887, to determine the land revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situate may, by written order, and whether the rent was fixed by agreement or otherwise; and either upon the application of such tenant, or his landlord, or of his own motion increase or diminish such rent if wholly payable in cash, or such portion thereof as is payable in cash, to such extent as appears to the Revenue Officer to be proper having regard to the matters specified in sub-section (2).

(2) In increasing or diminishing the rent of a tenancy under the provisions of sub-section (1) the Revenue Officer shall, for the purpose of deciding the extent of such increase or diminution, take into consideration only—

- (i) the land revenue of, and the rates and cesses chargeable on, the tenancy before the land revenue of the holding in which it is situated was altered ;
- (ii) the land revenue of, and the rates and cesses chargeable on, the tenancy after such alteration ; and
- (iii) the methods by which the assessments of the land revenue in force before and after such alteration were calculated and distributed over the several holdings comprised in the estate in which the tenancy is situated.

(3) The rent determined as aforesaid shall be the rent payable in respect of the tenancy until there is again an alteration of the land revenue thereof or of the rates or cesses chargeable thereon, or until the rent is enhanced or reduced by a suit under this Act.

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1. Ins. by Pb Act XI of 1925.

2. Since rep. by the Pb Land Revenue Act, 1967.

(4) For the purposes of this section a muqarraridar shall be deemed to be a tenant having a right of occupancy.

(5) An alteration of rent under this section shall not be deemed as an enhancement or reduction of rent within the meaning of this Act.]

*Alteration of rent on alteration of area*

28. (1) Every tenant shall—

Alteration  
of rent on  
alteration of  
area.

(a) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to his tenancy of land which, having previously belonged to the tenancy, was lost by diluvion or otherwise without any reduction of the rent being made ; and

(b) be entitled to an abatement of rent in respect of any deficiency proved to exist in the area of his tenancy as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenancy by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(2) In determining the area for which rent has been previously paid, the Court shall have regard to the following, among other matters, namely:—

(a) the origin and conditions of the tenant's occupancy, for instance whether the rent was a rent in gross or the entire tenancy ;

(b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord ; and

(c) the length of time during which there has been no dispute as to rent or area.

(3) In adding to or abating rent under this section, the Court shall add to or abate the rent to such an amount as it deems to be fair and equitable, and shall specify in its decree the date on and from which the addition or abatement is to take effect.



(4) An addition to or abatement of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

#### *Remission*

Remission of rent by Courts decreeing arrears.

29. Notwithstanding anything in the foregoing sections of this Chapter, if it appears to a Court making a decree for an arrear of rent that the area of a tenancy has been so diminished by diluvion or otherwise, or that the produce thereof has been so diminished by drought, hail, deposit of sand or other like calamity, that the full amount of rent payable by the tenant cannot be equitably decreed, the Court may, with the previous sanction of the Collector, allow such remission from the rent payable by the tenant as may appear to it to be just.

Remission and suspension of rent consequent on like treatment of land revenue.

30. 1[(1) Whenever the payment of the whole or any part of the land revenue payable in respect of any land is remitted or suspended, a Revenue Officer may, if the rent be payable in cash or be rent payable in kind of which the amount is fixed, by order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land revenue of which payment has been remitted or suspended bears to the whole land revenue payable in respect of land :

Provided that in the case of an occupancy tenant, whose rent is of the nature hereinbefore in this sub-section described, the remission or suspension of the land revenue payable in respect of the land shall, in the absence of a written order by a Revenue Officer to the contrary carry with it a proportionate remission or suspension, as the case may be, of his rent.

When the payment of the rent of any kind has been suspended under this clause it shall remain under suspension until the Collector orders the revenue of that land to be realized.]

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) A suit shall not lie for the recovery of any rent of which the payment has been remitted or during the period of suspension, of any rent of which the payment has been suspended.

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1. Suba. by Pb Act I of 1906.

(4) Where the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent.

1[(5) If the landlord collects from a tenant any rent of which the payment has been remitted, or is under suspension, the Revenue Officer may recover from the landlord the amount or value of the rent so collected, and may also recover by way of penalty a further sum not exceeding such amount or value, and may cause to be refunded to the tenant the amount or value of the rent so collected from him.]

(6) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, so far as they can be made applicable, to land of which the land revenue has been released, compounded for or redeemed in any case in which if the land revenue in respect of the land had not been released, compounded for, or redeemed, the whole or any part of it might, in the opinion of the Revenue Officer, be remitted or suspended under the rules for the time being in force for regulating the remission and suspension of land revenue.

2[(7) Any sum of which the recovery is ordered under subsection (5) on account of rent or penalty may be recovered by the Collector as if it were an arrear of land revenue.]

#### Deposits

31. In either of the following cases, namely :—

- (a) when a landlord refuses to receive or grant a receipt for, any rent payable in money when tendered to him by a tenant ;
- (b) when a tenant is in doubt as to the person entitled to receive rent payable in money,

Power to deposit rent in certain cases with Revenue Officer

the tenant may apply to a Revenue Officer for leave to deposit the rent in his office, and the Revenue Officer shall receive the deposit, if, after examining the applicant, he is satisfied that there is sufficient ground for the application and if the applicant pays the fee, if any, chargeable for the issue of the notice next hereinafter referred to.

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1. Subs. by Act I of 1906.  
2. Add. *ibid.*

Effect of  
depositing  
rent.

32. (1) When a deposit has been so received it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

(2) The Revenue Officer receiving the deposit shall give notice of the receipt thereof to every person who, he has reason to believe, claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled thereto, or may, if he thinks fit, retain the deposit pending the decision of a competent Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the <sup>1</sup>[Government], or against <sup>2</sup>[any servant of the State], in respect of anything done by a Revenue Officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue Officer.

*Recovery of rent from attached produce*

Recovery of  
rent from  
attached  
produce.

33. (1) If an order is made by any Court for the attachment of the produce of a tenancy, or of any part of a tenancy, the landlord may apply to the Revenue Officer by whom the attachment is to be or has been made to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

(a) any rent which has fallen due to him in respect of the tenancy within the year immediately preceding the application, and

(b) the rent which will be falling due after the harvesting of the produce and is chargeable against it.

(2) The Revenue Officer shall give the person at whose instance the attachment was made an opportunity of showing cause why the application of the landlord should not be granted, and, if he finds the landlord's claim to the whole or any part of the rent to be proved, he shall cause the produce or such portion thereof as he may deem necessary to be sold, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(3) The finding of the Revenue Officer under sub-section (2) shall have the force of a decree in a suit between the landlord and the tenant.

1. Subs. by W.P.A.O. 1964, for "Crown."

2. Subs. *ibid*, for "any officer of the Crown."

*Leases for period exceeding term of assessment of land revenue*

34. (1) Where a lease has been granted, or an agreement has been entered into, by a land-owner in respect of any land assessed to land revenue fixing for a period exceeding the term for which the land revenue has been assessed, the rent or other sum payable in respect of the land under the lease or agreement, and that term has expired, the lease or agreement shall be voidable—

Treatment of leases for period exceeding or equal to term of assessment of land revenue.

- (a) at the option of the land-owner if the land revenue of the land has been enhanced and the person to whom the lease has been granted or with whom the agreement has been entered into refuses to pay such rent or other sum, as a Revenue Court, on the suit of the land-owner determines to be fair and equitable [or a Revenue Officer under the provisions of section 27-A has determined to be proper] ; and

where the relation of landlord and tenant exists between the grantor and grantee of the lease or between the persons who entered into the agreement—

- (b) at the option of the tenant if the land revenue of the land has been reduced and the landlord refuses to accept such rent as a Revenue Court, on the suit of the tenant, determines to be fair and equitable [or a Revenue Officer under the provisions of section 27-A has determined to be proper.]

(2) Any agreement relative to the occupation, rent, profits or produce of any land which has been entered into for the term of the currency of an assessment shall, unless a contrary intention clearly appears in the agreement or the agreement is terminated by consent of parties or course of law, continue in force until a revised assessment takes effect.

## CHAPTER IV

## RELINQUISHMENT, ABANDONMENT AND EJECTMENT

*Relinquishment*

35. A tenant holding for a fixed term under a contract or a decree or order of competent authority may relinquish his tenancy without notice at the end of that term.

Relinquishment by tenant for a fixed term.

Relinquish-  
ment by any  
other tenant.

36. (1) Any other tenant may relinquish his tenancy by giving verbally or in writing to his landlord, or to his landlord's agent, on or before the fifteenth day of January in any year, notice of his intention to relinquish the tenancy at the end of the agricultural year then current.

(2) The tenant may, instead of or in addition to, giving the notice in the manner mentioned in sub-section (1), apply to a Revenue Officer on or before the date aforesaid to cause the notice to be served on the landlord and the Revenue Officer on receiving the cost of service from the tenant, shall cause the notice to be served as soon as may be.

(3) If the tenant does not give notice in the manner prescribed in this section, he shall be liable to pay the rent of his tenancy for any part of the ensuing agricultural year during which the tenancy is not let by the landlord to some other person or is not cultivated by the landlord himself.

Relinquish-  
ment of part  
only of a  
tenancy.

37. A tenant cannot, without the consent of his landlord, relinquish a part only of his tenancy.

#### *Abandonment*

Abandon-  
ment of ten-  
ancy by  
occupancy  
tenant.

38. (1) If a tenant having a right of occupancy fails for more than one year without sufficient cause to cultivate his tenancy, either by himself or some other person, and to arrange for payment of the rent thereof as it falls due, the right of occupancy shall be extinguished from the end of that year.

<sup>1</sup>[(2) For the purposes of this section, a muqarraridar shall be deemed to be a tenant having a right of occupancy.]

#### *Liability to ejectment*

Grounds of  
ejectment of  
occupancy  
tenant.

39. (1) A tenant having a right of occupancy shall be liable to be ejected from his tenancy on any of the following grounds, namely :—

(a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it ;

(b) where rent is payable in kind, that he has without sufficient cause failed to cultivate that in the manner or to the extent customary in the locality in which the land is situate ;

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1. Add. by Pb Act XI of 1925.

- (c) when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied.

4(2) For the purposes of this section a muqarraridar shall be deemed to be tenant having a right of occupancy.]

40. A tenant not having a right of occupancy but holding for a fixed term under a contract or a decree or order of competent authority, shall be liable to be ejected from his tenancy at the expiration of that term, and, on any of the following grounds, before the expiration thereof, namely :—

Grounds of  
ejectment of  
tenant for a  
fixed term.

- (a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it ;
- (b) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;
- (c) on any ground which would justify ejectment under the contract, decree or order.

41. A tenant who has not a right of occupancy, and does not hold for a fixed term under a contract or a decree or order of competent authority, may be ejected at the end of any agricultural year.

Ejectment of  
tenant from  
year to year.

#### *Procedure on ejectment*

42. A tenant shall not be ejected otherwise than in execution of a decree for ejectment, except in the following cases, namely :—

Restriction  
on ejectment.

- (a) when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied ;
- (b) when the tenant has not a right of occupancy and does not hold for a fixed term under a contract or a decree or order of competent authority.

43. In any such case as is mentioned in clause (a) or clause (b) of the last foregoing section, the landlord may apply to a Revenue Officer for the ejectment of the tenant in the case

Application  
to Revenue  
Officer for  
ejectment.

mentioned in the former clause or for the service on the tenant of a notice of ejectment in the case mentioned in the latter clause.

Ejectment  
for failure to  
satisfy  
decree for  
arrear of  
rent.

44. (1) On receiving the application in any such case as is mentioned in clause (a) of section 42, the Revenue Officer shall, after such inquiry with respect to the existence of the arrear as he deems necessary, cause a notice to be served on the tenant, stating the date of the decree and the amount due thereunder, and informing him that if he does not pay that amount to the Revenue Officer within fifteen days from receipt of the notice he will be ejected from the land.

(2) If the amount is not so paid the Revenue Officer shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant unless good cause is shown to the contrary.

Ejectment of  
tenant from  
year to year  
by notice.

45. (1) On receiving the application of the landlord in any such case as is mentioned in clause (b) of section 42, the Revenue Officer shall, if the application is in order and not open to objection on the face of it, cause a notice of ejectment to be served on the tenant.

(2) A notice under sub-section (1) shall not be served after the fifteenth day of November in any [agricultural] year.

(3) The notice shall specify the name of the landlord on whose application it is issued, and describe the land to which it relates, and shall inform the tenant that he must vacate the land before the first day of May next following, or that, if he intends to contest his liability to ejectment, he must institute a suit for this purpose in a Revenue Court within two months from the date of the service of the notice.

(4) The notice shall also inform the tenant that if he does not intend to contest his liability to be ejected and he has any claim for compensation on ejectment, he should within two months from the date of the service of the notice prefer his claim to the Revenue Officer having authority under the next following sub-section to order his ejectment in the circumstances described in that sub-section.

(5) If within two months from the date of the service of the notice the tenant does not institute a suit to contest his liability to be ejected, a Revenue Officer, on the application

of the landlord, shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant :

Provided that the Revenue Officer shall not make the order until he is satisfied that the notice was duly served on the tenant.

(6) If within those two months the tenant institutes a suit to contest his liability to be ejected and fails in the suit, the Court by which the suit is determined shall by its decree direct the ejectment of the tenant.

46. The <sup>1</sup>[Board of Revenue] may make rules prescribing—

Power to make rules.

(a) the form and language of applications and notices under the two last foregoing sections ; and

(b) the manner in which those applications and notices are to be signed and attested.

*General provisions respecting ejectment*

47. A decree or order for the ejectment of a tenant shall not be executed at any other time than between the first day of May and the fifteenth day of June (both days inclusive), unless the Court making the decree or where the order is made under section 44, the officer making the order, otherwise directs.

Time for ejectment.

48. (1) If in a suit for the ejectment of a tenant on either of the grounds mentioned in clauses (a) and (b) of section 39 or of section 40 it appears to the Court that injury caused by the act or omission on which the suit is based is capable of being remedied, or that an award of compensation will be sufficient satisfaction to the landlord therefor, the Court may, instead of making a decree for the ejectment of the tenant, order him to remedy the injury within a period to be fixed in the order, or order him to pay into Court, within such a period, such compensation as the Court thinks fit.

Relief against forfeiture.

(2) The Court may from time to time, for special reasons, extend a period fixed by it under sub-section (1).

(3) If within the period, or extended period, as the case may be, fixed by the Court under this section, the injury is remedied or the compensation is paid, a decree for the ejectment of the tenant shall not be made.

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1. Subs. by W. P. Act XVI of 1957, for "Financial Commissioner."



Rights of  
ejected  
tenants in  
respect of  
crops and  
land prepar-  
ed for sow-  
ing.

49. (1) Where at the time of the proposed ejectment of a tenant from any land, his uncut or ungathered crops are standing on any part thereof, he shall not be ejected from that part until the crops have ripened and he has been allowed a reasonable time to harvest them.

(2) The Court or Revenue Officer decreeing or ordering the ejectment of the tenant may, on the application of the landlord, determine any dispute arising in consequence of the provisions of sub-section (1) between the landlord and tenant or between the landlord and any person entitled to harvest the crops of the tenant, and may in its or his discretion—

(a) direct that the tenant pays for the longer occupation of the land secured to him under sub-section (1) such rent as may be fair and equitable, or

(b) determine the value of the tenant's uncut and ungathered crops, and, on payment thereof by the landlord to the Court or Revenue Officer, forthwith eject the tenant.

(3) When a tenant for whose ejectment proceedings have been taken has, conformably with local usage, prepared for sowing any land comprised in his tenancy, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord before ejectment a fair equivalent in money for the labour and capital expended by him in so preparing the land, and the Court or Revenue Officer before which or whom the proceedings are pending shall, on the application of the tenant, determine the sum payable to the tenant under this sub-section and stay his ejectment until that sum has been paid to him.

#### *Relief for wrongful dispossession*

Relief of  
wrongful  
dispossession  
or ejectment.

50. In either of the following cases, namely:—

(a) if a tenant has been dispossessed without his consent of his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of an order under section 44 or section 45,

(b) if a tenant who, not having instituted a suit under section 45, has been ejected from his tenancy or any part thereof in pursuance of an order under that section denies his liability to be ejected,

the tenant may, within one year from the date of his dispossession or ejectment, institute a suit for recovery of possession or occupancy, or for compensation or for both.

<sup>1</sup>[50-A. No person whose ejectment has been ordered by a Revenue Court under section 45, sub-section (6), or whose suit has been dismissed under section 50, may institute a suit in a Civil Court to contest his liability to ejectment, or to recover possession or occupancy rights, or to recover compensation.]

Bar to civil suits.

51. Possession of a tenancy or of any land comprised in a tenancy shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant dispossessed thereof.

Bar of relief by suit under section 9, Act I of 1877.

*Power to vary dates prescribed by this Chapter*

52. (1) The <sup>2</sup>[Provincial Government] may, for all or any of the territories under its administration, by notification, fix for the purposes of sections 36, 46 and 47, or of any of those sections, any other dates instead of those specified therein.

Power of Provincial Government to fix dates for certain purposes.

(2) A notification under this section shall not take effect till after the expiration of six months from the date of the publication thereof.

## CHAPTER V

### ALIENATION OF, AND SUCCESSION TO, RIGHT OF OCCUPANCY

#### *Alienation*

<sup>3</sup>[52-A. The provisions of this Chapter shall not apply to muqarraridars.]

Provisions of Chapter V not to apply to muqarraridars.

53. (1) A tenant having right of occupancy under section 5 may transfer that right by sale, gift or mortgage, subject to the conditions mentioned in the section.

Private transfer of right of occupancy under section 5 by tenant.

(2) If he intends to transfer the right by sale, gift, mortgage by conditional sale or usufructuary mortgage, he shall cause notice of his intention to be served on his landlord through a Revenue Officer, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is served.

1. Ins. by Pb Act V of 1929.
2. Subs., for "Local Government", by A.O., 1937.
3. Ins. by Pb Act XI 1925.

(3) Within that period of one month the landlord may claim to purchase the right at such value as a Revenue Officer may, on application made to him in this behalf, fix.

(4) When the application to the Revenue Officer is to fix the value of a right of occupancy which is already mortgaged, he shall fix the value of the right as if it were not mortgaged.

(5) The landlord shall be deemed to have purchased the right if he pays the value to the Revenue Officer within such time as that officer appoints.

(6) On the value being so paid, the right of occupancy shall be extinct, and the Revenue Officer shall, on the application of the landlord, put the landlord in possession of the tenancy.

(7) If the right of occupancy was already mortgaged, the tenancy shall pass to the landlord unencumbered by the mortgage, but the mortgage-debt shall be a charge on the purchase money.

(8) If there is no such charge as aforesaid the Revenue Officer shall, subject to any directions which he may receive from any Court, pay the purchase-money to the tenant.

(9) If there is such a charge the Revenue Officer shall, subject as aforesaid either apply in discharge of the mortgage-debt so much of the purchase-money as is required for that purpose and pay the balance, if any, to the tenant, or retain the purchase-money pending the decision of a Civil Court as to the person or persons entitled thereto.

(10) Where there are several landlords of a tenancy, any one of them may be deemed to be the landlord for the purposes of this section.

(11) No suit or other proceeding shall be instituted against the <sup>1</sup>[Government] or against <sup>2</sup>any servant of the State, in respect of anything done by a Revenue Officer under the two last foregoing sub-sections, but nothing in this sub-section shall prevent any person entitled to receive the whole or any part of the purchase-money from recovering it from a person to whom it has been paid by a Revenue Officer.

1. Subs. by W.P.A.O. 1964, for "Crown."

2. Subs. *ibid*, for "any servant of Crown."

54. Where a mortgagee of a right of occupancy under section 5 proposes to foreclose his mortgage, or otherwise enforce his lien on the land subject to the right, the provisions of the last foregoing section shall, so far as they can be made applicable, apply as if the mortgagee were the tenant.

Procedure on foreclosure of mortgage of right of occupancy under section 5.

55. (1) A right of occupancy under section 5 may be sold in execution of a decree or order of a Court.

Sale of right of occupancy under section 5 in execution of decree.

(2) But notice of an intended sale of any such right shall be given by the Court to the landlord, and, if at any time before the close of the day on which the sale takes place the landlord pays to the Court or to the officer conducting the sale a deposit of twenty-five per centum on the highest bid made at the sale, he shall be declared to be the purchaser instead of the person who made that bid.

56. A right of occupancy under any other section than section 5 shall not be attached or sold in execution of a decree or order of any Court or, without the previous consent in writing of the landlord, be transferred by private contract.

Transfer of right of occupancy under any other section than section 5.

57. When a right of occupancy has been transferred by sale, gift or usufructuary mortgage to a person other than the landlord, that person shall, in respect of the land in which the right subsists, have the same rights, and be subject to the same liabilities as the tenant to whom before the transfer of the right had belonged, and was subject to.

Rights and liabilities of transferee of right of occupancy.

58. (1) A tenant having a right of occupancy in land may, subject to the provisions of this Act and to the conditions of any written contract between him and his landlord, sublet the land or any part thereof for any term not exceeding seven years.

Sub-letting.

(2) A person to whom land is sublet by a tenant having a right of occupancy therein shall, in respect of that land, and so far as regards the landlord be jointly with the tenant, subject to all the liabilities of the tenant under this Act.

58-A. (1) Any tenant with a right of occupancy may, with the consent of his landlord, transfer his land to all the members of a Co-operative Society for the consolidation of holdings of which both he and his landlord are members and obtain from them any other land in exchange.

Transfer of right of occupancy under any section of the Act by exchange.

(2) Notwithstanding anything contained in this Act or any other enactment in force, any land obtained in exchange in pursuance of the provisions of sub-section (1) shall be deemed to be subject to the same right of occupancy as the land given for it in exchange.]

### Succession

Succession to  
right of  
occupancy.

[59. (1) When a Muslim tenant having a right of occupancy in any land dies, the right shall devolve on his heirs in accordance with the provisions of the Muslim Personal Law (Shariat) :

Provided that when the occupancy rights are held by a female as a limited owner under Customary Law, succession shall open out on the termination of her limited interest to all persons who would have been entitled to inherit the property at the time of the death of the last full owner had the Muslim Personal Law (Shariat) been applicable at the time of such death, and in the event of the death of any of such persons before the termination of the limited interest mentioned above, succession shall devolve on his heirs and successors existing at the time of the termination of the limited interest of the female as if the aforesaid such person had died at the termination of the limited interest of the female and had been governed by the Muslim Personal Law (Shariat) :

Provided further that the share which the female limited owner would have inherited had the Muslim Personal Law (Shariat) been applicable at the time of the death of the last full owner shall devolve on her if she loses her limited interest in the property on account of her marriage or remarriage and on her heirs under the Muslim Personal Law (Shariat) if her limited interest terminates because of her death.

(2) When a non-Muslim tenant having a right of occupancy dies, the right shall devolve—

(a) on his male lineal descendants, if any, in the male line of descent ; and

(b) failing such descendants, on his widow, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom ; and

- (c) failing such descendants and widow or his widowed mother, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom ; and
- (d) failing such descendants and widow, or widowed mother or if the deceased tenant left a widow or widowed mother, then when her interest terminates under clause (b) or (c) of this sub-section, on his male collateral relatives in the male line of descent from the common ancestor of the deceased tenant and those relatives :

Provided with respect to clause (b) of this sub-section, that the common ancestor occupied the land.

*Explanation*—For the purpose of clause (d), land obtained in exchange by the deceased tenant or any of his predecessors-in-interest in pursuance of the provisions of sub-section (1) of section 58-A shall be deemed to have been occupied by the common ancestor if the land given for it in exchange was occupied by him.

(3) As among descendants and collateral relatives claiming under sub-section (2) the right shall subject to the provisions of that sub-section, devolve as if it were land left by the deceased in the village in which the land subject to the right is situate.

(4) When the widow of a deceased tenant succeeds to a right of occupancy under sub-section (2), she shall not transfer the right by sale, gift or mortgage or by sub-lease for a term exceeding one year.

(5) If a deceased tenant has left no person on whom his right of occupancy may devolve under sub-section (1) or sub-section (2), as the case may be, the right shall be extinguished.]

#### *Irregular transfers*

60. Any transfer made of a right of occupancy in contravention of the foregoing provisions of this Chapter shall be voidable at the instance of the landlord.

Irregular  
transfer of  
right of  
occupancy

## [CHAPTER V-A]

2[*Succession to Non-occupancy Tenancies*]

Succession to  
non-occu-  
pancy tenan-  
cies.

1[60-A. (1) Where a tenant, not being a tenant of land reserved by the landlord for personal cultivation under any law for the time being in force, not having a right of occupancy and not holding land for any fixed term under a contract or a decree or order of a competent authority dies, the tenancy shall, notwithstanding anything to the contrary in any law for the time being in force, devolve on his preferred heir, if any, and failing such preferred heir on his eldest male child.

*Explanation*—A preferred heir means any male child named in writing by the deceased tenant as such.

(2) If the deceased tenant has left no such persons as are mentioned in sub-section (1) on whom the right of tenancy may devolve under that sub-section, the right shall be extinguished.]

## CHAPTER VI

## IMPROVEMENTS AND COMPENSATION

*Improvement by landlords*

Improve-  
ments by  
landlords  
on tenancies  
of occup-  
ancy tenants.

61. (1) Without the previous permission of the Collector, a landlord shall not make an improvement on the tenancy of a tenant having a right of occupancy.

(2) If a landlord desires to make such an improvement, he may apply to the Collector for permission to make it, and the Collector shall, before making an order on the application, hear the objection, if any, of the tenant.

(3) In making an order on an application under sub-section (2) the Collector shall be guided by such rules, if any, as the 3[Provincial Government] may 4[\* \* \* \* \*] make in this behalf.

Enhancement  
of rent in  
consideration  
of an im-  
provement  
made by a  
landlord on  
the tenancy  
of an occup-  
ancy tenant.

62. (1) When a landlord has, with the permission mentioned in the last foregoing section, made an improvement on the tenancy of a tenant having a right of occupancy, he may apply to the Collector for an enhancement of the rent of the tenant.

1. Ins. by Pb Act VII of 1952.

2. Ins. by Pb Act XV of 1955.

3. Subs. by A.O., 1937, for "Local Government."

4. The words "with the previous sanction of the Governor General in Council were Rep. by Act IV of 1914

(2) If the tenant is a tenant to whom section 20 applies, the Collector shall enhance his rent to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for land of a similar description and with similar advantages.

(3) If the tenant is a tenant to whom section 22 applies, the Collector shall enhance his rent to such amount as the tenant would be liable to pay under that section if the land revenue were reassessed.

(4) When the improvement ceases to exist, the Collector may, on the application of the tenant, reduce the tenant's rent—

(a) in the case of a tenant to whom sub-section (2) applies, to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy for land of a similar description and with similar advantages ; and

(b) in the case of a tenant to whom sub-section (3) applies, to such an amount as the tenant would be liable to pay if the land revenue were re-assessed.

(5) Sections 25 and 26 shall be construed as applying to an application, under this section, and a suit shall not lie in any Court for any purpose for which an application might be made under this section.

#### *Improvements by tenants*

63. A tenant having a right of occupancy is entitled to make improvements on his tenancy.

Title of occupancy tenant to make improvements.

64. (1) A tenant not having a right of occupancy may make improvements on his tenancy with the assent of his landlord.

Title of tenants not having right of occupancy to make improvements.

(2) If at any time the question arises whether or not the landlord assented to the making of an improvement by a tenant not having a right of occupancy, the assent may be inferred from circumstances.

65. Improvements made by a tenant before the commencement of this Act shall be deemed to have been made in accord-

Improvements made



before commencement of this Act.

ance with this Act, unless in the case of a tenant not having a right of occupancy it is shown that the improvement was made in contravention of a written agreement between him and his landlord.

Improvements begun to anticipation of ejectment.

66. A tenant ejected in execution of a decree, or in pursuance of a notice of ejectment, shall not be entitled to compensation for any improvement begun by him after the institution of the suit, or service of the notice, which resulted in his ejectment.

Tender of lease for twenty years to tenant to be a bar to right to compensation.

67. If a landlord tenders to a tenant lease of his tenancy for a term of not less than twenty years from the date of the tender at the rent then paid by the tenant or of such other rent as may be agreed on, the tender, if accepted by the tenant, shall bar any claim by him to compensation in respect of improvement previously made on the tenancy.

Liability to pay compensation for improvements to tenants on ejectment or on enhancement of his rent.

68. Subject to the foregoing provision of this Chapter, a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvement.

#### *Compensation for disturbance of clearing tenants*

Compensation for disturbance of clearing tenants.

69. (1) A tenant who has cleared and brought under cultivation waste land in which he has not a right of occupancy shall, if ejected from that land, be entitled to receive from the landlord as compensation for disturbance, in addition to any compensation for improvements, a sum to be determined by Revenue Court or Revenue Officer in accordance with the merits of the case, but not exceeding five years' rent of the land :

Provided that a tenant who is a joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejectment from the land or any part thereof.

(2) If rent has been paid for the land by division or appraisement of the produce or by rates fixed with reference to the nature of the crops grown, or if no rent, or no rent other than the land revenue of the land and the rates and cesses chargeable thereon, has been paid therefor, the compensation may be computed as if double the amount of the land revenue of the land were the annual rent thereof :

[Provided that in any estate of which the assessment has been confirmed on or after the twenty second day of February, 1929, the compensation may be computed as if four times the amount of the land revenue of the land were the annual rent thereof.]

*Procedure in determining compensation*

70. (1) In every suit by a tenant to contest his liability to ejectment or by a landlord to eject tenant or to enhance his rent, the Court shall direct the tenant to file a statement of his claim, if any, to compensation for improvement or for disturbance and of the grounds thereof.

Determina-  
tion of com-  
pensation by  
Revenue  
Court.

(2) If the Court decrees the ejectment of the tenant or the enhancement of his rent, it shall determine the amount of compensation, if any, due to the tenant, and shall stay execution of the decree until the landlord pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant.

71. In either of the following cases, namely :—

- (a) when a notice has been served on a tenant under section 44,
- (b) when a notice of ejectment has been served on a tenant under section 45 and the tenant has not instituted a suit to contest his liability to be ejected,

Determina-  
tion of com-  
pensation by  
Revenue  
Officers.

the tenant may apply to the Revenue Officer having authority to order his ejectment under section 44 or section 45, as the case may be, to determine the amount of compensation due to him for improvements or for disturbance, or for both, and the Revenue Officer shall determine the amount, if any, accordingly and stay the ejectment of the tenant until the landlord pays to the Revenue Officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue Officer to be due to the landlord from the tenant.

72. In estimating the compensation to be awarded under this Chapter to a tenant for an improvement, the Court or Revenue Officer shall have regard to—

- (a) the amount by which the value or the produce of the tenancy, or the value of that produce is increased by the improvement ;

Matters to  
be regarded  
in assess-  
ment of com-  
pensation for  
improve-  
ments.

- (b) the condition of the improvement and the probable duration of its effect ;
- (c) the labour and capital required for the making of such an improvement ;
- (d) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement ; and
- (e) in the case of reclamation, or of the conversion of unirrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement.

Form of compensation.

73. (1) The compensation shall be made by payment in money, unless the parties agree that it be made in whole or in part by the grant of a beneficial lease of land or in some other way.

(2) If the parties so agree, the Court or Revenue Officer shall make an order accordingly.

*Relief in case of ejectment before determination of compensation*

Relief in case of ejectment before determination of compensation.

74. (1) If from any cause the amount of compensation payable to a tenant—

(a) under this Chapter for improvements or disturbance, or

(b) under section 49 of the value of uncut or ungathered crops or the preparation of land for sowing,

has not been determined before the tenant is ejected, the ejectment shall not be invalidated by reason of the omission, but the Court or Revenue Officer which decreed or who ordered the ejectment may, on application made by the tenant within one year from the date of ejectment, correct the omission by making in favour of the tenant an order for the payment to him by the landlord of such compensation as the Court or Officer may determine the tenant to be entitled to.

(2) An order made under sub-section (1) may be executed in the same manner as a decree for money may be executed by a Revenue Court.

## CHAPTER VII

## JURISDICTION AND PROCEDURE

*Jurisdiction*

75. (1) There shall be the same classes of Revenue Officers under this Act as under the <sup>1</sup>Punjab Land Revenue Act, 1887, and, in the absence of any order of the <sup>2</sup>[Provincial Government] to the contrary, a Revenue Officer of any class having jurisdiction within any local limits under that Act shall be a Revenue Officer of the same class having jurisdiction within the same local limits under this Act.

Revenue  
Officers.

(2) The expressions "Collector" and <sup>3</sup>[Board of Revenue] have the same meaning in this Act as in the <sup>1</sup>Punjab Land Revenue Act, 1887.

76. (1) The following applications and proceedings shall be disposed of by Revenue Officers as such, and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had :

Applications  
and proceed-  
ings cogniz-  
able by  
Revenue  
Officers.

## FIRST GROUP

(a) proceedings under section 27 for the adjustment of rents expressed in terms of the land revenue ;

<sup>4</sup>[(aa) proceedings under section 27-A for the adjustment of rents of occupancy tenants in the Attock District;]

(b) proceedings relating to the remission and suspension of rent under section 30 ;

(c) applications under section 43 for the ejectment of a tenant against whom a decree for an arrear of rent in respect of his tenancy has been passed and remains unsatisfied ;

(d) applications under section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected but has claimed compensation under section 71 ;

(e) applications under section 53 or section 54 for the fixing of the value of a right of occupancy;

1. Rep. by the Punjab Land Revenue Act, 1967.

2. Subs. by A.O., 1937, for "Local Government."

3. Subs. by W. P. Act XVI of 1957, for "Financial Commissioner."

4. Ins. by Pb Act XI of 1925.

(f) applications under section 53 or section 54 by landlords for possession of land, the right of occupancy in which has become extinct ;

(g) proceedings under Chapter VI with respect to the award of compensation for improvements or disturbance ;

#### SECOND GROUP

(h) applications under section 17 with respect to the division or appraisement of produce ;

(i) application under section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected and has not claimed compensation under section 71 ;

(j) applications for the determination—

(i) under section 49 of the rent payable for land occupied by crops uncut or ungathered at the time of an order made for the ejectment of a tenant, or

(ii) under section 49 or section 74 of the value of such crops, or of the sum payable to the tenant for labour and capital expended by him in preparing land for sowing ;

#### THIRD GROUP

(k) applications under section 31 by tenants to deposit rent ;

(l) applications under section 36 for service of notice of relinquishment ;

(m) applications under section 43 for service of notice of ejectment ;

(n) applications under section 53 or section 54 for service of notice of intended transfer, or of intended foreclosure or other enforcement of lien.

(2) Except as otherwise provided by any rule made by the [Board of Revenue] in this behalf—

(a) a Collector or an Assistant Collector of the first grade may dispose of any of the applications and proceedings mentioned in sub-section (1) ;

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1. Subs. by W.P. Act XVI of 1957, for "Financial Commissioner."

- (b) an Assistant Collector of the second grade, not being Naib-Tehsildar, may dispose of any of the applications mentioned in the second and third groups of that sub-section ; and
- (c) a Naib-Tehsildar, when invested with the powers of an Assistant Collector of the second grade, may dispose of any of the applications mentioned in the third group of that sub-section.

77. (1) When a Revenue Officer is exercising jurisdiction with respect to any such suit as is described in sub-section (3), or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court.

Revenue Courts and suits cognizable by them.

(2) There shall be the same classes of Revenue Courts as of Revenue Officers under this Act, and, in the absence of any order of the <sup>1</sup>[Provincial Government] to the contrary, a Revenue Officer of any class having jurisdiction within any local limits under this Act shall be a Revenue Court of the same class having jurisdiction within the same local limits.

(3) The following suits shall be instituted in, and heard and determined by, Revenue Courts, and no other Court shall take cognizance of any dispute or matter with respect to which any such suit might be instituted :

<sup>2</sup>[Provided that—

- (1) where in a suit cognizable by and instituted in a Civil Court it becomes necessary to decide any matter which can under this sub-section be heard and determined only by a Revenue Court, the Civil Court shall endorse upon the plaint the nature of the matter for decision and the particulars required by Order VII, Rule 10, Civil Procedure Code, and return the plaint for presentation to the Collector ;
- (2) on the plaint being presented to the Collector, the Collector shall proceed to hear and determine the suit where the value thereof exceeds <sup>3</sup>[rupees ten thousand] or the matter involved is of the nature mentioned in section 77(3), First Group, of the Punjab Tenancy Act, 1887, and in other case may send the suit to an Assistant Collector of the first Grade for decision.]

Procedure where revenue matter is raised in a Civil Court.

1. Subs. by A.O., 1937, for "Local Government."

2. Add. by Pb Act III of 1912.

3. Subs., for "Rs. 1,000", by Pb Ord. IX of 1980.

**FIRST GROUP**

- (a) suits between landlord and tenant for enhancement or reduction of rent under section 24 ;
- (b) suits between landlord and tenant for addition to or abatement of rent under section 28 or for commutation of rent ;
- (c) suits under section 34 for the determination of rent or other sum on the expiration of the term of an assessment of land revenue <sup>1</sup>[and suits relating to the rent to be paid under a mortgage made in accordance with form (c) as prescribed by section 6 of the Punjab Alienation of Land Act, 1900] ;

**SECOND GROUP**

- (d) suits by a tenant to establish a claim to a right of occupancy, or by a landlord to prove that a tenant has not such a right ;
- (e) suits by a landlord to eject a tenant ;
- (f) suits by a tenant under section 45 to contest liability to ejectment, when notice of ejectment has been served ;
- (g) suits by a tenant under section 50 for recovery of possession or occupancy, or for compensation, or for both ;
- (h) suits by a landlord to set aside a transfer made of a right of occupancy, or to dispossess a person to whom such a transfer has been made, or for both purposes ;
- (i) any other suit between landlord and tenant arising out of the lease or conditions on which a tenancy is held ;
- (j) suits for sums payable on account of village cesses or village expenses ;
- (k) suits by a co-sharer in an estate or holding for a share of the profits thereof or for a settlement of accounts ;

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1. Add. by Pb Act XIII of 1900.

(l) suits for the recovery of over-payments of rent or land-revenue or of any other demand for which a suit lies in a Revenue Court under this sub-section;

(m) suits relating to the emoluments of kanungos, zaildars, inamdars or village officers ;

### THIRD GROUP

(n) suits by a landlord for arrears of rent or the money equivalent of rent, or for sums recoverable under section 14 ;

(o) suits by a land-owner to recover moneys claimed as due for the enjoyment of rights in or over land or in water, including rights of irrigation, rights over fisheries, rights of pasturage and forest rights ;

(p) suits for sums payable on account of land-revenue or of any other demand recoverable as an arrear of land-revenue under any enactment for the time being in force, and by a superior land-owner for other sums due to him as such.

(4) Except as otherwise provided by any rule made by the <sup>1</sup>[Board of Revenue] in this behalf—

(a) a Collector may hear and determine any of the suits mentioned in sub-section (3) ;

(b) an Assistant Collector of the first grade may hear and determine any of the suits mentioned in the second and third groups of that sub-section, and, if he has by name been specially empowered in this behalf by the <sup>2</sup>[Provincial Government], any of the suits mentioned in the first group ; and

(c) an Assistant Collector of the second grade may hear and determine any of the suits mentioned in the third group.

<sup>3</sup>(5) The limitation for suits mentioned in sub-section (3) (Third Group), clause (n), shall be one year from the day the rent or money equivalent to rent or sums recoverable become due.]

1. Subs. by W.P. Act XVI of 1957, for "Financial Commissioner".

2. Subs. by A.O., 1937, for "Local Government."

3. Add. by Pb Act IV of 1977.



*Administrative control*

Superintendence and control of Revenue Officers and Revenue Courts.

78. (1) The general superintendence and control over all 1[\* \* \*] Revenue Officers and Revenue Courts shall be vested in, and all such officers and Courts shall be subordinate to the 2[Board of Revenue].

(2) Subject to the general superintendence and control of the 2[Board of Revenue], a Commissioner shall control all other Revenue Officers and Revenue Courts in his division.

(3) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue Officers and Revenue Courts in his district.

Power to distribute business and withdraw and transfer cases.

79. (1) The 2[Board of Revenue] or a Commissioner or Collector may by written order distribute, in such manner as 3[it or he thinks fit], any business cognizable by any Revenue Officer or Revenue Court under his control.

(2) The 2[Board of Revenue] or a Commissioner or Collector may withdraw any case pending before any Revenue Officer or Revenue Court under 3[its or his] control, and either dispose of it 3[itself or himself] or by written order refer it for disposal to any other Revenue Officer or Revenue Court under 3[its or his] control.

(3) An order under sub-section (1) or sub-section (2) shall not empower any Revenue Officer or Revenue Court to exercise any powers or deal with any business which he or it would not be competent to exercise or deal with within the local limits of his or its own jurisdiction.

*Appeal, Review And Revision*

Appeals.

80. 4[(1)] Subject to the provisions of this Act and the rules thereunder, an appeal shall lie from an original or appellate order or decree made under this Act by a Revenue Officer or Revenue Court, as follows, namely :—

(a) to the Collector when the order or decree is made by an Assistant Collector of either grade ;

1. The word "other", del. by W.P. Act XVI of 1957.

2. Subs. *ibid.*, for "Financial Commissioner."

3. Subs. *ibid.*

4. Ins. by W.P. Ord. XXXIV of 1965.

(b) to the Commissioner when the order or decree is made by a Collector ;

(c) to the <sup>1</sup>[Board of Revenue only on a point of law] when the order or decree is made by a Commissioner :

Provided that—

(i) an appeal from an order or decree made by an Assistant Collector of the first grade specially empowered by name in that behalf by the <sup>2</sup>[Provincial Government] in a suit mentioned in the first group of sub-section (3) of section 77, shall lie to the Commissioner and not to the Collector ;

(ii) when an original order or decree is confirmed on first appeal, a further appeal shall not lie ;

(iii) when any such order or decree is modified or reversed on appeal by the Collector, the order or decree made by the Commissioner on further appeal, if any, to him shall be final.

<sup>3</sup>[(2) An order shall not be confirmed, modified or reversed in appeal unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of or against the order appealed from.]

81. The period of limitation for an appeal under the last foregoing section shall run from the date of the order of decree appealed against, and shall be as follows, that is to say—

Limitation  
for appeals.

(a) when the appeal lies to the Collector—thirty days ;

(b) when the appeal lies to the Commissioner—sixty days ;

(c) when the appeal lies to the <sup>1</sup>[Board of Revenue]—ninety days.

82. (1) A Revenue Officer, as such, may either of his own motion or on the application of any party interested,

Review by  
Revenue  
Officers.

1. Subs. by W.P. Act XVI of 1937, for "Financial Commissioner."

2. Subs. by A.O., 1937, for "Local Government."

3. Add. by W.P. Ord. XXXIV of 1965.

review, and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessors-in-office :

Provided as follows :—

<sup>1</sup>[(a) an order passed by his predecessor-in-office shall not be reviewed by the—

(i) Commissioner without first obtaining the sanction of the Board of Revenue,

(ii) Collector without first obtaining the sanction of the Commissioner;

and no order shall be reviewed by any other Revenue Officer without first obtaining the sanction of the Revenue Officer to whose control he is immediately subject] ;

(b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue Officer that he had sufficient cause for not making the application within that period ;

(c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order ;

(d) an order against which an appeal has been preferred shall not be reviewed.

(2) For the purposes of this section the Collector shall be deemed to be the successor-in-office of any Revenue Officer of a lower class who has left the district or has ceased to exercise powers as a Revenue Officer, and whom there is no successor-in-office.

(3) An appeal shall not lie from an order refusing to review, or confirming on review, a previous order.

Computation  
of periods  
limited for  
appeals and  
applications  
for review.

83. In the computation of the period for an appeal from, or an application for the review of, an order under this Act, the limitation therefor shall be governed by the <sup>2</sup>Indian Limitation Act, 1877.

1. Subs. by W.P. Act XVI of 1957.

2. Now the Limitation Act, 1908.

84. (1) The <sup>1</sup>[Board of Revenue] may at any time call for the record of any case pending before, or disposed of by any Revenue Officer or Revenue Court subordinate to <sup>2</sup>[it].

Power to call for, examine and revise proceedings of Revenue Officers and Revenue Courts.

(2) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue Officer or Revenue Court under his control.

(3) If in any case in which a <sup>3</sup>[\* \* \* \*] Collector has called for a record he is of opinion that the proceedings taken or the order or decree made should be modified or reversed, he shall submit the record with his opinion on the case for the orders of the <sup>4</sup>[Commissioner].

<sup>4</sup>[(4) If, after examining a record called for under sub-section (1), or sub-section (2) or submitted under sub-section (3), the Board of Revenue or the Commissioner, as the case may be, is of the opinion that it is expedient to interfere with the proceedings or the order or decree, it or he, as the case may be, shall pass an order accordingly.]

<sup>5</sup>[(5) If, after examining the record, the <sup>1</sup>[Board of Revenue] is of opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the <sup>3</sup>[High Court] in the exercise of the revisional jurisdiction may under the law for the time being in force interfere with the proceedings or an order or decree of a Civil Court, <sup>6</sup>[it] shall fix a day for hearing the case, and may, on that or any subsequent day to which <sup>6</sup>[it] may adjourn the hearing or which <sup>6</sup>[it] may appoint in this behalf, pass such order as <sup>6</sup>[it] thinks fit in the case.]

(6) Except when the <sup>1</sup>[Board of Revenue] fixes under sub-section (5) a day for hearing the case, no party has any right to be heard before the <sup>1</sup>[Board of Revenue] when exercising <sup>7</sup>[its] powers under this section.

#### Procedure

85. (1) The <sup>2</sup>[Provincial Government] may make <sup>3</sup>rules consistent with this Act for regulating the procedure of Revenue Officers under this Act in cases in which a procedure is not prescribed by this Act.

Procedure of Revenue Officers.

1. Subs. by W.P. Act XVI of 1957, for "Financial Commissioner."

2. Subs. *ibid.*, for "him."

3. The words, "Commissioner or" del. *ibid.*

4. Subs. *ibid.*

5. Subs. by Act XVII of 1919, for "Chief Court."

6. Subs. by W.P. Act XVI of 1957, for "he."

7. Subs. *ibid.*, for "his."

8. Subs. by A.O., 1937, for "Local Government."

9. For rules under section 85 (1). See Notification No. 77, Pb Gazette (Extraordinary), dated, 1-3-1888, page 79.

(2) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of, immovable property, and rules providing for those may confer on a Revenue Officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(3) The rules may also provide for the mode of executing orders as to costs, and may adapt to proceedings under this Act all or any of the provisions of the <sup>1</sup>Punjab Land Revenue Act, 1887, with respect to arbitration.

(4) Subject to the rules under this section a Revenue Officer may refer any case which he is empowered to dispose of under this Act to another Revenue Officer for investigation and report, and may decide the case upon the report.

Persons by whom appearances may be made before Revenue Officers as such and not as Revenue Courts.

**86.** (1) Appearances before a Revenue Officer as such, and applications to and acts to be done before him, under this Act may be made or done—

(a) by the parties themselves, or

(b) by their recognized agents or a legal practitioner :

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

(2) For the purpose of sub-section (1), recognized agents shall be such persons as the <sup>2</sup>[Provincial Government] may by notification declare in this behalf.

(3) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue Officer under this Act, unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

Costs.

**87.** (1) A Revenue Officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit.

(2) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

<sup>1</sup> Rep. by the Pb Land Revenue Act, 1967.

<sup>2</sup> Subs. by A.O., 1937, for "Local Government."

88. (1) The <sup>1</sup>[Provincial Government] may <sup>2</sup>\* \* \* make rules consistent with this Act for regulating the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed thereby, and by any such rules direct that any provisions of the Code of Civil Procedure shall apply, with or without modification to all or any classes of cases before those Courts.

Procedure  
of Revenue  
Courts.

(2) Until rules are made under sub-section (1) and subject to those rules when made and to the provisions of this Act—

(a) the Code of Civil Procedure shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree; and

(b) the <sup>3</sup>[Board of Revenue] shall, in respect of those proceedings, be deemed to be the High Court within the meaning of that Code, and shall, subject to the provisions of this Act, exercise, as regards the Courts under <sup>4</sup>[its] control, all the powers of a High Court under the Code.

89. (1) A Revenue Officer or Revenue Court may summon any person whose attendance he or it considers necessary for the purpose of any application, suit or other business before him or it as a Revenue Officer or Revenue Court.

Power of  
Revenue  
Officer or  
Revenue  
Court to  
summon  
persons.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or if the summons so allows, by his recognized agent or a legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue Officer or Revenue Court may require.

1. Subs. by A.O., 1937, for "Local Government."

2. The words "with the previous sanction of the Governor-General in Council", del. by Act IV of 1914.

3. Subs. by W.P. Act XVI of 1957, for "Financial Commissioner."

4. Subs., *ibid.*, for "his".

Mode of  
service of  
summons.

90. (1) A summons issued by a Revenue Officer or Revenue Court shall, if practicable be served (a) personally on the person to whom it is addressed, or failing him on (b) his recognized agents, or (c) an adult male member of his family who is residing with him.

(2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue Officer is employed or the Revenue Court is held, and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue Officer or Revenue Court so directs, be served by delivery of a copy thereof to such of those persons as the officer or Court nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(4) A summons may, if the Revenue Officer or Revenue Court so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Part III of the <sup>1</sup>Indian Post Office Act, 1886.

(5) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the Officer or Court may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

Mode of  
service of  
notice, or  
order or pro-  
clamation or  
copy thereof.

91. A notice, order or proclamation, or copy of any such document, issued by a Revenue Officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Additional  
mode of  
publishing  
proclama-  
tion.

92. When a proclamation relating to any land is issued by a Revenue Officer or Revenue Court, it shall, in addition to any other mode of publication which may be prescribed by

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1. Now the Post Office Act, 1898.

any enactment for the time being in force, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

93. (1) Any number of tenants cultivating in the same estate, may in the discretion of the Revenue Officer or Revenue Court and subject to any rules which the <sup>1</sup>[Provincial Government] may make in this behalf, be made parties to any proceeding under Chapter III.

Joinder of tenants as parties to proceeding relating to rent.

(2) But a decree or order shall not be made in any such proceedings unless the Revenue Officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard.

(3) A decree or order made in any such proceeding shall specify the extent to which each of the tenants is affected thereby.

94. Nothing in section 424 of the Code of Civil Procedure, or in section 36 of <sup>2</sup>the Punjab Municipal Act, 1884, shall be construed to apply to a suit of a class mentioned in section 77 of this Act.

Exception of suits under this Act from operation of certain enactments.

95. (1) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded by it, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

Payment into Court of money admitted to be due to a third person.

(2) Where such a payment is made the Court shall forthwith cause notice of the payment to be served on the third person.

(3) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment of the money, it shall be paid to the plaintiff on his application to the Court therefor.

<sup>1</sup>Subs. by A. O., 1937, for "Local Government."

<sup>2</sup>Rep. by Pb Act III of 1911, which Act was rep. by Ordinance X of 1960. The 1960 Ordinance was repealed by the Punjab Local Government Act, 1975, which has since been repealed by the Punjab Local Government Ordinance, 1979.



(4) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under subsection (3).

(5) When a defendant pays money into Court under this section, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

Execution of  
decree for  
arrear of  
rent.

96. A Court passing a decree for an arrear of rent may, on the oral application of the decree-holder, order execution thereof against the movable property of the tenant, and against any uncut or ungathered crops on the tenancy in respect of which the arrear is decreed.

Prohibition  
of imprison-  
ment of  
tenants in  
execution of  
decrees for  
rent.

97. A tenant shall not, during the continuance of his occupancy, be liable to imprisonment on the application of his landlord in execution of a decree for an arrear of rent.

Power to  
refer party  
to Civil  
Court.

98. (1) If, in any proceeding pending before a Revenue Court exercising original, appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject, require by order in writing, any party to the proceeding to institute, within such time as it may fix in this behalf, a suit in the Civil Court for the purpose of obtaining a decision on the question, and, if he fails to comply with the requisition, may decide the question as it think fit.

(2) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of first instance or appeal, as the case may be.

Power to  
refer to High  
Court ques-  
tions as to  
jurisdiction.

99. (1) If the Presiding Officer of a Civil or Revenue Court in which a suit has been instituted doubts whether he is precluded from taking cognizance of the suit, he may refer the matter through the <sup>1</sup>[District Judge] or Commissioner, or, if he is a <sup>1</sup>[District Judge] or Commissioner, directly to the <sup>2</sup>[High Court].

1. Subs. by Act VI of 1918, for "Divisional Judge."

2. Subs. by Act XVII of 1919, for "Chief Court."

(2) On any such reference being made, the <sup>1</sup>[High Court] may order the presiding officer either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

(3) The order of the <sup>1</sup>[High Court] on any such reference shall be conclusive as against persons who are not parties to the suit as well as against persons who are parties thereto.

100. In either of the following cases, namely :—

(a) if it appears to a Civil Court that a Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, or

(b) if it appears to a Revenue Court, that a Court under its control has determined a suit which should have been heard by a Civil Court,

the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the <sup>1</sup>[High Court].

Power of High Court to validate proceedings held under mistake as to jurisdiction.

(2) If on perusal of the record it appears to the <sup>1</sup>[High Court] that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the <sup>1</sup>[High Court] may order that the decree be registered in the Court which had jurisdiction.

(3) If it appears to the <sup>1</sup>[High Court] otherwise than on submission of a record under sub-section (1), that a Civil Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, the <sup>1</sup>[High Court] may pass any order which it might have passed if the record had been submitted to it under that sub-section.

(4) With respect to any proceeding subsequent to decree, the <sup>1</sup>[High Court] may make such order for its registration in a Revenue Court or Civil Court as in the circumstances appears to be just and proper.

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1. Subs. by Act XVII of 1919, for "Chief Court."

(5) An order of the <sup>1</sup>[High Court] under this section shall be conclusive as against persons who were not parties to the suit or proceeding as well as against persons who were parties thereto, and the decree or proceeding to which the order relates shall have effect as if it had been made or had by the Court in which the order has required it to be registered.

(6) The provisions of this section shall apply to any suit instituted on or after the first day of November, 1884, and to proceedings arising out of any such suit.

#### Miscellaneous

Place of sitting.

101. (1) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed.

(2) Any other Revenue Officer or Revenue Court may only exercise his or its powers under this Act within the local limits of his or its jurisdiction.

Holidays.

102. (1) The <sup>2</sup>[Board of Revenue], with the approval of the <sup>3</sup>[Provincial Government], shall publish in the <sup>4</sup>[Official Gazette] before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue Officers and Revenue Courts.

(2) A proceeding held before a Revenue Officer or Revenue Court on a day specified in the list as a day to be observed by the Officer or Court as a holiday shall not be invalid by reason only of its having been held on that day.

Discharge of duties of Collector dying or being disabled.

103. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the <sup>3</sup>[Provincial Government] in this behalf, shall be deemed to be a Collector under this Act.

Retention of powers by Revenue Officer on transfer.

104. When a Revenue Officer of any class who, either as such or as a Revenue Court, has under the foregoing provisions of this Act any powers to be exercised in any local area is transferred from that local area to another as a Revenue Officer or Revenue Court of the same or a higher class, he shall continue to exercise those powers in that other local area unless

1. Subs. by Act XVII of 1919, for "Chief Court."

2. Subs. by W. P. Act XVI of 1957, for "Financial Commissioner."

3. Subs. by A.O., 1937, for "Local Government."

4. Subs. *ibid*, for "local official Gazette."

the <sup>1</sup>[Provincial Government] otherwise directs or has otherwise directed.

105. (1) The <sup>1</sup>[Provincial Government] may by notification confer on any person—

Conferment  
of powers  
of Revenue  
Officer or  
Revenue  
Court.

(a) all or any of the powers of <sup>2</sup>[Board of Revenue], Commissioner or Collector under this Act, or

(b) all or any of the powers with which an Assistant Collector of either grade is, or may be, invested thereunder,

and may by notification withdraw any powers so conferred.

(2) A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits and in such classes of cases as the <sup>1</sup>[Provincial Government] may direct, and except as otherwise directed by the <sup>1</sup>[Provincial Government], shall for all purposes connected with the exercise whereof be deemed <sup>2</sup>[Board of Revenue], Commissioner, Collector or Assistant Collector, as the case may be.

(3) Before conferring powers on the Judge of a Civil Court under sub-section (1), the <sup>1</sup>[Provincial Government] shall consult the <sup>3</sup>[High Court.]

(4) If any of the powers of a Collector under section 78, section 79, section 80 or section 82 are conferred on an Assistant Collector, they shall, unless the <sup>1</sup>[Provincial Government] by special order otherwise directs, be exercised by him subject to the control of the Collector.

106. (1) The <sup>2</sup>[Board of Revenue] may, in addition to the other rules which may be made by <sup>4</sup>[it] under this Act, make rules consistent with this Act and other enactment for the time being in force,—

Power of  
Board of  
Revenue to  
make rules.

(a) determining, notwithstanding anything in any record-of-rights, the number and amount of the instalments and the times by and at which rent is to be paid ;

(b) for the guidance of Revenue Officers in determining, for the purposes of this Act, the amount of the land revenue of any land ;

1. Subs. by A.O., 1937, for "Local Government."

2. Subs. by W. P. Act XVI of 1957, for "Financial Commissioner."

3. Subs. by Act XVII of 1919, for "Chief Court."

4. Subs. by W.P. Act XVI of 1957, for "him."

- (c) prescribing for all or any of the territories to which this Act extends, the periods during which in proceedings held under this Act, a Revenue Officer or Revenue Court is not, except for reasons of urgency to be recorded, to issue any process of arrest against a tenant or against a land-owner who cultivates his own land ;
  - (d) regulating the procedure in cases where persons are entitled to inspect records of Revenue Officers or Revenue Courts, or to obtain copies of the same, and prescribing the fees payable for searches and copies ;
  - (e) prescribing forms for such books, entries, statistics and accounts as the <sup>1</sup>[Board of Revenue] thinks necessary to be kept, made or compiled in Revenue Offices or Revenue Courts or submitted to any authority ;
  - (f) declaring what shall be the language of any of those Offices and Courts, and determining in what cases persons practising in those Offices and Courts shall be permitted to address the Presiding Officers thereof in English ; and
  - (g) generally for the guidance of Revenue Officers and other persons in matters connected with the enforcement of this Act.
- (2) Until rules are made under clause (a) of sub-section (1), rent shall be payable by the instalments and at the times by and at which it is now payable.
- (3) Rules made by the <sup>1</sup>[Board of Revenue] under this or any other section of this Act shall <sup>2</sup>[be made subject to the control of] the <sup>3</sup>[Provincial Government].

Rules to be made after previous publication.

107. The power to make any rules under this Act is subject <sup>4</sup>[\* \* \*] to the condition of the rules being made after previous publication.

Powers exercisable by Board of Revenue from time to time.

108. All powers conferred by this Act on the <sup>1</sup>[Board of Revenue] may be exercised from time to time as occasion requires.

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1. Subs. by W.P. Act XVI of 1957, for "Financial Commissioner."
  2. Subs by Act IV of 1914, for "not take effect until they have been sanctioned by."
  3. Subs. by A.O., 1937, for "Local Government."
  4. The words, "to the control of the Governor General in Council and", del. by Act XXXVIII of 1920.

## CHAPTER VIII

EFFECT OF THIS ACT ON RECORDS-OF-RIGHTS  
AND AGREEMENTS

109. An entry in any record-of-rights providing—

- (a) that a landlord may prevent a tenant from making, or eject him for making, such improvements on his tenancy as he is entitled to make under this Act, or
  - (b) that a tenant ejected from his tenancy shall not be entitled to compensation for improvements or for disturbance in any case in which he would under this Act be entitled to compensation therefor, or
  - (c) that a landlord may eject a tenant otherwise than in accordance with the provisions of this Act,
- shall be void to that extent.

Nullity of certain entries in records-of-rights.

110. (1) Nothing in any agreement made between a landlord and a tenant after the passing of this Act shall—

- (a) override any of the provisions of this Act with respect to the acquisition of a right of occupancy, or the reduction, remission or suspension of rent, or the enhancement of the rent of a tenant having a right of occupancy under section 5 or section 6, or
- (b) takeaway or limit the right of a tenant as determined by this Act to make improvements and claim compensation therefor, or, where compensation for disturbance can be claimed under this Act, to claim such compensation, or
- (c) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.

Nullity of certain agreements contrary to the Act.

(2) Nothing in clause (a) of sub-section (1) shall apply to an agreement by which a tenant binds himself to pay an enhanced rent in consideration of an improvement which has been, or is to be made in respect of his tenancy, by or at the expense of his landlord, and to the benefit of which the tenant is not otherwise entitled.

Saving of other agreements when in writing.

111. Save as expressly provided in this Act, nothing in this Act shall affect the operation of any agreement between a landlord and a tenant, when the agreement either is in writing or has been recorded in a record-of-rights before the passing of the <sup>1</sup>Punjab Land Revenue Act, 1887, or been entered by order of a Revenue Officer in a record-of-rights or annual record under the provisions of that Act.

Effect of certain entries made in record-of-rights before November, 1871.

112. An entry made with respect to any of the following matters before the eighteenth day of November, 1871, and attested by the proper officer, in the record of regular settlement sanctioned by the <sup>2</sup>[Provincial Government], namely :—

- (a) the enhancement or abatement of the rent of a tenant having right of occupancy or the commutation of rent in kind into rent in money or of rent in money into rent in kind, or the taking of rent in kind by division or appraisement of the produce or other procedure of a like nature, or
- (b) the letting or under-letting of land in which there is a right of occupancy by the tenant having that right, or the alienation of or succession to land in which such a right subsists,

shall be deemed to be an agreement within the meaning of the last foregoing section.

<sup>3</sup>[Nothing but rent or seed supplied recoverable]

<sup>4</sup>113. <sup>5</sup>[(1)] Notwithstanding anything to the contrary in this Act or in any other law for the time being in force or any revenue record or agreement or any rule of custom or any decision of a Court or arbitrator, no tenant shall be liable for, and no landlord shall be entitled to anything in the shape of a cess, village cess, or other contribution or due or any free personal service, in addition to the rent payable for the land held by the former under the latter.

<sup>6</sup>[(2)] Notwithstanding any agreement to the contrary, where a landlord supplied any seed to his tenant, he shall be entitled to recover from the tenant only the quantity of seed actually supplied and nothing in excess thereof.]

Extinction of occupancy tenancies.

<sup>7</sup>114. (1) Notwithstanding anything contained in any law for the time being in force, including this Act, no person shall, after the coming into force of the Punjab Tenancy

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- 1. Rep. by the Punjab Land Revenue Act, 1967.
  - 2. Subs. by A.O., 1937, for "Local Government."
  - 3. Section 113 added by Pb Act XVII of 1950.
  - 4. Numbered by Pb Act VII of 1952.
  - 5. Add. by Pb Act XV of 1955.
  - 6. Add. by Pb Act VII of 1952.
  - 7. Sections 114, 115 and 116 add. by Pb Act VII of 1952.

(Amendment) Act, 1952, acquire or have occupancy rights in any land under any enactment or contract or any decree or order of any Court or other authority and the existing occupancy rights in respect of all lands other than lands owned by Government or by any person who under the law for the time being in force is an evacuee, shall on the coming into force of the aforesaid Act, be extinguished, and the land comprised in a tenancy so extinguished shall vest as hereinafter provided.

(2) An occupancy tenant, who at the time of the coming into force of the aforesaid Amendment Act occupies any land as such shall become owner as under :—

- (a) of the entire land comprised in his tenancy without payment of any compensation where he pays no rent therefor beyond the amount of the land revenue, and rates and cesses for the time being chargeable therefor ;
- (b) of such portion of the land comprised in his tenancy without payment of any compensation as corresponds to his share of the produce, where he pays rent in the form of a share of the produce ;
- (c) of the entire land comprised in his tenancy on payment of compensation to the landlord in cash at such rates and within such periods as may be prescribed by the Government by rules framed for the purpose, where he pays rent only in cash ;
- (d) of the whole or a portion of the land comprised in his tenancy on payment of such compensation in such form and within such time to the landlord as may be determined by Government by rules framed under this Act, where he pays rent partly in cash and partly in the form of a share of the produce.

(3) So long as Government does not frame rules for purposes of clauses (c) and (d) of sub-section (2), an occupancy tenancy falling under any of these clauses shall, notwithstanding the provision made in sub-section (1), continue to subsist, and the landlord and the occupancy tenant shall continue to enjoy the same rights, and be subject to the same liabilities, as before.



(4) In a case falling under clause (b) of sub-section (2) the landlord shall, without payment of any compensation, be entitled to the possession of the rest of the land comprised in the tenancy.

(5) An occupancy tenant acquiring land in accordance with the provisions of sub-section (2) shall acquire it free from all encumbrances created in respect of that land by the landlord and if any encumbrance be created by the tenant, the share of the land received by the landlord shall be free from it and notwithstanding any provision of any law for the time being in force to the contrary each such encumbrance shall become the exclusive liability of the landlord or the occupancy tenant, as the case may be.

(6) Where compensation is to be paid by a tenant in cash under clause (c) of sub-section (2) Government may, with a view to enabling an occupancy tenant to acquire land in accordance with the provisions of this section, advance a loan which shall be recoverable as arrears of land revenue with interest at such rates and in such instalments as the Government may fix generally or in particular cases.

(7) Government shall frame rules to give effect to the provisions of this section, and while framing rules it may classify lands into different categories and prescribe different principles for assessment of compensation.

Extinction  
of Muqarraridari rights

§114-A. (1) Notwithstanding anything contained in any law for the time being in force, including this Act, no person shall, after the coming into force of the Punjab Tenancy (Removal of Doubts and Amendment) Ordinance, 1974, hereinafter referred to as the said Ordinance acquire or have muqarraridari right in any land under any enactment or contract or other authority, and the existing muqarraridari rights in respect of all lands other than the lands owned by or vesting in Government or by any person who, under the law for the time being in force is an evacuee, shall, on coming into force of the said Ordinance, be extinguished and the land in respect of which muqarraridari rights are to be extinguished, hereinafter referred to as the said land, shall vest as hereinafter provided.

(2) A muqarraridar who, at the time of coming into force of the said Ordinance, occupies the said land as such shall become owner as under :—

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1. Add. by Pb Act XXXVIII of 1975.

- (a) of the said land in its entirety without payment of any compensation where he pays no rent therefor beyond the amount of the land revenue and rates and cesses for the time being chargeable therefor ;
- (b) of such portion of the said land without payment of any compensation as corresponds to his share of the produce where he pays rent in the form of a share of the produce ;
- (c) of the said land in its entirety on payment of compensation to the proprietor in cash at such rates and within such periods as may be prescribed by the Government by rules framed for the purpose, where he pays rent only in cash ; and
- (d) of the whole or a portion of the said land on payment of such compensation in such form and within such time to the proprietor as may be determined by Government by rules framed under this section, where he pays rent partly in cash and partly in the form of share of the produce.

(3) So long as Government does not frame rules, for purposes of clauses (c) and (d) of sub-section (2), muqarraridari rights falling under any of those clauses shall, notwithstanding the provision made in sub-section (1) continue to subsist and the proprietor and the muqarraridar shall continue to enjoy the same rights, and be subject to the same liabilities, as before.

(4) In a case falling under clause (b) of sub-section (2) the proprietor shall, without payment of any compensation, be entitled to the possession of the rest of the said land.

(5) A muqarraridar acquiring land in accordance with the provisions of sub-section (1) shall acquire it free from all encumbrances created in respect of that land by the proprietor and if any encumbrance be created by the muqarraridar the share of the land received by the proprietor shall be free from it and notwithstanding any provision of any law for the time being in force to the contrary, each such encumbrance shall become the exclusive liability of the proprietor or the muqarraridar as the case may be.

(6) Where compensation is to be paid by a muqarraridar in cash under clause (c) of sub-section (2) Government may, with a view to enabling a muqarraridar to acquire land in accordance with the provisions of this section, advance a loan

which shall be recoverable as arrears of land revenue with interest at such rates and in such instalments as the Government may fix generally or in particular cases.

(7) Government shall frame rules to have effect to the provisions of this section, and while framing the rules it may classify land into different categories and prescribe different principles of assessment of compensation.]

Removal  
of doubts

¶114-B. Notwithstanding anything contained in this Act or any other law for the time being in force or any decree, judgment, or order of any Court or any other authority, an occupancy tenant under a muqarraridar shall be deemed and be deemed always to have, on the extinction of his occupancy rights under section 114, become the owner of the rights possessed by the muqarraridar in the entire or, as the case may be, in a part of the land comprised in his tenancy and in respect of such land section 114-A shall have effect accordingly.]

Limits of  
holding for  
personal  
cultivation.

¶115. (1) No person owning more than 100 acres of land shall have in his possession for personal cultivation any irrigated culturable land exceeding 50 acres.

*Explanation*—Where any such person has in his possession any such land jointly or in partnership with any one else, only his own share of the land in such possession shall be taken into consideration in computing the 50 acres for the purpose of this sub-section.

(2) If a person owning more than 100 acres of land has in his possession culturable land in excess of 50 acres, he shall within three months of the date on which the Punjab Tenancy (Amendment) Act, 1952, comes into force, and if such person is in the military service of Pakistan on that date, then within six months of his release from such service, let out the area in excess of 50 acres to tenants on terms permissible under the law :

Provided that if the said land in excess of 50 acres is under crop at the time of the coming into force of the aforesaid Act, it shall be so let out within one month of the removal of the crop :

Provided further that if the land to be let out has been prepared for sowing, the person who has so prepared it shall be entitled to compensation from the person to whom the land

1. Add. by Pb Act XXXVIII of 1975.

2. Add. by Pb Act VII of 1952.

is let out, and such compensation and the mode of its payment shall, in case of a dispute, be assessed and determined by the Revenue Officer referred to in sub-section (4) in accordance with the provisions of this Act, in so far as these may be applicable.

(3) Where a person not owning more than 100 acres of land on the date of the coming into force of the Punjab Tenancy (Amendment) Act, 1952, acquires by any means more land which along with land already owned by him totals more than 100 acres, he shall, within three months of such acquisition, let out to tenants so much of the land as is in his possession in excess of 50 acres of culturable land, and the provisos to sub-section (2) shall in so far as applicable apply to this case.

(4) If any person who is required by sub-section (2) or sub-section (3) to let out any land fails to find suitable tenants, he shall, before the expiry of the period fixed by the relevant sub-section, intimate the fact in writing to the Revenue Officer, who would be competent under the law to entertain an application for the ejectment of the tenant from the land, if such land had been let out to him, and such Revenue Officer shall proceed in accordance with such rules as may be framed by Government to find suitable tenants for the land.

(5) When a person acts under sub-section (4), he shall let out the land to tenants recommended by the Revenue Officer, and in case he fails to do so, he shall be deemed to have contravened the provisions of this section, and besides any other penalty which may be imposed on him under the law, the Revenue Officer referred to in sub-section (4) shall have the power to settle tenants on the land which such person is keeping in excess of the limits prescribed by this section :

Provided that if the Revenue Officer fails to find tenants for the land, and in consequence thereof such person continues to occupy any land in excess of the prescribed limits, he will not be deemed to have contravened the provisions of this section :

Provided further that in a case covered by the first proviso the Revenue Officer will have the power to settle tenants on the land at proper time, whenever he is able to find suitable persons for this purpose.

(6) Where a person has in accordance with the provisions of sub-section (2) or sub-section (3) made a choice with respect to the land which he is to keep for his personal cultivation, he shall not thereafter have the right to claim any other land

in lieu of the whole or part of that land, even though he may have lost that land through alienation :

Provided that he shall have the right of exchanging the said area of 50 acres or any part thereof with any land in which he may acquire proprietary rights, by inheritance, after having made the said choice :

Provided further that if the land reserved by a person for personal cultivation or any portion thereof is compulsorily acquired by the Provincial or the <sup>1</sup>Central Government, or is rendered *darya burd*, or if 50 per centum or more of such land is rendered totally unculturable on account of the action of *Sem* or *Thur*, the said person shall be entitled to so much additional area, as with the area, if any, still in his possession, and in the last mentioned case, the area fit for cultivation, will make up 50 acres.

(7) Land attached to and used for the purposes of a cattle-farm or a stud farm recognised by Government shall be exempt from the provisions of this section. But an owner of any such farm shall not be entitled to retain for personal cultivation any other land, even though the land attached to such farm is less than 50 acres.

*Explanation*—For the purposes of this sub-section a cattle-farm means a farm of agricultural land which is exclusively reserved for the purposes of breeding cattle, and a stud-farm means a farm of such land exclusively reserved for breeding of horses or mules.

(8) A person who owns 25 acres of land or more shall not be selected or given any land as a tenant under sub-section (2), (3), (4) or (5) and no tenant shall be allowed more than 25 acres as such.

(9) Government may, by notification in the official gazette, exempt any person or class of persons owning land or any land or class of land from the operation of this section.

*Explanation 1* —For the purposes of computing the area for personal cultivation an acre of unirrigated culturable land shall be counted as half an acre and the terms irrigated and unirrigated shall be defined by rules framed by Government under this Act, and if there is in the opinion of the Government any land which does not fall under these two categories,

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1. Now "Federal Government", see P.O. 4 of 1975.

the rules shall prescribe a separate category for it, and shall fix the ratio which such land shall bear in relation to irrigated land for purposes of such computation.

*Explanation 2*—For the purposes of this section, land under a garden which is in existence on the date of the coming into force of the Punjab Tenancy (Amendment) Act, 1952, and which according to the nature of the trees planted is deemed fully covered, shall not be treated as culturable even though any portion thereof may be fit or actually used for purposes of cultivation. But if a garden is planted in any land after the coming into force of the aforesaid Act, the land thereunder shall be treated as culturable.

*Explanation 3*—For the purpose of this section, if land, which according to the provisions of the revenue law for the time being in force is *banjār qadeem* and is shown in revenue record as such is brought under cultivation or a garden is planted therein, shall continue to be treated as not culturable.

*Explanation 4*—For the purposes of this section cultivation through any direct descendant of the person owning land or his wife or servant or hired labour shall be treated as personal cultivation by the said person.

*Explanation 5*—For the purposes of this section a mortgagee of land with possession, a tenant of Government land under <sup>1</sup>[the Colonization of Government Lands (Punjab) Act, 1912], who has not acquired proprietary rights, a lessee other than a lessee of <sup>2</sup>[Government] land, and an allottee whether provisional or permanent of land under the law for the rehabilitation of refugees for the time being in force shall be deemed to be a person owning such land.]

<sup>3</sup>[116. (a) If any landlord—

Offences.

- (i) recovers from any tenant anything in the shape of a cess, village cess or other contribution or due or any other free service in addition to the rent payable in respect of the land held by the latter under the former ; or

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1. Subs. by Pb Act XV of 1955, for "Colonization of Crown Lands Act, 1912."

2. Subs. by W.P., A.O. 1964, for "Crown."

3. Add. by Pb Act VII of 1952.

- (ii) recovers from the tenant in lieu of the seed supplied to him anything in excess of the seed actually supplied ; or
  - (iii) ejects a tenant forcibly or against the provisions of law ; or
  - (b) if any person owning land contravenes the provisions of section 115 ; or
  - (c) if any tenant refuses or fails to vacate any land in compliance with an order passed by competent authority—
- he shall be guilty of an offence punishable with imprisonment of either description which may extend to one year or fine or with both.]

#### THE SCHEDULE

*[Repealed by the Amending Act (XII of 1891),*

*S. 2 (1) and First Schedule]*

# THE LAND ACQUISITION ACT, 1894

(Act I of 1894)

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# THE LAND ACQUISITION, ACT, 1894

(ACT I OF 1894)

[2nd February, 1894]

**An Act to amend the law for the acquisition of land for public purposes and for Companies.**

**WHEREAS** it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition;

It is hereby enacted as follows:—

## PART I

### PRELIMINARY

1. (1) This Act may be called the Land Acquisition Act, 1894 ;

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of Pakistan] ; and

(3) It shall come into force on the first day of March 1894.

Commence-  
ment.

2. [Repeal]. *Rep. partly by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Schedule II, and partly by the Repealing Act, 1938 (I of 1938), s. 2 and Schedule.*

3. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

(a) the expression “land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth :

1. For statement of objects and reasons, see Gazette of India, 1892, Pt. V, p. 32; for Report of the Select Committee, see *ibid.*, 1894, Pt. V, p. 23 and for Proceedings in Council, see *ibid.*, 1892, Pt. VI, s. 25, and *ibid.*, 1894, pp. 19, 24 to 42.

This Act has been declared to be in force in Baluchistan by the British Baluchistan Laws Regulation, 1913 (II of 1913).

It has been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.W.F.P., subject to certain modifications, see N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950.

It has been extended to Excluded Area of Upper Tanawal other than Phulera by the N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950 and declared to be in force in that area with effect from 1st June, 1951, see N.W.F.P., Gazette, Extraordinary, dated 1-6-51.

For local modifications see the Town Improvement Act, 1922 (Punjab Act IV of 1922), s. 59 and Sch., and the Thal Development Act, 1949 (Punjab Act XV of 1949), s. 35 and Sch., and the Karachi Development 1957 (P.O. 5 of 1957).

2. Subs. by the Central Laws (Statute Reform) Ord., 1960 (Ord. XXI of 1960), s. 3 and 2nd Sch., with effect from the 14th October, 1955.

- (b) the expression "person interested" include all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act ; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land ;
- (c) the expression "Collector" means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the <sup>1</sup>[Board of Revenue or Commissioner] to perform the functions of a Collector under this Act :
- <sup>2</sup>[(d) the expression "Court" means a principal Civil Court of original jurisdiction, and includes the Court of any Additional District Judge and any Civil Judge whom the Provincial Government may appoint, by name or by virtue of his office, to perform concurrently with any such principal Civil Court, all or any of the functions of the Court under this Act, within any specified area ; provided that in the case of a Civil Judge such functions shall be exercised only up to the limits of his pecuniary jurisdiction ] :
- (e) the expression "Company" means a Company registered under the <sup>3</sup>Indian Companies Act, 1882, or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament <sup>4</sup>[of the United Kingdom] or <sup>5</sup>[by a Pakistan law], or by Royal Charter or Letters Patent <sup>6</sup>[and includes a society registered under the Societies Registration Act, 1860, and a registered society within the meaning of the <sup>7</sup>Co-operative Societies Act, 1912] : VI of 1882. II of 1912.
- (f) the expression "public purpose" includes the provision of village-sites in districts in which the <sup>7</sup>[Provincial Government] shall have declared by

1. Subs. by W.P. Act XVI of 1957 s. 3(3) and Sch. III as amended by W.P. Ord. XXXI of 1961, for "Provincial Government".

2. Subs. by W.P. Ord. XLIX of 1969.

3. Now the Companies Act, 1913 (VII of 1913).

4. Ins. by A.O., 1961, Art. 2 and Sch. (w.e.f. 23rd March, 1956).

5. The original words "of the G.G. in C." were first subs. by A.O., 1937 and then amended by G.G.O. 4 of 1949, Sch., to read as above.

6. Ins. by s. 2 of the Land Acquisition (Amendment) Act, 1919 (XVII of 1919).

7. Subs. by A.O., 1937, for "Local Government".

notification in the official Gazette that it is customary for the Government to make such provision : and

- (g) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability ;

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and whether of full age or not, to the same extent as if she were unmarried and of full age ; and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted :

Provided that—

- (i) no person shall be deemed "entitled to act" whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act ;

- (ii) in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof ;

XIV of 1882.

- (iii) the provisions of Chapter XXXI of the Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act ; and

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1. Now the Code of Civil Procedure, 1908 (V of 1908).

- (iv) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

## PART II

### ACQUISITION

#### *Preliminary investigation*

Publication of preliminary notification and powers of officers thereupon.

4. <sup>1</sup>[(1) Whenever it appears to the Collector of the District that land in any locality is needed or is likely to be needed for any public purpose or for a Company, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality].

(2) Thereupon it shall be lawful for any officer, either generally or specially authorised by <sup>2</sup>[the Collector of the District] in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality ;

to dig or bore into the subsoil ;

to do all other acts necessary to ascertain whether the land is adapted for such purpose ;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon ;

to mark such levels, boundaries and lines by placing marks and cutting trenches; and,

where otherwise the survey cannot be completed and the levels taken and the boundaries and lines marked, to cut down and clear away any part of any standing crop, fence or jungle :

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1. Subs. by W.P. Ord. XLIX of 1969, s. 4 (a).

2. Subs. by W.P. Ord. XLIX of 1969 s. 4 (b) for "Commissioner or the Board of Revenue" which were previously subs., for "such Government", by W.P. Act XVI of 1957.

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

[(3) The officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue officer of the District, and such decision shall be final].

[5. Where land is to be acquired for a public purpose, the Commissioner, and where land is to be acquired for a Company, the Provincial Government, is satisfied, after considering the result of the survey, if any, made under sub-section (2) of section 4, or if no survey is necessary, at any time, that any particular land included in a locality notified under sub-section (1) of section 4 is needed for a public purpose or a Company, as the case may be, a notification to that effect shall be published in the official Gazette, stating the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area and situation, and where a plan has been made of the land, the place where such plan may be inspected, and the Collector shall cause public notice to be given of the substance of the notification at convenient places on or near the land to be acquired.]

Notification that particular land is needed for a public purpose or for a Company.

### 3[Objections

5-A. (1) Any person interested in any land which has been notified under section 5 as being needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

Hearing of objections.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the Commissioner together with the record of the proceedings held by him and a report

1. Add. by W.P. Ord. XLIX of 1969.

2. Subs. by *ibid.*, s. 5.

3. Sub-heading and Section 5-A were ins. by Act XXXVIII of 1923. Section 5-A was, however, subs. later by W.P. Ord. XLIX of 1969, s. 6.



containing his recommendations on the objections. The decision of the Commissioner on the objections shall be final.

(3) Where land is needed for a Company, the Collector shall, after making such enquiries as he deems necessary, also make his recommendations to the Commissioner with regard to the area that in his opinion is reasonable for the purpose.

(4) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act].

#### *Declaration of intended acquisition*

Declaration that land is required for a public purpose.

6. (1) Subject, to the provisions of Part VII of this Act, [when the [Commissioner] is satisfied, after considering the report, if any, made under section 5-A, sub-section (2),] that any particular land is needed for a public purpose, (or for a Company, a declaration shall be made to that effect under the signature of [Commissioner] or of some officer duly authorised to certify [such] order :

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be ; and, after making such declaration, the [Commissioner] may acquire the land in manner herein-after appearing.

1. Subs. by the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923), s. 4, for "whenever it appears to the Local Government."

2. Subs. by W.P. Act XVI of 1957, for "Provincial Government" which was subs., for "Local Government", by A.O., 1937.

3. Sub. by W.P. Act XVI of 1957, for "a Secretary to such Government".

4. Subs. *ibid.*, for "its".

<sup>1</sup>[(4) When the area in respect of which the said declaration is made is less than the area previously notified under sub-section (1) of section 4, such previous notification, so far as it relates to the excess area, shall be deemed to have been superseded by the said declaration.]

7. Whenever any land shall have been so declared to be needed for a public purpose or for a Company, the <sup>2</sup>[Commissioner], or some officer authorised by the <sup>2</sup>[Commissioner] in this behalf, shall direct the Collector to take order for the acquisition of the land.

After declaration  
Collector to  
take order for  
acquisition.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and if no plan has been made thereof, a plan to be made of the same.

Land to be  
marked out,  
measured  
and planned

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

Notice to  
persons  
interested.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue-district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a

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2. Added by W.P. Ordinance XLIX of 1969, s. 7.

1. Subs. by W.P. Act XVI of 1937, for "Provincial Government" which were subs., for "L.G.", by A.O., 1937.

letter addressed to him at his last known residence, address or place of business and registered under Part III of the <sup>1</sup>Indian Post Office Act, 1866.

XIV of  
1866.

<sup>2</sup>[(5) The Collector shall also serve notice of the enquiry to be held under section 11 (such notice not being less than fifteen days prior to the date fixed under sub-section (2) for determination of claims and objections) on the Department of Government, local authority or Company, as the case may be, for which land is being acquired, and require it to depute a duly authorised representative to attend the enquiry on its behalf for the purpose of making objections (if any) to the measurement of the land, claims to any interest in the land or the amount of any compensation. Such authorised representative shall be a party to the proceedings.]

Power to  
require and  
enforce the  
making of  
statements as  
to names  
and interests.

10. (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Pakistan Penal Code.

XLV of  
1860.

*Enquiry into measurements, value and claims; and award by the Collector.*

Enquiry and  
award by  
Collector.

11. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested <sup>3</sup>[and a Department of Government, a local authority, or a Company, as the case may be], has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land <sup>4</sup>[at the date of the publication of the notification under section 4, sub-section

1. Now the Post Office Act, 1898 (VII of 1898).

2. Add. by W.P. Ord. XLIX of 1969, s. 8.

3. Ins. *ibid.*, s. 9.

2. Ins. by Act XXXVIII of 1923.

(I)], and into the respective interests of the persons claiming the compensation and shall make an award under his hand of—

- (i) the true area of the land ;
- (ii) the compensation which in his opinion should be allowed for the land ; and
- (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

12. (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

Award of Collector when to be final.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

<sup>1</sup>[12-A. Any clerical or arithmetical mistake in the award arising therein from any accidental slip or omission may, at any time, be corrected by the Collector either of his own motion or on the application of any of the parties.]

Correction of mistake.

13. The Collector may, for any cause he thinks fit, from time to time, adjourn the enquiry to a day to be fixed by him.

Adjournment of enquiry.

14. For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the <sup>2</sup>Code of Civil Procedure.

Power to summon and enforce attendance of witnesses and production of documents.

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1. Ins. by W.P. Ord. XLIX of 1969, s. 10.

2. Now the Code of Civil Procedure, 1908 (V of 1908).

Matters to be considered and neglected.

15. In determining the amount of compensation the Collector shall be guided by the provisions contained in sections 23 and 24.

#### *Taking possession*

Power to take possession.

16. When the Collector has made an award under section 11, he may, <sup>1</sup>[subject to the provision of section 31], take possession of the land, which shall thereupon <sup>2</sup>vest absolutely in the <sup>3</sup>[Government] free from all encumbrances.

Special power in cases of urgency.

<sup>4</sup>[17. (1) In cases of urgency, whenever the Commissioner so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from publication of the notice mentioned in sub-section (1) of section 9, take possession of any land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances :

Provided that the Commissioner shall not issue any direction to the Collector under this sub-section unless the Department of Government, the local authority, or Company, as the case may be, for which the land is being acquired, has first deposited the estimated cost of acquisition of such land as determined by the Collector of the district, keeping in view the provisions of sections 23 and 24.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or *ghat* station, or of providing convenient connection with or access to any such station, or whenever owing to a similar emergency it becomes necessary for the Commissioner to acquire the immediate possession of any land for the purposes of maintaining traffic over a public road, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the Commissioner, enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances :

1. Ins. by W.P. Ord. XLIX of 1969, s. 11.

2. Subs. by A.O., 1937, for "vest absolutely in the Government".

3. Subs. by A.O., 1961, for "Crown", w.e.f. 23rd March, 1956.

4. Subs. by W.P. Ord. XLIX of 1969, s. 12.

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24 ; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

(4) In cases where in the opinion of the Commissioner, the provisions of sub-section (1) or sub-section (2) are applicable, the Commissioner may direct that the provisions of sections 5 and 5-A shall not apply, and, if he does so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under sub-section (1) of section 4.]

### PART III

#### REFERENCE TO COURT AND PROCEDURE THEREON

18. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.

Reference to Court.

(2) The application shall state the grounds on which objection to the award is taken ;

Provided that every such application shall be made,—

(a) if the person making it was present or represented before the Collector at the time when he made his

award, within six weeks from the date of the Collector's award ;

- (b) in other cases, within six weeks of the receipt of the notice from the collector under section 12, subsection (2) or within six months from the date of the Collector's award, whichever period shall first expire.

<sup>1</sup>[(3) Notwithstanding anything to the contrary contained in section 21, the Provincial Government may, if it has not accepted the award, refer the matter to the Court within a period of six months from the date of announcement of the award ; provided that the Court shall not entertain the reference unless in its opinion there is a *prima facie* case for inquiry into and determination of the objection against the award.]

Collector's  
statement to  
the Court.

19. (1) In making the reference, the Collector shall state for the information of the Court, in writing under his hand,—

- (a) the situation and extent of the land, with particulars of any trees, building or standing crops thereon ;
- (b) the names of the persons whom he has reason to think interested in such land ;
- (c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them and the amount of compensation awarded under section 11 ; and
- (d) if the objection be to the amount of the compensation, ground on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by the parties interested respectively.

Service of  
notice.

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the ob-

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1. Add. by W.P. Ord. XLIX of 1969.

jection, and directing their appearance before the court on that day, to be served on the following persons, namely :—

- (a) the applicant;
- (b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded ; and
- (c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector, <sup>1</sup>[and the Department of Government, local authority or Company, as the case may be, for which land is being acquired].

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Restriction on scope of proceedings.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the province shall be entitled to appear, plead and act (as the case may be) in such proceeding.

Proceedings in open Court.

<sup>2</sup>[22-A. The Provincial Government, or a local authority or a Company for which land is being acquired, may lodge a cross objection to the objection made by any person interested and the Court may reduce the amount awarded by the Collector if it considers it just and proper.]

Cross objection.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

Matters to be considered in determining compensation.

*first*, the market-value of the land at the date of the publication of the <sup>3</sup>[notification under section 4, sub-section (1)].

<sup>4</sup>[EXPLANATION—For the purpose of determining the market-value, the Court shall take into account transfer of land similarly situated and in similar

1. Ins. by W.P., Ord. XLIX of 1969.

2. Ins. *ibid.*, s. 15.

3. Subs., by the Land Acquisition (Amendment) Act, 1923 (XXXVIII 1923), s. 7, for "declaration relating thereto under section 6."

4. Add. by W.P. Ord. XLIX of 1969.



use. The potential-value of the land to be acquired if put to a different use shall only be taken into consideration if it is proved that land similarly situated and previously in similar use has, before the date of the notification under sub-section (1) of section 4, been transferred with a view to being put to the use relied upon as affecting the potential value of the land to be acquired :

Provided that—

(i) if the market-value has been increased in consequence of the land being put to a use which is unlawful or contrary to public policy that use shall be disregarded and the market-value shall be deemed to be the market-value of the land if it were put to ordinary use ; and

(ii) if the market-value of any building has been increased in consequence of the building being so overcrowded as to be dangerous to the health of the inmates, such overcrowding shall be disregarded and the market-value shall be deemed to be the market-value of the building if occupied by such number of persons only as can be accommodated in it without risk of danger to health from overcrowding.]

*secondly*, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof ;

*thirdly*, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land ;

*fourthly*, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings ;

*fifthly*, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change ; and

*sixthly*, the damage (if any) *bona fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

<sup>1</sup>[(2) In addition to the market-value of the land as above provided, the Court shall award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition, if the acquisition has been made for a public purpose and a sum of twenty-five per centum on such market-value if the acquisition has been made for a Company.]

24. But the Court shall not take into consideration—

*first*, the degree of urgency which has led to the acquisition ;

*secondly*, any disinclination of the person interested to part with the land acquired ;

*thirdly*, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit ;

*fourthly*, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put ;

*fifthly*, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired ;

*sixthly*, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put ; or

*seventhly*, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the <sup>2</sup>[notification under section 4, sub-section (1)].

25. (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed <sup>3</sup>[\*\*\*\*].

Matters to be neglected in determining compensation.

Rules as to amount of compensation.

1. Subs., by W.P., Ord. XLIX of 1969.

2. Subs. by the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923), s. 8, for "declaration under s. 6".

3. The words, "or be less than the amount awarded by the Collector under section 11" omitted by W.P. Ord. XLIX of 1969, s. 17.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

Form of  
awards.

26. <sup>1</sup>[(1)] Every award under this part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

<sup>1</sup>[(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2, clause (2), and section 2, clause (9), respectively, of the Code of Civil Procedure, 1908.]

V of  
1908.

Costs.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this part, and by what persons and in what proportions they are to be paid.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

Collector  
may be  
directed to  
pay interest  
on excess  
compensation.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay <sup>2</sup>[compound interest on such excess at the rates of eight per centum] per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

1. Ins. by Act XIX of 1921.

2. Subs., by W.P., Act III of 1969, s. 2 (a), for "interest on excess at the rate of six per centum".

<sup>1</sup>[Provided that in all cases where the Court has directed that Collector shall pay interest on such excess at the rate of six per centum from the date on which possession was taken and the payment of compensation or a part thereof has not been made up to the commencement of the Land Acquisition (West Pakistan Amendment) Act, 1969, the rate of compound interest on such excess on balance shall be eight per centum.]

#### PART IV

##### APPORTIONMENT OF COMPENSATION

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Particulars of apportionment to be specified.

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

Dispute as to apportionment.

#### PART V

##### PAYMENT

<sup>2</sup>31. (1) When the Collector has made an award under section 11—

(a) if the persons interested entitled to compensation under the award and the Provincial Government accept the award and intimate their acceptance in writing to the Collector before the expiry of the period prescribed in sub-section (2) of section 18 for making an application to the Collector for referring the award to the Court, or in sub-section (3) of the said section for referring the award to

Payment of compensation or deposit of the same in Court.

1. Add. by W.P. Act III of 1969, s. 2 (a).

2. Subs. by W.P. Ord., XLIX of 1969.

the Court by the Provincial Government, whichever is later, or if the period specified in sub-section (2) of the said section for making an application to the Collector or in sub-section (3) for referring the award to the Court has expired and no such application or reference has been made, the Collector shall, before taking possession of the land, tender payment of the full amount of compensation awarded by him to the persons entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in sub-section (2) ;

- (b) if the persons interested entitled to compensation under the award or the Provincial Government object to the award and an application has been made to the Collector under sub-section (2) of section 18 for referring the award to the Court or the award has been referred to the Court by the Provincial Government under sub-section (3) of that section, the Collector shall, before taking possession of the land, tender payment of the compensation awarded by him or the estimated cost of acquisition of such land as determined by the Collector of the district under sub-section (1) of section 17, whichever is less, to the persons entitled thereto under the award and shall pay it to them unless prevented by some one or more of the contingencies mentioned in sub-section (2) :

Provided that no payment under clause (b) shall be made until the person entitled to compensation furnishes to the satisfaction of the Collector a security for refund of the amount, if any, which may subsequently be found to be in excess of the compensation awarded to him by the Court.]

- (2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount :

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18 :

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section the Collector may, with the sanction of the <sup>1</sup>[Commissioner] instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with, or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

32. (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

(a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

(b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit ;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(i) in the purchase of such other lands as aforesaid ;  
or

Investment  
of money  
deposited in  
respect of  
lands belong-  
ing to  
persons in-  
competent  
to alienate.

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1. Subs. by W.P. Act XVI of 1957, for "Provincial Government", earlier subs., for "Local Government", by A.O., 1937.

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies, the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incidental thereto, to be paid by the Collector, namely :—

- (a) the costs of such investments as aforesaid ;
- (b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

Investment  
of money  
deposited in  
other cases.

33. When any money shall have been deposited in Court under this Act for cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

Payment of  
interest.

34. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with <sup>1</sup>[compound interest at the rate of eight per centum] per annum from the time of so taking possession until it shall have been so paid or deposited <sup>2</sup>[:]

<sup>2</sup>[Provided that any waiver of the above right by the landowner shall be void and he shall be entitled to the said interest notwithstanding any agreement to the contrary.]

1. Subs. by W.P. Act III of 1969, s. 2 (d) for "interest thereon at the rate of six per centum".

2. The fullstop at the end of s. 34 replaced by the colon and the proviso added *ibid.*, s. 2 (d).

**PART VI**  
**TEMPORARY OCCUPATION OF LAND**

35. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the <sup>1</sup>[Commissioner] that the temporary occupation and use of any waste or arable land are needed for any public purpose or for a Company, the <sup>1</sup>[Commissioner] may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

Temporary occupation of waste or arable land. Procedure when difference as to compensation exists.

<sup>2</sup>[(2) The Collector shall cause public notice of the substance of the direction to be given at convenient places in the locality in which the land is situate, and thereupon it shall be lawful for any officer, either generally or specially authorised by the Collector in this behalf, and for the servants and workmen of such officer, to enter upon and survey and take levels of any land in such locality.]

<sup>3</sup>[(3) On receipt of plans detailing the land acquired, the Collector shall give notice in writing to the persons interested in such land of the purpose for which the same is needed and shall, for the occupation and use thereof for such term as aforesaid, and for the material, if any, to be taken therefrom, pay to them such compensation, either in a gross sum of money or by monthly or other periodical payments as shall be agreed upon in writing between him and such persons respectively.]

<sup>4</sup>[(4) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

36. (1) On payment of such compensation, or on executing such agreement or on making a reference under section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

Power to enter and take possession, and compensation on restoration.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for

1. Subs. by W.P. Act, XVI of 1957, Sch. III, for "Provincial Government" which had been subs., for "Local Government", by A.O., 1937.

2. Subs. by W.P., Ord. XLIX of 1969, s. 19 (a).

3. Ins. *ibid.*, s. 19(b).

4. Sub-section (3) was re-numbered as sub-section (4) by W.P. Ord. XLIX of 1969, s. 19 (b).



the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein :

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the <sup>1</sup>[Commissioner] shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

Difference as to condition of land.

37. In case the collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

## PART VII

### ACQUISITION OF LAND FOR COMPANIES

Company may be authorised to enter and survey.

38. <sup>2</sup>[(1) The Commissioner may authorise any officer of any Company desiring to acquire land for its purpose to exercise the powers conferred by sub-section (2) of section 4.]

(2) In every such case section 4 shall be construed as if for the words "for such purpose" the words "for the purposes of the Company" were substituted ; and <sup>3</sup>[sub-section (3) of section 4] shall be construed as if after the words "the officer" the words "of the Company" were inserted.

Industrial concern to be deemed Company for certain purposes.

<sup>4</sup>[38-A. An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a Company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a Company for the purposes of this Part, and the references to Company in sections 5A, 6, 7, 17 and 50 shall be interpreted as references also to such concern.]

1. Subs. by W.P. Act, XVI of 1957, Sch. III, for "Provincial Governments", which had been subs. for "Local Government", by A.O. 1937.

2. Subs. by W.P. Ord. XLIX of 1969.

3. Subs. *ibid* for "Section 5".

4. Ins. by the Land Acquisition (Amendment) Act, 1933 (XVI of 1933).

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the <sup>1</sup>[Commissioner] nor unless the Company shall have executed the agreement hereinafter mentioned.

Previous consent of <sup>1</sup>[Commissioner] and execution of agreement necessary.

40. (1) Such consent shall not be given unless the <sup>1</sup>[Commissioner] be satisfied, <sup>2</sup>[either on the report of the Collector under section 5-A, sub-section (2), or] by an enquiry held as hereinafter provided—

Previous enquiry.

<sup>3</sup>[(a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith, or

<sup>4</sup>[(aa) that such acquisition is needed for the construction of some building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, or]

(b) that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public], <sup>5</sup>[or]

<sup>6</sup>[(c) that the area proposed to be acquired is reasonable for the purpose.]

(2) Such enquiry shall be held by such officer and at such time and place as the <sup>1</sup>[Commissioner] shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the <sup>7</sup>Code of Civil Procedure in the case of a Civil Court.

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1. Subs. by W.P. Act XVI of 1957, Sch. III, for "Provincial Government" which had been subs., for "Local Government", by A.O., 1937.

2. Ins. by the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923).

3. Sub. by Act XVI of 1933, s. 3, for the original Clauses (a) and (b).

4. Ins. by W.P. Ord. I of 1965.

5. Subs. by W.P. Ord., XLIX of 1969, for the full-stop.

6. Add. *ibid.*

7. Now the Code of Civil Procedure, 1908.

Agreement  
with Pro-  
vincial  
Government.

41. 1[\* \* \*] If the 2[Commissioner] is satisfied 3[after considering the report, if any, of the Collector under section 5-A, sub-section (2), or on the report of the officer making an inquiry under section 40] that 4[the object of the proposed in acquisition is to obtain land for one of the purposes referred to clause (a) or clause (aa) or clause (b) of sub-section (1) of section 40] 5[he] shall 6[\* \* \*] require the Company to enter into an agreement 7[with the Provincial Government], providing to the satisfaction of the 2[Provincial Government] for the following matters, namely :—

XIV of  
1882.

- (1) the 8[payment to the 2[Commissioner] of the cost of the acquisition ;
- (2) the transfer, on such payment, of the land to the Company ;
- (3) the terms on which the land shall be held by the Company ;
- 9[(4) where the acquisition is for the purpose of erecting dwelling houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided ; and
- (5) where the acquisition is for a purpose falling under clause (b) of sub-section (1) of section 40, the time

1. The words, "such officer shall report to the Local Government the result of enquiry, and", rep. by the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923), s. 10.

2. Subs. by W.P. Act XVI of 1957, Sch. III, for "Provincial Government" which had been subs., for "Local Government", by A.O., 1937.

3. Ins. by Act XXXVIII of 1923.

4. Subs. by W.P. Ord. XLIX of 1969 s. 22 (a) for "the purpose of the proposed acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith or that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public."

5. Sub. by W.P. Act XVI of 1957, for "it".

6. The words "subject to such rules as the G.G. in C. may from time to time prescribe in this behalf", rep. by the Devolution Act 1920 (XXXVIII of 1920), s. 2 and Sch. I.

7. Subs. by A.O., 1937, for "with the Secretary of State for India in Council."

8. Subs. *ibid.*, for "payment to Govt."

9. Subs. by Act XVI of 1933, s. 4, for the original clauses (4) and (5). Clause (5) was, later, subs. by W.P. Ord. XLIX of 1969.

within which and the conditions on which the work shall be constructed and maintained.]

42. Every such agreement shall, as soon as may be after its execution, be published <sup>1</sup>[\* \* \*] in the <sup>2</sup>[Official Gazette] <sup>3</sup>[and the acquisition shall be deemed to have been made subject to the terms of such agreement].

Publication of agreement.

X of  
1870.

43. The provisions of sections 39 to 42, both inclusive, shall not apply and the corresponding sections of the <sup>4</sup>Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which, <sup>5</sup>[under any agreement with such Company, the Secretary of State for India in Council, the Secretary of State, <sup>6</sup>[the <sup>7</sup>[Federal] Government or any Provincial Government] is or was bound to provide land].

Sections 39 to 42 not to apply where Government bound by agreement to provide land for Companies.

<sup>4</sup>43-A. No Company for which any land is acquired under this part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise, except with the previous sanction of the Provincial Government.]

Restrictions on transfer, etc.

44. In the case of the acquisition of land for the purpose of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

How agreement with Railway Company may be proved.

## PART VIII

### MISCELLANEOUS

45. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

Service of Notices.

1. The words "in the Gazette of India and also" rep. by A.O., 1937.
2. Subs., *ibid.*, for "local official Gazette".
3. Subs. by W.P. Ord. XLIX of 1969, s. 23, for "and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act."
4. Rep. by this Act.
5. Subs. by A.O., 1937, for "under any agreement between such company and the Secretary of State for India in Council, the Govt. is, or was, bound to provide land".
6. Subs. by A.O., 1949, Sch., for "or any Government in British India".
7. Subs. by Pb. A.O. I of 1974.
8. Ins. by W.P. Ord. XLIX of 1969.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him ; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired :

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and registered under Part III of the <sup>1</sup>Indian Post Office Act, 1866, and service of it may be proved by the production of the addressee's receipt.

XIV of  
1866.

Penalty for  
obstructing  
acquisition  
of land.

46. Whoever wilfully obstructs any person in doing any of the acts authorised by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

Magistrate  
to enforce  
surrender.

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself and, if not a Magistrate, he shall apply to a Magistrate <sup>2</sup>[\* \* \* \*] and such Magistrate <sup>3</sup>[\* \* \*] shall enforce the surrender of the land to the Collector.

Completion  
of acquisition  
not compulsory,  
but compensation  
to be awarded  
when not  
completed.

48. (1) Except in the case provided for in section 36, the <sup>4</sup>[Commissioner] shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the <sup>4</sup>[Commissioner] withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner

1. Now the Post Office Act, 1898 (VI of 1898).

2. The words and brackets, "or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police", omitted by A.O., 1949.

3. The words and brackets, "as Commissioner (as the case may be)", omitted *ibid*.

4. Sub. by W.P. Ord. XXXI of 1961, read with W.P. Ord. XVI of 1957, for "Government".

in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be so acquired :

Acquisition  
of part of  
house or  
building.

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired :

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference, the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim under section 23, subsection (1), *thirdly*, by a person interested, on account of the severing of the land to be acquired from his other land, the <sup>1</sup>[Commissioner] is of opinion that the claim is unreasonable or excessive, <sup>2</sup>[he] may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary ; but the Collector shall without delay furnish a copy of the order of the <sup>1</sup>[Commissioner] to

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1. Subs. by W.P. Act XVI of 1957, Sch. III, for the "Provincial Government" which had been subs., for "Local Government", by A.O., 1937.

2. Subs. by W.P. Act XVI of 1957, for "it".

the person interested, and shall thereafter proceed to make his award under section 11.

Acquisition of land at cost of a local authority or Company.

**50.** (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company.

<sup>4</sup>[(1-A) Any charges to be defrayed from the funds of a local authority or a Company under sub-section (1), may be recovered, in addition to any other mode of recovery provided in any other law, as arrears of land revenue.]

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation :

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.

Exemption from stamp duty and fees.

**51.** No award or agreement made under this Act shall be chargeable with stamp duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Notice in case of suits for anything done in pursuance of Act.

**52.** No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Code of Civil Procedure to apply to proceedings before Court.

**53.** Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the <sup>2</sup>Code of Civil Procedure shall apply to all proceedings before the Court under this Act.

XIV of 1882.

Appeals in proceedings before Court.

<sup>3</sup>**54.** Subject to the provisions of the Code of Civil Procedure 1908, applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or

V of 1908.

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1. Ins. by W.P. Ord. XLIX of 1969.
  2. Now the Code of Civil Procedure, 1908.
  3. Subs. by the Land Acquisition (Amendment, Act, 1921) (X of 1921), s. 3.

from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid, an appeal shall lie to <sup>4</sup>[the Supreme Court] subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in order XLV thereof.]

55. (1) The <sup>2</sup>[Provincial Government] shall <sup>3</sup>\* \* \* have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

Power to make rules.

<sup>4</sup>\* \* \* \* \*

(2) The power to make, alter and add to rules under subsection (1) shall be subject to the condition of the rules being made, altered or added to after previous publication.

(3) All such rules, alterations and additions shall <sup>5</sup>\* \* \* be published in the official Gazette, and shall thereupon have the force of law.

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1. Subs. by A.O., 1961, for "His Majesty in Council".
  2. Subs. by A.O., 1937, for "Local Government".
  3. The words "subject to the control of the G.G. in C.", which had been ins. by the Decentralization Act, 1914 (IV of 1914), were rep. by s. 2 and Sch. I of the Devolution Act, 1920 (XXXVIII of 1920).
  4. The proviso which had been added by s. 2 and Sch. I of the Devolution Act, 1920 (XXXVIII of 1920), was rep. by A.O., 1937.
  5. The words "when sanctioned by the G.G. in C." were rep. by the Decentralization Act, 1914 (IV of 1914), s. 2 and Sch., Part I.



## THE PRISONS ACT, 1894

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# THE PRISONS ACT, 1894

(Act IX of 1894)

[22nd March, 1894]

## An Act to amend the law relating to Prisons.

WHEREAS it is expedient to amend the law relating to prisons in <sup>2</sup>[Pakistan], and to provide rules for the regulation of such prisons ;

It is hereby enacted as follows :—

### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Prisons Act, 1894.

Title, extent  
and com-  
mencement.

<sup>3</sup>(2) It extends to the whole of Pakistan.] ~~XXXXXX~~

(3) It shall come into force on the first day of July, 1894.

(4) Nothing in this Act shall apply to civil jails in <sup>4</sup>[Sind and the <sup>5</sup>[Karachi Division], and those jails shall continue to be administered under the provisions of sections 9 to 16 (both inclusive) of <sup>6</sup>Bombay Act II of 1874, as amended by subsequent enactments.

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1. For statement of objects and reasons, see Gazette of India, 1894, Pt V, p. 14 ; for Report of the Select Committee, see *ibid.*, p. 63, and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 10, 21, 93, 126 and 139.

This Act has been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.W.F.P., subject to certain modification, see N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950.

It has been extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G.G.O. III of 1950), and applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt. I, p. 1499.

It has been extended to the Excluded Area of Upper Tanawal other than Phulera by the N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950 and declared to be in force in that area with effect from 1st June, 1951, see N.W.F.P. Gazette, Extraordinary, dated 1st June, 1951.

2. Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A.O., 1949, Arts. 3 (2) and 4, for "British India".

3. Subs. by Ord. XXI of 1960, s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for the existing sub-section (2), as amended by the Federal Laws (Revision and Declaration) Act, 1951 (XXVI of 1951).

4. Subs. by A.O., 1949, Sch., for "the Presidency of Bombay outside the City of Bombay".

5. Subs. by A.O., 1964, Art. 2 and Sch., for "Federal Territory of Karachi" which had been subs. by the Repealing and Amending Ordinance, 1961 (I of 1961), s. 3 and 2nd Sch., for "Capital of the Federation".

6. The Civil Jails Act, 1874.

2. [Repeal]. *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Schedule.*

Definitions.

3. In this Act—

(1) “prison” means any jail or place used permanently or temporarily under the general or special orders of a <sup>1</sup>[Provincial Government] for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

(a) any place for the confinement of prisoners who are exclusively in the custody of the police ;

(b) any place specially appointed by the <sup>1</sup>[Provincial Government] under section 541 of the <sup>2</sup>Code of Criminal Procedure, 1882 ; or

X of  
1882.

(c) any place which has been declared by the <sup>1</sup>[Provincial Government], by general or special order, to be a subsidiary jail :

(2) “criminal prisoner” means any prisoner duly committed to custody under the writ, warrant or order of any Court or authority exercising criminal jurisdiction, or by order of a Court-martial :

(3) “convicted criminal prisoner” means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the <sup>2</sup>Code of Criminal Procedure, 1882, or under the <sup>3</sup>Prisoners Act, 1871 :

X of  
1882.  
V of  
1871.

(4) “civil prisoner” means any prisoner who is not a criminal prisoner :

(5) “remission system” means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails :

(6) “history-ticket” means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder ;

(7) and (7-A) <sup>4</sup>[\* \* \* \* \*].

1. Subs. by A.O., 1937, for “Local Government.”

2. Now the Code of Criminal Procedure, 1898.

3. Now the Prisons Act, 1900.

4. Clause (7-A) was inserted by W.P. Act XLI of 1958; however, this clause and clause (7) were deleted by W. P. Act XXV of 1962.

(8) "medical subordinate" means an Assistant Surgeon, Apothecary or qualified Hospital Assistant : and

(9) "prohibited article" means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act.

## CHAPTER II

### MAINTENANCE AND OFFICERS OF PRISONS

4. The <sup>1</sup>[Provincial Government] shall provide, for the prisoners in the territories under such Government, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Accommodation for prisoners.

<sup>2</sup>[5. Directors of Prisons shall be appointed for the areas to be defined by the Provincial Government, and shall exercise, subject to the orders of the Provincial Government, the general control and superintendence of prisons and the staff employed in the prisons in the respective areas for which they are appointed.]

Directors of Prisons.

6. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as the <sup>1</sup>[Provincial Government] thinks necessary :

Officers of prisons.

<sup>3</sup>[\* \* \* \* \*]

<sup>4</sup>[Provided further that in the Punjab the <sup>1</sup>[Provincial Government] may appoint for any prison a Deputy Superintendent instead of a Jailer, and an Assistant Superintendent instead of a Deputy or Assistant Jailer, and these officers when so appointed shall exercise the same powers, shall discharge the same duties, and shall be subject to the same disabilities as Jailers and Deputy or Assistant Jailers respectively.]

7. Whenever it appears to the <sup>5</sup>[Director of Prisons] that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison,

Temporary accommodation for prisoners.

1. Subs. by A.O., 1937, for "Local Government."

2. Subs. by W.P. Ord. XXV of 1962.

3. Del. by A.O., 1949.

4. Add. by Pb. Act IX of 1926.

5. Subs., for "Inspector General," by W.P. Ord. XXV of 1962.

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made, by such officer and in such manner as the <sup>1</sup>[Provincial Government] may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

### CHAPTER III

#### DUTIES OF OFFICERS

##### *Generally*

Control and duties of officers of prisons.

8. All officers of a prison shall obey the directions of the Superintendent ; all officers subordinate to the Jailer shall perform such duties as may be imposed on them by the Jailer with the sanction of the Superintendent or be prescribed by rules under section <sup>2</sup>[59].

Officers not to have business dealings with prisoners.

9. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him, sell or let or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings directly or indirectly with any prisoner.

Officers not to be interested in prison-contracts.

10. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison ; nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner.

##### *Superintendent*

Superintendent.

11. (1) Subject to the orders of the <sup>3</sup>[Director of Prisons] the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

(2) Subject to such general or special directions as may be given by the <sup>1</sup>[Provincial Government], the Superintendent of a prison other than a central prison or a prison situated in

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1. Subs. by A.O., 1937, for "Local Government."

2. Subs. by A.O., 1937, for "60".

3. Subs. by W. P. Ord. XXV of 1962, for "Inspector General."



a presidency-town shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the <sup>1</sup>[Director of Prisons] all such orders and the action taken thereon.

12. The Superintendent shall keep, or cause to be kept, the following records :—

Records to be kept by Superintendent.

- (1) a register of prisoners admitted ;
- (2) a book showing when each prisoner is to be released ;
- (3) a punishment-book for the entry of the punishments inflicted on prisoners for prison-offences ;
- (4) a visitors' book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison ;
- (5) a record of the money and other articles taken from prisoners ;

and all such other records as may be prescribed by rules under section 59 <sup>2</sup>[ \* \* \* ]

#### *Medical Officer*

13. Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the <sup>3</sup>[Provincial Government] under section <sup>4</sup>[59].

Duties of Medical Officer.

14. Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper.

Medical Officer to report in certain cases.

This report, with the orders of the Superintendent thereon, shall forthwith be sent to the <sup>1</sup>[Director of Prisons] for information.

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1. Subs. by W.P. Ord., XXV of 1962, for "Inspector General".
  2. The words and figures "or section 60" rep. by A.O., 1937.
  3. Subs. by A.O., 1937, for "Local Government".
  4. Subs. *ibid.*, for "60".

Report on  
death of  
prisoner.

**15.** On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely :

- (1) the day on which the deceased first complained of illness or was observed to be ill,
- (2) the labour, if any, on which he was engaged on that day,
- (3) the scale of his diet on that day,
- (4) the day on which he was admitted to hospital,
- (5) the day on which the Medical Officer was first informed of the illness,
- (6) the nature of the disease,
- (7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,
- (8) when the prisoner died, and
- (9) (in cases where a post-mortem examination is made) an account of the appearances after death,

together with any special remarks that appear to the Medical Officer to be required.

#### *Jailer*

Jailer.

**16.** (1) The Jailer shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere.

(2) The Jailer shall not, without the [Director of Prisons'] sanction in writing, be concerned in any other employment.

Jailer to give  
notice of  
death of  
prisoner.

**17.** Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate.

Responsi-  
bility of Jailer.

**18.** The Jailer shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents confined to his care, and for the money and other articles taken from prisoners.

Jailer to be  
present at  
night.

**19.** The Jailer shall not be absent from the prison for a night without permission in writing from the Superintendent ; but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent.

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1. Subs. by W.P. XXV of 1962, for "Inspector General's".

20. Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder.

Powers of Deputy and Assistant Jailers.

#### *Subordinate Officers*

21. The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and if any such article or property be found, shall give immediate notice thereof to the Jailer.

Duties of gate-keeper.

22. Officers subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent or from the Jailer.

Subordinate officers not to be absent without leave.

23. Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Pakistan Penal Code.

Convict Officers.

### CHAPTER IV

#### ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS

24. (1) Whenever a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Prisoners to be examined on admission.

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book, to be kept by the Jailer, a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.

(3) In the case of female prisoners the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer.

25. All money or other articles in respect whereof no order of a competent Court has been made, and which may with proper authority be brought into the prison by any cri-

Effects of prisoners.

minal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailer.

Removal and  
discharge of  
prisoners.

26. (1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

(2) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

## CHAPTER V

### DISCIPLINE OF PRISONERS

Separation  
of prisoners.

27. The requisitions of this Act with respect to the separation of prisoners are as follows :—

(1) in a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners ;

(2) in a prison where male prisoners under the age of <sup>1</sup>[twenty-one] are confined, means shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not ;

(3) unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners ; and

(4) civil prisoners shall be kept apart from criminal prisoners.

Association  
and segrega-  
tion of  
prisoners

28. Subject to the requirements of the last foregoing section, convicted criminal prisoners may be confined in association or individually in cells or partly in one way and partly in the other.

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1. Subs. by the Prisons (Amdt.) Act, 1930 (VI of 1930), s. 2, for "eighteen".

29. No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prison to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate.

Solitary  
confinement.

30. (1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the Jailer and all articles shall be taken from him which the Jailer deems it dangerous or inexpedient to leave in his possession.

Prisoners  
under sen-  
tence of  
death.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed, by day and by night, under the charge of a guard.

## CHAPTER VI

### FOOD, CLOTHING AND BEDDING OF CIVIL AND UNCONVICTED CRIMINAL PRISONERS

31. A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessities, but subject to examination and to such rules as may be approved by the <sup>1</sup>[Director of Prisons].

Maintenance  
of certain  
prisoners  
from private  
sources.

32. No part of any food, clothing, bedding or other necessities belonging to any civil or unconvicted criminal prisoner shall be given, hired or sold to any other prisoner; and any prisoner transgressing the provisions of this section shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

Restriction  
on transfer  
of food and  
clothing  
between  
certain pri-  
soners.

33. (1) Every civil prisoner and unconvicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

Supply of  
clothing and  
bedding to  
civil and  
unconvicted  
criminal  
prisoners.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall, within forty-eight hours after the receipt by him of a demand in writing pay to the Superintendent the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner may be released.

1. Subs. by W.P. Ord. XXV of 1962, for "Inspector General".

## CHAPTER VII

## EMPLOYMENT OF PRISONERS

Employment  
of civil  
prisoners.

34. (1) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession.

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison shall be allowed to receive the whole of their earnings ; but the earnings of such as are furnished with implements or are maintained at the expense of the prison shall be subject to a deduction to be determined by the Superintendent, for the use of implements and the cost of maintenance.

Employment  
of criminal  
prisoners.

35. (1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day.

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fortnight cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not be employed on that labour but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

Employment  
of criminal  
prisoners  
sentenced to  
simple im-  
prisonment.

36. Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment ; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner.

## CHAPTER VIII

## HEALTH OF PRISONERS

Sick pris-  
oners.

37. (1) The names of prisoners desiring to see the Medical Subordinate or appearing out of health in mind or body shall,

without delay, be reported by the officer in immediate charge of such prisoners to the Jailer.

(2) The Jailer shall, without delay, call the attention of the Medical Subordinate to any prisoners desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner.

38. All directions given by the Medical Officer or Medical Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history-ticket or in such other record as the <sup>1</sup>[Provincial Government] may by rule direct, and the Jailer shall make an entry in its proper place stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Jailer thinks fit to make, and the date of the entry.

Record of  
directions of  
Medical  
Officers.

39. In every prison an hospital or proper place for the reception of sick prisoners shall be provided.

Hospital.

## CHAPTER IX

### VISITS TO PRISONERS

40. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate, care being taken that so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person.

Visits to civil  
and uncon-  
victed  
criminal  
prisoners.

41. (1) The Jailer may demand the name and address of any visitor to a prisoner, and, when the Jailer has any ground for suspicion, may search any visitor, or cause him to be searched but the search shall not be made in the presence of any prisoner or of another visitor.

Search of  
visitors.

(2) In case of any such visitor refusing to permit himself to be searched, the Jailer may deny him admission ; and the grounds of such proceeding, with the particulars thereof, shall be entered in such record as the <sup>1</sup>[Provincial Government] may direct.

1. Subs. by A.O., 1937, for "Local Government."

## CHAPTER X

## OFFENCES IN RELATION TO PRISONS

Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.

42. Whoever, contrary to any rule under section 4[59] introduces or removes or attempts by any means whatever to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article,

and every officer of a prison who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison,

and whoever, contrary to any such rules, communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Power to arrest for offence under section 42.

43. When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing section, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay make him over to a Police-officer, and thereupon such Police-officer shall proceed as if the offence had been committed in his presence.

Publication of penalties.

44. The Superintendent shall cause to be affixed, in a conspicuous place outside the prison, a notice in English and the Vernacular setting forth the acts prohibited under section 42 and the penalties incurred by their commission.

## CHAPTER XI

## PRISON-OFFENCES

Prison-offences.

45. The following acts are declared to be prison-offences when committed by a prisoner :—

- (1) such wilful disobedience to any regulation of the prison as shall have been declared by rules made under section 59 to be a prison-offence ;

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1. Subs. by A.O., 1937, for "60".



- (2) any assault or use of criminal force ;
- (3) the use of insulting or threatening language ;
- (4) immoral or indecent or disorderly behaviour ;
- (5) wilfully disabling himself from labour ;
- (6) contumaciously refusing to work ;
- (7) filing, cutting, altering or removing handcuffs, fetters or bars without due authority ;
- (8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment.
- (9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment ;
- (10) wilful damage to prison-property ;
- (11) tampering with or defacing history-tickets, records or documents ;
- (12) receiving, possessing or transferring any prohibited article ;
- (13) feigning illness ;
- (14) wilfully bringing a false accusation against any officer or prisoner ;
- (15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or prison-official ; and
- (16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

46. The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by —

Punishment  
of such  
offences.

- (1) a formal warning :

*Explanation*—A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and recorded in the punishment-book and on the prisoner's history-ticket ;

- (2) change of labour to some more irksome or severe form <sup>1</sup>[for such period as may be prescribed by rules made by the <sup>2</sup>[Provincial Government] ;
- (3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment ;
- (4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the <sup>2</sup>[Provincial Government] ;
- (5) the substitution of gunny or other coarse fabric for clothing of other material, not being woollen, for a period which shall not exceed three months ;
- (6) imposition of handcuffs of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the <sup>3</sup>[Provincial Government] ;
- (7) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the <sup>2</sup>[Provincial Government] ;
- (8) separate confinement for any period not exceeding <sup>3</sup>[three] months ;

*Explanation*—Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem and to have his meals in association with one or more other prisoners ;

- (9) penal diet, that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the <sup>2</sup>[Provincial Government] :

Provided that such restriction of diet shall in no case be applied to a prisoner for more than

- 
- 1. Ins. by s. 2(a) of the Prisons (Amdt.) Act, 1925 (XVII of 1925).
  - 2. Subs. by A.O. 1937, for "Local Government."
  - 3. Subs. by Act XVII of 1925, for "Six".

ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week ;

- (10) cellular confinement for any period not exceeding fourteen days :

Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement :

*Explanation*—Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners ;

<sup>1</sup>[ \* \* \* \* \* ]

- <sup>1</sup>[(11)] penal diet as defined in clause (9) combined with <sup>2</sup>[cellular] confinement <sup>3</sup>[ \* \* \* ] ;

- <sup>1</sup>(12)] whipping, provided that the number of stripes shall not exceed thirty :

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters, or to whipping.

<sup>4</sup>[47. (1)] Any two of the punishments enumerated in the last foregoing section may be awarded for any such offence in combination, subject to the following exceptions, namely:—

Plurality of punishments under section 46.

- (1) formal warning shall not be combined with any other punishment except loss of privileges under clause (4) of that section ;

- (2) penal diet shall not be combined with change of labour under clause (2) of that section, nor shall any additional period of penal diet awarded singly be

1. Original clause (11) was rep. and clauses (12) and (13) were re-numbered as (11) and (12), respectively, by Act XVII of 1925.

2. Subs. *ibid.*, for "solitary".

3. The words "as defined in clause (11)", rep., *ibid.*

4. The original section 47 was renumbered as section 47 (1), *ibid.*

combined with any period of penal diet awarded in combination with <sup>1</sup>[cellular] confinement ;

<sup>2</sup>[(3) cellular confinement shall not be combined with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable ;]

(4) whipping shall not be combined with any other form of punishment except cellular <sup>3</sup>[and] separate confinement and loss of privilege admissible under the remission system ;

<sup>4</sup>[(5) no punishment will be combined with any other punishment in contravention of rules made by the <sup>5</sup>[Provincial Government.]

<sup>4</sup>[(2) No punishment shall be awarded for any such offence so as to combine, with the punishment awarded for any other such offence, two of the punishments which may not be awarded in combination for any such offence.]

Award of punishments under sections 46 and 47.

48. (1) The Superintendent shall have power to award any of the punishments enumerated in the two last foregoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the <sup>6</sup>[Director of Prisons].

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

Punishments to be in accordance with foregoing sections.

49. Except by order of a Court of Justice, no punishment other than the punishments specified in the foregoing sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections.

1. Subs. by the Prisons (Amdt.) Act, 1925 (XVII of 1925), s. 2, for "solitary".

2. Subs. *ibid.*, s. 3.

3. Subs. by the Repealing and Amending Act, 1914 (X of 1914), s. 2 and Sch. I, for "or".

4. Ins. by Act XVII of 1925.

5. Subs. by A.O., 1937, for "Local Government".

6. Subs. by W.P. Ord. XXV of 1962, for "Inspector General".

50. (1) No punishment of penal diet, either singly or in combination, or of whipping, or of change of labour under section 46, clause (2), shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment-book prescribed in section 12.

Medical Officer to certify to fitness of prisoner for punishment.

(2) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

51. (1) In the punishment-book prescribed in section 12 there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison-offence of which he was guilty, the date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison-offence, the punishment awarded, and the date of infliction.

Entries in punishment-book.

(2) In the case of every serious prison-offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which whipping is awarded, the Superintendent shall record the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefor.

(3) Against the entries relating to each punishment the Jailer and Superintendent shall affix their initials as evidence of the correctness of the entries.

52. If any prisoner is guilty of any offence against prison-discipline which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the first class 1[\* \* \*] having jurisdiction, together with a statement

Procedure on committal of heinous offence.

1. The words "or Presidency Magistrate" which were ins. by the Prisons (Amdt.) Act, 1910 (XIII of 1910), s. 2 (1), omitted by A.O., 1949.

of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and, upon conviction may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 46 :

<sup>1</sup>[Provided that any such case may be transferred for inquiry and trial by the District Magistrate to any Magistrate of the first class 2[ \* \* ] : ] and

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

**Whipping.**

53. (1) No punishment of whipping shall be inflicted in instalments, or except in the presence of the Superintendent and Medical Officer or Medical Subordinate.

(2) Whipping shall be inflicted with a light ratan not less than half an inch in diameter on the buttocks, and in case of prisoners under the age of sixteen it shall be inflicted, in the way of school discipline, with a lighter ratan.

**Offences by prison subordinates.**

50. (1) Every Jailer or officer of a prison subordinate to him who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority or who shall withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention for the period of two months, or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison-duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment for a period not exceeding three months, or to both.

(2) No person shall under this section be punished twice for the same offence.

## CHAPTER XII

### MISCELLANEOUS

**Extramural custody, control and**

55. A prisoner, when being taken to or from any prison in which he may be lawfully confined, or whenever he is working

1. Subs. by the Prisons (Amdt.) Act, 1910 (XIII of 1910), s. 2(2) for the original proviso.

2. The words "and by a Chief Presidency Magistrate to any other Presidency Magistrate" omitted by A.O., 1949.

outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison-officer belonging to such prison, shall be deemed to be in prison shall be subject to all the same incidents as if he were actually in prison.

employment of prisoners.

56. Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the <sup>1</sup>[Director of Prisons] with the sanction of the <sup>2</sup>[Provincial Government], so confine them.

Confinement in irons.

57. (1) Prisoners under sentence of <sup>3</sup>[imprisonment for life] may, subject to any rules made under section <sup>4</sup>[59], be confined in fetters for the first three months after admission to prison.

Confinement of prisoners under sentence of transportation in irons.

(2) Should the Superintendent consider it necessary, either for the safe custody of the prisoner himself or for any other reason, that fetters should be retained on any such prisoner for more than three months, he shall apply to the <sup>1</sup>[Director of Prisons] for sanction to their retention for the period for which he considers their retention necessary, and the <sup>1</sup>[Director of Prisons] may sanction such retention accordingly.

58. No prisoner shall be put in irons or under mechanical restraint by the Jailer of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent.

Prisoners not to be ironed by Jailer except under necessity.

59. <sup>5</sup>[The Provincial Government] may make rules consistent with this Act—

Power to make rules.

(1) defining the act which shall constitute prison-offences ;

(2) determining the classification of prison-offences into serious and minor offences ;

1. Subs. by W.P. Ord. XXV of 1962, for "Inspector General".

2. Subs. by A.O., 1937, for "Local Government."

3. Subs. by Ord. XII of 1972, for "transportation".

4. Subs. by A.O., 1937, for "60".

5. Subs. *ibid.*, for "The G.G. in C. may for any part of British India, and each Local Government with the previous sanction of the G.G. in C. may for the territories under its administration".

- (3) fixing the punishments admissible under this Act which shall be awardable for commission of prison-offences or classes thereof ;
- (4) declaring the circumstances in which Acts constituting both a prison-offence and an offence under the Pakistan Penal Code may or may not be dealt with as a prison-offence ;
- (5) for the award of marks and the shortening of sentences ; <sup>1</sup>[so, however, that a sentence of imprisonment for life is not shortened to a period of imprisonment less than 15 years] ;
- (6) regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape ;
- (7) defining the circumstances and regulating the conditions under which prisoners in danger of death may be released ;
- <sup>2</sup>[(8) for the classification of prisons, and description and construction of wards, cells and other places of detention ;
- (9) for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons ; ]
- (10) for the government of prisons and for the appointment of all officers appointed under this Act ;
- (11) as to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost ;
- (12) for the employment, instruction and control of convicts within or without prisons ;
- (13) for defining articles the introduction or removal of which into or out of prisons without due authority is prohibited ;
- (14) for classifying and prescribing the forms of labour and regulating the periods of rest from labour ;

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1. Ins. by Ord. XII of 1972.

2. Subs. by A.O., 1937, for the original clauses (8) and (9).



- (15) for regulating the disposal of the proceeds of the employment of prisoners ;
- (16) for regulating the confinement in fetters of prisoners sentenced to <sup>1</sup>[imprisonment for life] ;
- (17) for the classification and the separation of prisoners ;
- (18) for regulating the confinement of convicted criminal prisoners under section 28 ;
- (19) for the preparation and maintenance of history-tickets ;
- (20) for the selection and appointment of prisoners as officers of prisons ;
- (21) for rewards for good conduct ;
- (22) for regulating the transfer of prisoners whose term of <sup>1</sup>[imprisonment for life or shorter] or imprisonment is about to expire ; subject, however, to the consent of the Provincial Government of any other Province to which a prisoner is to be transferred ;
- (23) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons ;
- (24) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends ;
- (25) for the appointment and guidance of visitors of prisons ;
- (26) for extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement appointed under section 541 of the <sup>2</sup>Code of Criminal Procedure, 1882, and to the officers employed, and the prisoners confined, therein ;
- (27) in regard to the admission, custody, employment, dieting, treatment and release of prisoners ; and

X of  
1882.

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1. Subs. by Ord. XII of 1972, for "transportation".

2. Now the Code of Criminal Procedure, 1898 (V of 1898).

(28) generally for carrying into effect the purposes of this Act.

60. [Power of Local Government to make rules]. Rep. by A.O., 1937.

Exhibition  
of copies of  
rules.

61. Copies of rules, under <sup>1</sup>[section 59] so far as they affect the government of prisons, shall be exhibited, both in English and in the Vernacular, in some place to which all persons employed within a prison have access.

Exercise of  
powers of  
Superinten-  
dent and  
Medical  
Officer.

62. All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may in his absence be exercised and performed by such other officer as the <sup>2</sup>[Provincial Government] may appoint in this behalf either by name or by his official designation.

**THE SCHEDULE—[ENACTMENTS REPEALED].** Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.

1. Subs. by A.O., 1937, for "sections 59 and 60".

2. Subs. *ibid.*, for "Local Government."

(Act VIII of 1897)

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# THE REFORMATORY SCHOOLS ACT, 1897

(Act VIII of 1897)

[11th March, 1897]

An Act to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders.

WHEREAS it is expedient to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders ;

It is hereby enacted as follows :—

## I—PRELIMINARY

1. (1) This Act may be called the Reformatory Schools Act, 1897 : [ \* \* ]

Title and extent.

[ \* \* \* \* \* ]

3[(3) This section and section 2 shall extend to 4[the whole of Pakistan]. 5[The other sections shall extend in the first instance to Sind and the Karachi Division and East Pakistan, but the Government of 6[the Punjab] may at any time, by notification in the Official Gazette, extend these sections to other parts of 6[the Punjab] from such day as may be fixed in any such notification.]

1 For statement of objects and reasons, see *Gazette of India*, 1896, Pt. V, p. 187 ; for Report of the Select Committee, see *ibid.*, 1397, Pt. VI, p. 55 ; and for Proceedings in Council see *ibid.*, 1896, Pt. V, pp. 222 and 251 ; and *ibid.*, 1896, Pt. VI, pp. 44 and 68.

This Act has been declared to be in force in Baluchistan by the British Baluchistan Laws Regulation, 1913 (II of 1913), s. 3 and Sch. I.

It has also been extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950) ; and applied in the Federated Areas of Baluchistan, see *Gazette of India*, 1937, Pt. I, p. 1499.

2. The word "and" at the end of sub-section (1), and sub-section (2), rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.

3. Subs. by A.O., 1949, Sch., for the original sub-section (3) as amended by A.O., 1937.

4. Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), s. 3 and 2nd Sch., for "all the Provinces" (with effect from 14th October, 1955).

5. Subs. by A.O., 1964, Art. 2 and Sch., for certain words as amended by the Repealing and Amending Ordinance, 1961 (I of 1961), and A.O., 1961.

6. Subs. by Pb. A.O. I of 1974, for "West Pakistan".

2 and 3. [Repeals.] Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Schedule.

**Definitions.**

4. In this Act, unless there is anything repugnant in the subject or context,—

(a) “youthful offender” means any boy who has been convicted of any offence punishable with transportation or imprisonment and who, at the time of such conviction, was under the age of fifteen years :

(b) “Inspector-General” includes any officer appointed by the <sup>1</sup>[Provincial Government] to perform all or any of the duties imposed by this Act on the Inspector-General : and

2[\* \* \* \* \*

**II—REFORMATORY SCHOOLS**

**Power to establish and discontinue Reformatory Schools.**

5. 3[\* \* \*] The <sup>1</sup>[Provincial Government] may—

(a) establish and maintain Reformatory Schools at such places as it may think fit ;

(b) use as Reformatory Schools kept by persons willing to act in conformity with such rules, consistent with this Act, as the <sup>1</sup>[Provincial Government] may prescribe in this behalf ;

(c) direct that any school so established or used shall cease to exist as a Reformatory School or to be used as such.

**Requisites of schools.**

6. Every school so established or used must provide—

(a) sufficient means of separating the inmates at night ;

(b) proper sanitary arrangements, water-supply, food, clothing and bedding for the youthful offenders detained therein ;

(c) the means of giving such youthful offenders industrial training ;

1. Subs. by A.O., 1937, for “Local Government.”

2. Clause (c) omitted by A.O., 1949, Sch.

3. The words “with the previous sanction of the G.G. in C.” rep. by the Decentralization Act, 1914 (IV of 1914), s. 2 and Sch., Pt.I.

(d) an infirmary or proper place for the reception of such youthful offenders when sick.

7. (1) Every school intended to be established or used as a Reformatory School shall, before being used as such, be inspected by the Inspector-General, and if he finds that the requirements of section 6 have been complied with, and that, in his opinion, such school is fitted for the reception of such youthful offenders as may be sent there under this Act, he shall certify to that effect, and such certificate shall be published in the <sup>1</sup>[Official Gazette], together with an order of the <sup>2</sup>[Provincial Government] establishing the school as a Reformatory School or directing that it shall be used as such, and the school shall thereupon be deemed to be a Reformatory School.

Inspection  
of Reforma-  
tory Schools.

(2) Every such school shall, from time to time, and at least once in every year, be visited by the said Inspector-General, who shall send to the <sup>2</sup>[Provincial Government] a report on the condition of the school in such form as the <sup>2</sup>[Provincial Government] may prescribe.

8. (1) Whenever any youthful offender is sentenced to transportation or imprisonment, and is, in the judgment of the Court by which he is sentenced, a proper person to be an inmate of a Reformatory School, the Court may, subject to any rules made by the <sup>2</sup>[Provincial Government], direct that, instead of undergoing his sentence, he shall be sent to such a school, and be there detained for a period which shall be not less than three or more than seven years.

Power of  
Courts to  
direct youth-  
ful offenders  
to be sent to  
Reformatory  
Schools.

(2) The powers so conferred on the court by this section shall be exercised only by (a) the High Court, (b) a Court of Session, (c) a District Magistrate, and (d) any Magistrate specially empowered by the <sup>2</sup>[Provincial Government] in this behalf, and may be exercised by such Courts whether the case comes before them originally or on appeal.

(3) The <sup>2</sup>[Provincial Government] may make rules for—

1. Subs. by A.O., 1937, for "local official Gazette".
2. Subs. *ibid.*, for "Local Government."

- <sup>1</sup>(a) defining what youthful offenders should be sent to Reformatory Schools, having regard to the nature of their offences or other considerations, and
- (b) regulating the periods for which youthful offenders may be sent to such schools according to their ages or other considerations.

Procedure where Magistrate is not empowered to pass an order under section 8.

9. (1) When any Magistrate not empowered to pass an order under the last foregoing section is of opinion that a youthful offender convicted by him is a proper person to be an inmate of a Reformatory School, he may, without passing sentence, record such opinion and submit his proceedings and forward the youthful offender to the Magistrate to whom he is subordinate.

(2) The Magistrate to whom the proceedings are so submitted may make such further inquiry (if any) as he may think fit and pass such sentence and order for the detention in a Reformatory School of the youthful offender, or otherwise, as he might have passed if such youthful offender had been originally tried by him.

Power of Magistrates to direct boys under fifteen sentenced to imprisonment to be sent to Reformatory Schools.

10. The officer in charge of a prison in which a youthful offender is confined, in execution of a sentence of imprisonment, may bring him, if he has not then attained the age of fifteen years, before the District Magistrate within whose jurisdiction such prison is situate; and such Magistrate may, if such youthful offender appears to be a proper person to be an inmate of a Reformatory School, direct that, instead of undergoing the residue of his sentence, he shall be sent to a Reformatory School, and there detained for a period which shall be subject to the same limitations as are prescribed by or under section 8, with reference to the period of detention thereby authorised.

Preliminary inquiry and finding as to age of youthful offender.

11. (1) Before directing any youthful offender to be sent to a Reformatory School under section 8, section 9, or section 10, the Court or Magistrate shall inquire into the question of his age and, after taking such evidence (if any) as may be deemed necessary, shall record a finding thereon, stating his age as nearly as may be.

1. For rules made under this clause by the Punjab Government, see Punjab Gazette, dated the 2nd October, 1903, Extraordinary, p. 3.



(2) A similar inquiry shall be made and finding recorded by every Magistrate not empowered to pass an order under section 8 before submitting his proceedings and forwarding the youthful offender to the District Magistrate as required by section 9, sub-section (1).

12. Every youthful offender directed by a Court or Magistrate to be sent to a Reformatory School shall be sent to such Reformatory School as the <sup>1</sup>[Provincial Government] may, by general or special order, appoint for the reception of youthful offenders so dealt with by such Court or Magistrate :

Government to determine Reformatory School to which such offenders shall be sent.

Provided that, if accommodation in a Reformatory School is not immediately available for such youthful offender, he may be detained in the juvenile ward or such other suitable part of a prison as the <sup>1</sup>[Provincial Government] may direct—

(a) until he can be sent to a Reformatory School, or

(b) until the term of his original sentence expires,

whichever event may first happen. Should the term of his original sentence first expire, he shall thereupon be released, but should he be sent to a Reformatory School, then the period of detention previously undergone shall be treated as detention in a Reformatory School.

13. (1) If at any time after a youthful offender has been sent to a Reformatory School it appears to the Committee of Visitors or Board of Management, as the case may be, that the age of such youthful offender has been understated in the order for detention, and that he will attain the age of eighteen years before the expiration of the period for which he has been ordered to be detained, they shall report the case for the orders of the <sup>1</sup>[Provincial Government].

Persons found to be over eighteen years not to be detained in Reformatory Schools.

(2) No person shall be detained in a Reformatory School after he has been found by the <sup>1</sup>[Provincial Government] to have attained the age of eighteen years.

14. The <sup>1</sup>[Provincial Government] may at any time order any youthful offender—

(a) to be discharged from a Reformatory School ;

Discharge or removal by order of Government.

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1. Subs. by A.O., 1937, for "Local Government."

- (b) to be removed from one Reformatory School to another such school situate within the territories subject to such Government : Provided that the whole period of his detention in a Reformatory School shall not be increased by such removal.

Agreement  
between  
Provinces.

<sup>1</sup>[15. The Provincial Governments of any two Provinces may after mutual agreement, generally or specially, notify in their respective Official Gazettes that any Reformatory School situated in one of the Provinces shall be available for the reception of youthful offenders directed to be sent to a Reformatory School by any Court or Magistrate in the other Province and may thereupon make provision for the removal of youthful offenders accordingly].

Certain  
orders not  
subject to  
appeal or  
revision.

16. Nothing contained in the <sup>2</sup>Code of Criminal Procedure, 1882, shall be construed to authorise any Court or Magistrate to alter or reverse in appeal or revision any order passed with respect to the age of a youthful offender or the substitution of an order for detention in a Reformatory School for transportation or imprisonment.

X of 1882.

### III—MANAGEMENT OF REFORMATORY SCHOOLS

Appointment  
of Superin-  
tendent and  
Commit-  
tee of Visi-  
tors or  
Board  
of Manage-  
ment.

17. (1) For the control and management of every Reformatory School, the <sup>3</sup>[Provincial Government] shall appoint either (a) a Superintendent and a Committee of Visitors, or (b) a Board of Management.

(2) Every Committee and every Board so appointed must consist of not less than five persons, of whom two at least shall be <sup>4</sup>[<sup>5</sup>citizens of] Pakistan.]

(3) The <sup>3</sup>[Provincial Government] may suspend or remove any Superintendent or any Member of a Committee or Board so appointed.

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1. Subs. by A.O., 1937.
  2. Now the Code of Criminal Procedure, 1898 (V of 1898).
  3. Subs. by A.O., 1937, for "Local Government."
  4. Subs. by A.O., 1949, Sch., for "Natives of India".
  5. Subs. by A.O., 1961, Art. 2 and Sch., for "British subjects domiciled in" (with effect from the 23rd March, 1956).

18. (1) Every Superintendent so appointed may, with the sanction of the Committee, by license under his hand, permit any youthful offender sent to a Reformatory School, who has attained the age of fourteen years, to live under the charge of any trust-worthy and respectable person named in the license, or any officer of Government or of a Municipality, being an employer of labour and willing to receive and take charge of him, on the condition that the employer shall keep such youthful offender employed at some trade, occupation or calling.

Superintendent may license youthful offenders to employers of labour.

(2) The license shall be in force for three months and no longer, but may, at any time and from time to time until the expiration of the period for which the youthful offender has been directed to be detained, be renewed for three months at a time.

19. The license shall be cancelled at the desire of the employer named in the license.

Cancellation of license.

20. If during the term of the license the employer named therein dies, or ceases from business or to employ labour, or the period for which the youthful offender has been directed to be detained in the Reformatory School expires, the license shall thereupon cease and determine.

Determination of license.

21. If it appears to the Superintendent that the employer has ill-treated the youthful offender, or has not adequately provided for his lodging and maintenance, the Superintendent may cancel the license.

Cancellation of license in case of ill-treatment.

22. (1) The Superintendent of a Reformatory School shall be deemed to be the guardian of every youthful offender detained in such school, within the meaning of <sup>1</sup>Act No. XIX of 1850 (*concerning the binding of apprentices*).

Superintendent to be deemed guardian of youthful offenders.

(2) If it appears to the Superintendent that any youthful offender licensed under section 18 has behaved well during one or more periods of his license, the Superintendent may, with the sanction of the Committee, apprentice him under the provisions of the said Act, and on such apprenticeship the right to detain such youthful offender in a Reformatory School shall cease, and the unexpired term (if any) of his sentence shall be cancelled.

Power to apprentice youthful offender

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1. The Apprentices Act, 1850.

**Duties of  
Committee  
of Visitors.**

23. (1) Every Committee of Visitors appointed under section 17 for a Reformatory School shall, at least once in every month—

- (a) visit the school, to hear complaints and see that the requirements of section 6 have been complied with, and that the management of the school is proper in all respects ;
- (b) examine the punishment-book ;
- (c) bring any special cases to the notice of the Inspector-General ; and
- (d) see that no person is illegally detained in the school.

(2) If any member of a Committee of Visitors so appointed fails or neglects, during a period of six consecutive months, to visit the school and assist in the discharge of the duties aforesaid, he shall cease to be a member of such Committee.

**Powers of  
Board of  
management.**

24. If, in exercise of the power conferred by section 17, the <sup>1</sup>[Provincial Government] appoints a Board of Management for any Reformatory School, such Board shall have the powers and perform the functions of the Superintendent under sections 18 to 22, both inclusive ; and the license mentioned in sections 18 may be under the hand of their chairman ; and they shall be deemed to be the guardians of the youthful offenders detained in such school.

**Power to  
appoint  
Trustees or  
other Mana-  
gers of a  
school to be  
a Board of  
Manage-  
ment.**

25. The <sup>1</sup>[Provincial Government] may declare any body of Trustees or Managers of a school, who are willing to act in conformity with the rules referred to in section 5, clause (b), to be a Board of Management under this Act, and thereupon such body or Managers shall have all the powers and perform all the functions of such Board of Management.

**Power of  
Board to  
make rules.**

26. (1) With the previous sanction of the <sup>1</sup>[Provincial Government], every Board of Management of a Reformatory School may from time to time make rules consistent with this Act—

- (i) to prescribe the articles which are to be deemed to be “prohibited articles” ; and

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1. Subs. by A.O., 1937, for “Local Government.”

(ii) to regulate—

- (a) the conduct of business of the Board ;
- (b) the management of the school ;
- (c) the education and industrial training of youthful offenders ;
- (d) visits to, and communication with, youthful offenders ;
- (e) the terms and conditions under which any articles declared by the Board to be "prohibited articles" may be introduced into or removed out of the school ;
- (f) the manner in which such articles are to be removed when introduced without due authority ;
- (g) the conditions and limitations under which such articles may be supplied outside the school to any youthful offender under order of detention therein ;
- (h) the conditions on which the possession by any such youthful offender of such articles may be sanctioned ;
- (i) the penalties to be imposed for the supply or possession of such articles when supplied or possessed without due authority ;
- (j) the punishment of offences committed by youthful offenders ; and
- (k) the granting of licenses for the employment of youthful offenders.

(2) In the absence of a Board of Management the <sup>1</sup>[Provincial Government] may make rules consistent with this Act to regulate for any Reformatory School the matters mentioned in any clause of sub-section (1), other than clause (ii) (a), and also the mode in which the Committee of Visitors shall conduct their business.

#### IV—OFFENCES IN RELATION TO REFORMATORY SCHOOLS

27. Whoever, contrary to any rule made under section 26, introduces or removes or attempts by any means what-

Penalty for  
introduction

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1. Subs. by A.O., 1937, for "Local Government."

or removal  
or supply of  
prohibited  
articles and  
communica-  
tion with  
youthful  
offenders.

ever to introduce or remove into or from any Reformatory School, or supplies or attempts to supply outside the limits of any Reformatory School to any youthful offender under order of detention therein, any prohibited article,

and every officer or person in charge of a Reformatory School who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any Reformatory School, to be possessed by any youthful offender detained therein, or to be supplied to any such youthful offender outside its limits,

and whoever, contrary to any such rule, communicates or attempts to communicate with any such youthful offender,

and whoever abets any offence made punishable under this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Penalty for  
abetting  
escape of  
youthful  
offender.

28. Whoever abets an escape, or an attempt to escape, on the part of a youthful offender from a Reformatory School, or from the employer of such youthful offender, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding two hundred rupees, or with both.

Arrest of  
escaped  
youthful  
offender.

29. A Police-officer may, without orders from a Magistrate and without a warrant, arrest any youthful offender sent to a Reformatory School under this Act, who has escaped from such school or from his employer, and take him back to such school or to his employer.

#### V—MISCELLANEOUS

30. [Application of Act XIV of 1869 to youthful offenders detained in Reformatory Schools]. Rep. by the Prisoners Act, 1900 (III of 1900), s. 53 and Schedule III.

Power to  
deal in other  
ways with  
youthful  
offenders  
including  
girls.

31. (1) Notwithstanding anything contained in this Act or in any other enactment for the time being in force, any Court may, if it shall think fit, instead of sentencing any youthful offender to transportation or imprisonment or directing him to be detained in a Reformatory School, order him to be—

(a) discharged after due admonition, or

(b) delivered to his parent or to his guardian or nearest adult relative, on such parent, guardian or relative executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding twelve months.

(2) For the purposes of this section the term "youthful offender" shall include a girl.

(3) The powers conferred on the Court by this section shall be exercised only by Courts empowered by or under section 8.

(4) When any youthful offender is convicted by a Court not empowered to Act under this section and the Court is of opinion that the powers conferred by this section should be exercised in respect of such youthful offender, it may record such opinion and submit the proceedings and forward the youthful offender to the District Magistrate to whom such Court is subordinate.

(5) The District Magistrate to whom the proceedings are so submitted may thereupon make such order or pass such sentence as he might have made or passed if the case had originally been tried by him.

X of 1882. 32. When a youthful offender during his period of detention in a Reformatory School is again convicted by a Criminal Court, the sentence of such Court shall commence at once, notwithstanding anything to the contrary in section 397 of the <sup>1</sup>Code of Criminal Procedure, 1882, but the Court shall forthwith report the matter to the <sup>2</sup>[Provincial Government], which shall have power to deal with the matter in any way in which it thinks fit.

Procedure when youthful offender under detention in a Reformatory School is again convicted and sentenced.

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1. Now the Code of Criminal Procedure, 1898 (V of 1898).

2. Subs. by A.O., 1937, for "Local Government."

# THE STAMP ACT, 1899

(Act II of 1899)

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# THE STAMP ACT, 1899

(Act II of 1899)

[27th January, 1899]

## An Act to consolidate and amend the law relating to Stamps.

WHEREAS it is expedient to consolidate and amend the law relating to stamps;

it is hereby enacted as follows :—

1. For statement of objects and reasons, see Gazette of India, 1897, Pt. V, p. 175, for Report of the Select Committee, see *ibid.*, 1898, Pt. V, p. 231 ; and for Proceedings in Council, see *ibid.*, 1898, Pt. VI, pp. 10 and 278 ; and *ibid.*, 1899, Pt. VI, p. 5.

The Act has been amended in its application to :—

- (1) the Punjab and the N.W.F.P. by the Indian Stamp (Punjab Amendment) Act, 1922 (Punjab VIII of 1922), the Indian Stamp (Punjab Amendment) Act, 1924 (Punjab I of 1924) and the Indian Stamp (N.W.F.P. Amendment) Act, 1948 (N.W.F.P. Act XV of 1948) ; see also the Punjab Stamp (Amendment) Act, 1935 (Punjab I of 1935), Punjab Act XIV of 1948, s. 2 and Act XI of 1949, s. 2, applying only to the Punjab ;
- (2) Sind, by the Indian Stamp (Sind Amendment) Act, 1938 (Sind XII of 1938) ;
- (3) Capital of the Federation, by the Finance Act, 1952 (V of 1952) ; and
- (4) the Province of West Pakistan (except the Capital of the Federation) by West Pakistan Act XVI of 1957, s. 3 (3) and 3rd Sch. (with effect from 14-10-55).

It has been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.W.F.P., subject to certain modifications, and extended to the Excluded Area of Upper Tanawal (N.W.F.P.) other than Phulera with effect from such date and subject to such modifications as may be notified, see N.W.F.P. (Upper Tanawal Excluded Area) Laws Regulation, 1950.

This Act and all rules, notifications, declaration and orders made under it which were in force immediately before the first day of April, 1952, have been extended to and brought into force in the State of Bahawalpur, see the Bahawalpur (Extension of Laws) Order, 1952 (G.G.O. II of 1952).

It has been extended to Khairpur State, see the Khairpur (Federal Laws) (Second Extension) Order, 1953 (G.G.O. XV of 1953).

It has also been extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G.G.O. III of 1950); and applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt. I, p. 1499.

It has so been extended to the Baluchistan States Union, see G.G.O. XVIII of 1953.

This Act has been amended in its application to the Province of West Pakistan by W. P. Ord. XXXXVI of 1959 (with effect from the 15th August, 1959).

It has further been amended in its application to the Province of West Pakistan by W. P. Act II of 1964, s. 2.

## CHAPTER I

## PRELIMINARY

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the <sup>1</sup>[\* \* \*] Stamp Act, 1899.

<sup>2</sup>(2) It extends to the whole of Pakistan.]

(3) It shall come into force on the first day of July, 1899.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

“Banker.”

(1) “banker” includes a bank and any person acting as a banker :

“Bill of exchange.”

(2) “bill of exchange” means a bill of exchange as defined by the Negotiable Instruments Act, 1881, and includes also a hundi, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money :

XXV  
of  
1881.

“Bill of exchange payable on demand.”

(3) “bill of exchange payable on demand” includes—

(a) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen ;

(b) an order for the payment of any sum of money weekly, monthly or at any other stated periods; and

(c) a letter of credit, that is to say, any instrument by which one person authorises another to give credit to the person in whose favour it is drawn :

1. The word “Indian” omitted by A.O., 1949.

2. Sub-section (2), subs. by Ord. XXI of 1960

(4) "bill of lading" includes a "through bill of lading", but does not include a mate's receipt : "Bill of lading."

(5) "bond" includes— "Bond."

(a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be ;

(b) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another ; and

(c) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another :

(6) "chargeable" means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act and, as applied to any other instrument, chargeable under the law in force in <sup>1</sup>[Pakistan] when such instrument was executed, or where several persons executed the instrument at different times, first executed : "Chargeable."

(7) "cheque" means a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand : "Cheque."

(8) 2[\* \* \* \* \*]

(9) "Collector"—

"Collector."

<sup>3</sup>(a) means the Collector of a district ; and]

(b) includes a Deputy Commissioner and any officer whom <sup>4</sup>[the Provincial Government] may, by notification in the Official Gazette, appoint in this behalf :

1. Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation", which had been subs. by A.O., 1949, Arts. 3(2) and 4, for "British India."

2. CL (8) defining "Chief Controlling Revenue-authority", rep. by A. O., 1937.

3. Subs. by A.O., 1949, Sch., for the original sub-clause (a).

4. The original words "the L.G." were first subs. by A.O., 1937, and then amended by W.P. Ord. XLVI of 1959.

- "Convey-  
ance." (10) "conveyance" includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule I :
- "Duly  
stamped." (11) "duly stamped", as applied to an instrument, means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in <sup>1</sup>[Pakistan] :
- "Executed"  
and  
"execution." (12) "executed" and "execution", used with reference to instruments, mean "signed" and "signature" :  
(12-A) 2[\* \* \* \* \*]
- "Impressed  
stamp." (13) "impressed stamp" includes—  
(a) labels affixed and impressed by the proper officer, and  
(b) stamps embossed or engraved on stamped paper :
- "Instru-  
ment." (14) "instrument" includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded :
- "Instrument  
of partition" (15) "instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue-authority or any Civil Court and an award by an arbitrator directing a partition :
- "Lease." (16) "lease" means a lease of immovable property, and includes also—  
(a) a patta ;  
(b) a *kabuliyat* or other undertaking in writing, not being a counter-part of a lease, to

1. Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), s. 3 and 2nd Sch., (with effect from the 14th October, 1955) for the "Provinces and the Capital of the Federation" which had been subs. by A.O., 1949, Arts. 3 (2) and 4, for "British India".

2. Cl. (12-A) defining "Collecting Government", ins. by A. O., 1937, and subsequently amended by A.O., 1961, Art. 2 and Sch., has been omitted by W.P. Ord. XLVI of 1959.



cultivate,

occupy or pay or deliver rent for, immovable property ;

(c) any instrument by which tolls of any description are let ;

(d) any writing on an application for a lease intended to signify that the application is granted ;

¶16-A) "marketable security" means a security of such a description as to be capable of being sold in any stock market in ²[Pakistan] or in the United Kingdom :]

"Marketable security."

(17) "mortgage-deed" includes every instrument whereby for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to, or in favour of, another, a right over or in respect of specified property :

"Mortgage-deed."

(18) "paper" includes vellum, parchment or any other material on which an instrument may be written :

"Paper."

(19) "policy of insurance" includes—

"Policy of insurance."

(a) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event ;

(b) a life-policy, and any policy insuring any person against accident or sickness, and any other personal insurance ³[\* \*] ;

(c) ³[\* \* \* \* \*]

(20) "policy of sea-insurance" or "sea-policy"—

"Policy of sea-insurance" or "sea-policy."

(a) means any insurance made upon any ship or vessel (whether for marine or inland navigation), or upon the machinery, tackle or furniture of any ship or vessel, or upon any goods, merchandise or property of any description whatever on board

1. Cl. (16-A), ins. by the Indian Stamp (Amdt.) Act, 1904 (XV of 1904) s. 2.

2. Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation", which had been subs. by A.O., 1949, Arts. 3(2) and 4, for "British India."

3. The word "and" and sub-clause (c) rep. by the Indian Stamp (Amdt.) Act, 1906 (V of 1906), s. 2.

of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in, or relating to, any ship or vessel ; and

- (b) includes any insurance of goods, merchandise or property for any transit which includes not only sea risk within the meaning of clause (a), but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance :

Where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance:

“Power-of-attorney.”

- (21) “power-of-attorney” includes any instrument (not chargeable with a fee under the law relating to court-fees for the time being in force) empowering a specified person to act for and in the name of the person executing it :

“Promissory note.”

- (22) “promissory note” means a promissory note as defined by the Negotiable Instruments Act, 1881 ; it also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen :

XXVI of 1881.

- 1(22-A) “Public Office” includes a Government Office, a People’s Local Council, a Local Authority, a Statutory Corporation or a similar body set up by the 2Central or Provincial Government, commercial or industrial concern whether singly owned or run through partnership having more than twenty employees, a body registered under the Companies Act, 1913, and a Co-operative Society :

- (22-B) “Public Officer” includes an Officer-in-charge of a Public Office: ]

1. Add. by Pb Act XXVI of 1973.

2. Now ‘Federal’, see P.O. 4 of 1975.

(23) "receipt" includes any note, memorandum or writing— "Receipt."

- (a) whereby any money, or any bill of exchange, cheque or promissory note is acknowledged to have been received, or
- (b) whereby any other movable property is acknowledged to have been received in satisfaction of a debt, or
- (c) whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or
- (d) which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person : 4\* \*]

(24) "settlement" means any non-testamentary disposition, in writing, of movable or immovable property made— "Settlement."

- (a) in consideration of marriage,
- (b) for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or
- (c) for any religious or charitable purpose ;

and includes an agreement in writing to make such a disposition 2[and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition]: 3[and]

<sup>3</sup>[(25) "soldier" includes any person below the rank of non-commissioned officer who is enrolled under the Indian Army Act, 1911 4[or the Pakistan Army Act, 1952.] "Soldier."

VIII  
of  
1911.  
XXIX  
of  
1952.

1. The word "and" rep. by the Repealing and Amending Act, 1928 (XVIII of 1928).

2. Ins. by the Indian Stamp (Amendment) Act, 1904 (XV of 1904), s. 2.

3. The word "and" and cl. (25), ins. by Act XVIII of 1928, s. 2 and Sch.

4. Add. by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955).

## CHAPTER II

## STAMP-DUTIES

*A—Of the liability of instruments to duty*

Instruments  
chargeable  
with duty.

3. Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that schedule as the proper duty therefor respectively, that is to say—

- (a) every instrument mentioned in that Schedule which, not having been previously executed by any person, is executed in ¶[Pakistan] on or after the first day of July, 1899;
- (b) every bill of exchange ¶[payable otherwise than on demand] ¶[\* \*] or promissory note drawn or made out of ¶[Pakistan] on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in ¶[Pakistan] ; and
- (c) every instrument (other than a bill of exchange ¶[\* \*] or promissory note) mentioned in that Schedule, which, not having been previously executed by any person, is executed out of ¶[Pakistan] on or after that day, relates to any property situate, or to any matter or thing done or to be done, in ¶[Pakistan] and is received in ¶[Pakistan] :

Provided that no duty shall be chargeable in respect of—

- (1) any instrument executed by, or on behalf of, or in favour of, the ¶[Government] in cases where, but for this exemption, the ¶[Government] would be liable to pay the duty chargeable in respect of such instrument ;

1. Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation", which had been subs. by A.O., 1949, Arts. 3(2) and 4, for "British India".

2. Ins. by the Indian Finance Act, 1927 (V of 1927), s. 5.

3. The word "cheque" rep., *ibid.*

4. Subs. by W. P. Ord. XLVI of 1959, for "Crown."

X of  
1841.

- (2) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or vessel registered under the Merchant Shipping Act, 1894 or under Act XIX of 1838<sup>1</sup>, or the Registration of Ships Act, 1841, as amended by subsequent Acts.

4. 2[(1) Where, in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule I, for the conveyance, mortgage or settlement, and each of the other instruments shall be chargeable with a duty of four rupees instead of the duty (if any) prescribed for it in that Schedule.]

Several instruments used in single transaction of sale, mortgage or settlement.

(2) The parties may determine for themselves which of the instruments so employed shall, for the purposes of sub-section (1), be deemed to be the principal instrument :

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

5. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

Instruments relating to several district matters.

6. Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in Schedule I, shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties :

Instruments coming within several descriptions in Schedule I.

2[Provided that nothing contained in this Act shall render chargeable with duty exceeding four rupees a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.]

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1. The Bombay Coasting Vessels Act, 1838.
  2. Subs. by W.P. Act II of 1964.

Policies of  
sea-insur-  
ance.

7. (1) No contract for sea-insurance (other than such insurance as is referred to in section 506 of the Merchant Shipping Act, 1894) shall be valid unless the same is expressed in a sea-policy.

(2) No sea-policy made for time shall be made for any time exceeding twelve months.

(3) No sea-policy shall be valid unless it specifies the particular risk or adventure, or the time, for which it is made, the names of the subscribers or under-writers, and the amount or amounts insured.

(4) Where any sea-insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

Bonds,  
debentures  
or other  
securities,  
issued on  
loans  
under Act  
XI, 1879.

8. (1) Notwithstanding anything in this Act, any local authority raising a loan under the provisions of the Local Authorities Loan Act, 1879, or of any other law for the time being in force, by the issue of bonds, debentures or other securities, shall, in respect of such loan, be chargeable with a duty of <sup>1</sup>[one per centum] on the total amount of the bonds, debentures or other securities issued by it, and such bonds, debentures or other securities need not be stamped, and shall not be chargeable with any further duty on renewal, consolidation, sub-division or otherwise.

XI of  
1879.

(2) The provisions of sub-section (1) exempting certain bonds, debentures or other securities from being stamped and from being chargeable with certain further duty shall apply to the bonds, debentures or other securities of all outstanding loans of the kind mentioned therein, and all such bonds, debentures or other securities shall be valid, whether the same are stamped or not :

Provided that nothing herein contained shall exempt the local authority which has issued such bonds, debentures or other securities from the duty chargeable in respect thereof prior to the twenty-sixth day of March, 1897, when such duty has not already been paid or remitted by order issued by the <sup>2</sup>[Federal Government].

1. Subs. by the Indian Stamp (Amendment) Act, 1910 (VI of 1910), s. 2, for "eight annas per centum."

2. Subs. by Pb. A.O., I of 1974, for "Central Government".

(3) In the case of wilful neglect to pay the duty required by this section, the local authority shall be liable to forfeit to the <sup>1</sup>[Provincial] Government a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues.

9. <sup>2</sup>[The Provincial Government] may, by rule or order published in the <sup>3</sup>[Official Gazette]—

Power to reduce, remit or compound duties.

(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of <sup>4</sup>[the territories under its administration], the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and

(b) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of debentures, bonds or other marketable securities.

#### *B—Of stamps and the mode of using them*

10. (1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

Duties how to be paid.

(a) according to the provisions herein contained, or

(b) when no such provision is applicable thereto, as the <sup>5</sup>[Provincial Government] may by rules direct.

(2) The rules<sup>6</sup> made under sub-section (1) may, among other matters, regulate,—

(a) in the case of each kind of instrument—the description of stamps which may be used;

1. Ins. by W. P. Ord. XLVI of 1959.

2. The original words "The G.G. in C." were first subs. by A.O., 1937 and then amended by W.P. Ord. XLVI of 1959.

3. Subs. by A.O., 1937, for "Gazette of India".

4. Subs. *ibid.*, for "British India."

5. Subs. by W.P. Ord. XLVI of 1959, for "Collecting Government" which had been subs. by A.O., 1937, for "G.G. in C."

6. See the Stamp Rules, 1925.

- (b) in the case of instruments stamped with impressed stamps—the number of stamps which may be used ;
- (c) in the case of bills of exchange or promissory notes written in any Oriental language—the size of the paper on which they are written.

Use of  
adhesive  
stamps.

11. The following instruments may be stamped with adhesive stamps, namely :—

- (a) instruments chargeable with <sup>1</sup>[a duty not exceeding twenty-five paise], except parts of bills of exchange payable otherwise than on demand and drawn in sets ;
- (b) bills of exchange, <sup>2</sup>[\* \*] and promissory notes drawn or made out of <sup>3</sup>[Pakistan] ;
- (c) entry as an advocate, vakil or attorney, on the roll of a High Court ;
- (d) notarial acts ; and
- (e) transfers by endorsement of shares in any incorporated company or other body corporate.

Cancellation  
of adhesive  
stamps.

12. (1) (a) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again ; and

(b) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(2) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped.

(3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.

1. Subs. by W.P. Act II of 1964, for "the duty of one anna or half an anna".

2. The word "cheques" rep. by the Indian Finance Act, 1927 (V of 1927), s. 5.

3. Subs. by the Central Laws (Statute Reform) Ordinance 1960 (XXI of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation", which had been subs. by A.O., 1949, Arts. 3(2) and 4, for "British India".



13. Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

Instruments stamped with impressed stamps how to be written.

14. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written :

Only one instrument to be on same stamp.

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

15. Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

Instrument written contrary to section 13 or 14 deemed unstamped.

16. Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last mentioned duty shall, if application is made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument, by endorsement under the hand of the Collector or in such other manner (if any) as the <sup>1</sup>[Provincial Government] may by rule prescribe.

Denoting duty.

#### *C—Of the time of stamping Instruments*

17. All instruments chargeable with duty and executed by any person in <sup>2</sup>[Pakistan] shall be stamped before or at the time of execution.

Instruments executed in Pakistan.

18. (1) Every instrument chargeable with duty executed only out of <sup>2</sup>[Pakistan], and not being a bill of exchange, <sup>3</sup>[\*\*] or promissory note, may be stamped within three months after it has been first received in <sup>2</sup>[Pakistan].

Instruments other than bills and notes executed out of <sup>2</sup>[Pakistan.]

1. Subs. by W.P. Ord. XLVI of 1959, for "Collecting Government", which had been subs. by A.O., 1937, for "G.G. in C."

2. Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation", which had been subs. by A.O., 1949, Arts. 3(2) and 4, for "British India."

3. The word "cheque" rep. by the Indian Finance Act, 1927 (V of 1927), s. 5.

(2) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, who shall stamp the same, in such manner as the <sup>1</sup>[Provincial Government] may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

Bills and  
notes drawn  
out of  
Pakistan.

19. The first holder in <sup>2</sup>[Pakistan] of any bill of exchange, <sup>3</sup>[payable otherwise than on demand] <sup>4</sup>[\*\*] or promissory note drawn or made out of <sup>2</sup>[Pakistan] shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in <sup>2</sup>[Pakistan], affix thereto the proper stamp and cancel the same :

Provided that,—

- (a) if, at the time any such bill of exchange, <sup>4</sup>[\* \*] or note comes into the hands of any holder thereof in <sup>2</sup>[Pakistan], the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12, and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled;
- (b) nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

#### D—Of valuations for duty

Conversion  
of amount  
expressed in  
foreign  
currencies.

20. (1) Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any currency other than that of <sup>2</sup>[Pakistan], such duty shall be calculated on the value of such money in the currency of <sup>2</sup>[Pakistan] according to the current rate of exchange on the day of the date of the instrument.

1. Subs. by W. P. Ord. XLVI of 1959, for "Collecting Government", which had been Subs. by A.O., 1937, for G.G. in C."

2. Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A.O., 1949, Arts. 3(2) and 4, for "British India".

3. Ins. *ibid.*

4. The word "cheque" rep. by the Indian Finance Act, 1927 (V of 1927), s. 5.

(2) The <sup>1</sup>[Federal Government] may, from time to time, by notification in the <sup>2</sup>[Official Gazette], prescribe<sup>3</sup> a rate of exchange for the conversion of British or any foreign currency into the currency of <sup>4</sup>[Pakistan] for the purposes of calculating stamp-duty, and such rate shall be deemed to be the current rate for the purposes of sub-section (1).

21. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument.

Stock and marketable securities how to be valued.

22. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

Effect of statement of rate of exchange or average price.

23. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Instruments reserving interest.

<sup>5</sup>[23-A. (1) Where an instrument (not being a promissory note or bill of exchange)—

(a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or

(b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under <sup>6</sup>[Article No. 5 (c)] of Schedule I.

1. Subs. by Pb A.O. 1 of 1974, for "Central Government."

2. Subs. *ibid.*, for "Gazette of India."

3. For notification prescribing such rates, see Finance Department (Central Revenues) Notification No. C. 125-Stamps 25, dated 18-9-25 (Gazette of India, 1925, Pt. I, p. 886), as amended by Notification No. 8-Stamps, dated 7-11-31.

4. Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960) s. 3. and 2nd Sch. (with effect from the 14th October 1955) for "the Provinces and the Capital of the Federation" which had been Subs. by A.O. 1949, Acts 3 (2) and 4, for "British India."

5. Ins. by the Indian Stamp (Amendment) Act, 1904 (XV of 1904), s. 3.

6. Subs. by the Indian Stamp (Amendment.) Act, 1912 (I of 1912), s. 3, for "Article No. 5 (b)."

(2) A release or discharge of any such instrument shall only be chargeable with the like duty.]

How transfer in consideration of debt, or subject to future payment, etc., to be charged.

24. Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or encumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty :

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 18 of Schedule I.

*Explanation*—In the case of a sale of property subject to a mortgage or other encumbrance, any unpaid mortgage-money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale:

Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

#### Illustrations

(1) A owes B Rs. 1,000. A sells a property to B, the consideration being Rs. 500 and the release of the previous debt of Rs. 1,000. Stamp-duty is payable on Rs. 1,500.

(2) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp-duty is payable on Rs. 1,700.

(3) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards buys the house from A. Stamp-duty is payable on Rs. 10,000 less the amount of stamp-duty already paid for the mortgage.

Valuation in case of annuity, etc.

25. Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act, be deemed to be,—

- (a) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount ;
- (b) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due ; and
- (c) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

27. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before the commencement of this Act) could not have been, ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution have been sufficient :

Stamp where value of subject-matter is indeterminate.

<sup>1</sup>[Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp-duty,—

- (a) when the lease has been granted by or on behalf of <sup>2</sup>[the Government], at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to <sup>2</sup>[the Government] under the lease, or,
- (b) when the lease has been granted by any other person, at twenty thousand rupees a year ;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease :]

1. Subs. by the Indian Stamp (Amdt.) Act, 1904 (XV of 1904), s. 4, for the original proviso.

2. The original words "the Secretary of State in Council" were first subs. by A.O., 1937 and, then, amended by W.P. Ord. XLVI of 1959.

Provided also that, where proceedings have been taken in respect of an instrument under section 31 or 41, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

Facts affecting duty to be set forth in instrument.

27. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Direction as to duty in case of certain conveyances.

28. (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration, and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess

of the original consideration over the aggregate of the consideration paid by the sub-purchasers :

Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or, where such duty would exceed five rupees, with a duty of five rupees.

*E—Duty by whom payable*

29. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne,—

Duties by  
whom  
payable.

(a) in the case of any instrument described in any of the following Articles of Schedule I, namely :—

No. 2. (Administration Bond),

4[No. 6. (Agreement relating to Deposit of Title-deeds, Pawn or Pledge),

No. 13. (Bill of Exchange),

No. 15. (Bond),

No. 16. (Bottomery Bonds),

No. 26. (Customs Bond),

No. 27. (Debenture),

No. 32. (Further Charge),

No. 34. (Indemnity-Bond),

No. 40. (Mortgage-Deed),

No. 49. (Promissory-Note),

No. 55. (Release),

No. 56. (Respondentia Bond),

No. 57. (Security Bond of Mortgage-Deed),

No. 58. (Settlement),

No. 62. (a) (Transfer of shares in an incorporated company or other body corporate),

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1. Subs. by the Indian Stamp (Amdt.) Act, 1904 (XV of 1904), s. 5, for "No. 6 (Agreement to mortgage)."

No. 62. (b) (Transfer of Debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8),

No. 62. (c) (Transfer of any interest secured by a bond, mortgage-deed or policy of insurance),—  
by the person drawing, making or executing such instrument :

<sup>1</sup>[(b) in the case of a policy of insurance other than fire-insurance—by the person effecting the insurance :

(bb) in the case of a policy of fire-insurance—by the person issuing the policy ;]

(c) in the case of a conveyance (including a re-conveyance of mortgaged property) by the grantee : in the case of a lease or agreement to lease—by the lessee or intended lessee :

(d) in the case of a counterpart of a lease—by the lessor :

(e) in the case of an instrument of exchange—by the parties in equal shares :

(f) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates ; and,

(g) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the whole property partitioned, or, when the partition is made in execution of an order passed by a Revenue-authority or Civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs.

Obligation  
to give re-  
ceipt in  
certain cases.

30. Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction or part satisfaction of a debt any movable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same.

<sup>2</sup>[Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance, shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same.]

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1. Subs. by the Indian Stamp (Amdt.) Act, 1906 (V of 1906), s. 4, for the original cl. (b).

2. Ins. *ibid.*



## CHAPTER III

## ADJUDICATION AS TO STAMPS

31. (1) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than <sup>1</sup>[fifty paise] as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

Adjudication  
as to proper  
stamp.

(2) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly :

Provided that—

(a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an enquiry as to the duty with which the instrument to which it relates is chargeable ; and

(b) every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

32. (1) When an instrument brought to the Collector under section 31, is, in his opinion, one of a description chargeable with duty, and—

Certificate  
by Collector.

(a) the Collector determines that it is already fully stamped, or

(b) the duty determined by the Collector under section 31, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,<sup>2</sup>

1. Subs. by W.P. Act II of 1964, for "eight annas".

2. For refund of this duty in the case of certain instruments, see the Stamp (Specified Instruments) Act, 1924 (XIII of 1924), s. 3(4).

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

(3) Any instrument upon which an endorsement has been made under this section, shall be deemed to be duly stamped or not chargeable with duty, as the case may be ; and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped :

Provided that nothing in this section shall authorise the Collector to endorse—

- (a) any instrument executed or first executed in <sup>1</sup>[Pakistan] and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be ;
- (b) any instrument executed or first executed out of <sup>1</sup>[Pakistan] and brought to him after the expiration of three months after it has been first received in <sup>1</sup>[Pakistan] ; or
- (c) any instrument chargeable with <sup>2</sup>[a duty not exceeding twenty-five paise] or any bill of exchange or promissory note, when brought to him, after the drawing or execution thereof, on paper not duly stamped.

## CHAPTER IV

### INSTRUMENTS NOT DULY STAMPED

Examination  
and  
impounding  
of instru-  
ments.

33. (1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before

1. Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A.O., 1949, Arts. 3(2) and 4, for "British India".

2. Subs. by W.P. Act II of 1964, for "the duty of an anna or half an anna."

him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in <sup>1</sup>[Pakistan] when such instrument was executed or first executed :

Provided that—

V of 1898.

- (a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898 ;
- (b) in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.
- (3) For the purposes of this section, in cases of doubt,—
  - (a) <sup>2</sup>[the Provincial Government] may determine<sup>3</sup> what offices shall be deemed to be public offices ; and
  - (b) <sup>4</sup>[the Provincial Government] may determine who shall be deemed to be persons in charge of public offices,

34. Where any receipt chargeable with a duty <sup>5</sup>[not exceeding twenty-five paise] is tendered to or produced before any officer unstamped in the course of the audit of any public account, such officer may, in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

Special provision as to unstamped receipts.

35. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped.

Instruments not duly stamped inadmissible in evidence, etc.

1. Subs. by the Central Laws (Statue Reform) Ordinance, 1960 (XXI of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation", which had been subs. by A.O., 1949, Arts. 3(2) and 4, for "British India".

2. The original words "the G.G. in C." were first subs. by A.O. 1937, and then amended by W.P. Ord. XLVI of 1959.

3. For the purposes of this section the office of a returning officer appointed for the purposes of an election to a legislative body constituted under the Government of India Act is not a public officer, see Gazette of India, 1920 (Pt. I, p. 2136).

4. The original words "the L.G." were first subs. by A.O., 1937 and then amended by W.P. Ord. XLVI of 1959.

5. Subs. by W.P. Act II 1964, for "one anna or half an anna."

Provided that—

- <sup>1</sup>(a) any such instrument not being an instrument chargeable with a duty <sup>2</sup>[not exceeding twenty-five paise] only, or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion ;
- (b) where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee by the person tendering it ;
- (c) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters, and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped ;
- (d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898 ;
- (e) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of <sup>3</sup>[the Government], or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act.

V of 1898.

Admission  
of instru-  
ment where  
not to be  
questioned.

**36.** Where an instrument has been admitted in evidence, such admission shall not, except as provided in section 61, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

1. For modifications of this provision in respect of instruments to which the Stamps (Specified Instruments) Act, 1924 (XIII of 1924), applies see s. 3 of that Act.

2. Subs. by W.P. Act II of 1964, for "one anna or half an anna."

3. The original words "the Govt." were first subs. by A.O., 1937 and, then, amended by W.P. Ord. XLVI of 1959.

37. <sup>1</sup>[The Provincial Government] may make rules providing that, where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

Admission of improperly stamped instruments.

38. (1) When the person impounding an instrument under section 33 has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 35 or of duty as provided by section 37, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

Instruments impounded how dealt with.

(2) In every other case, the person so impounding an instrument shall send it in original to the Collector.

39. (1) When a copy of an instrument is sent to the Collector under section 38, sub-section (1), he may, if he thinks fit, <sup>2</sup>\* \* \* refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

Collector's power to refund penalty paid under section 38, sub-section (1).

(2) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may refund the whole penalty so paid.

340. (1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under section 38, sub-section (2), not being an instrument chargeable with a duty <sup>4</sup>[not exceeding twenty-five paise] only or a bill of exchange or promissory note, he shall adopt the following procedure :—

Collector's power to stamp instruments impounded.

(a) if he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify

1. The original words "the G.G. in C." were first subs. by A.O. 1937, and then amended by W.P. Ord. XLVI of 1959.

2. The words "upon application made to him in this behalf or, if no application is made, with the consent of the Chief Controlling Revenue authority" rep. by the Decentralization Act, 1914 (IV of 1914), s. 2 and Sch. Pt. I.

3. For modifications of these provisions in respect of instruments which the Stamp (Specified Instruments) Act, 1924 (XIV of 1924), applies see s. 3 of that Act.

4. Subs. by W.P. Act II of 1964, for "one anna or half an anna".

by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be ;

- (b) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees ; or, if he thinks fit, <sup>1</sup>[an amount not exceeding] ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees :

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

- (2) Every certificate under clause (a) of sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

- (3) Where an instrument has been sent to the Collector under section 38, sub-section (2), the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.

Instruments  
unduly  
stamped by  
accident.

241. If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty of <sup>2</sup>[not exceeding twenty-five paise] only or a bill of exchange or promissory note, is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the fact that such instrument is not duly stamped and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 33 and 40, receive such amount and proceed as next hereinafter prescribed.

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1. Ins. by the Indian Stamp (Amendment) Act, 1904 (XV of 1904), s. 6.

2. For modifications of these provisions in respect of instruments to which the Stamp (Specified Instruments) Act, 1924 (XVIII of 1924), applies, see s. 3 of that Act.

3. Subs. by W.P. Act II of 1964, for "one anna or half an anna".

42. (1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 35, section 40 or section 41, the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

Endorsement of instruments on which duty has been paid under section 35, 40 or 41.

(2) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct :

Provided that—

(a) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 35, shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate ;

(b) nothing in this section shall affect the <sup>1</sup>Code of Civil Procedure, section 144, clause 3.

XIV  
of 1882

43. The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the Stamp-law in respect of such instrument :

Prosecution for offence against Stamp-law.

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

44. (1) When any duty or penalty has been paid under section 35, section 37, section 40 or section 41, by any person in respect of an instrument, and, by agreement or under the provisions of section 29 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first mentioned person shall be entitled to

Persons paying duty or penalty may recover same in certain cases.

1. Now the Code of Civil Procedure, 1908 (V of 1908).

recover from such other person the amount of the duty or penalty so paid.

(2) For the purpose of such recovery, any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(3) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

Power to  
Revenue-  
authority  
to refund  
penalty or  
excess duty  
in certain  
cases.

45. (1) Where any penalty is paid under section 35 or section 40, the <sup>1</sup>[Chief Revenue Authority] may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

(2) Where, in the opinion of the <sup>1</sup>[Chief Revenue Authority], stamp-duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40, such authority may, upon application in writing made within three months of the order charging the same, refund the excess.

Non-liability  
for loss of  
instruments  
sent under  
section 38.

46. (1) If any instrument sent to the Collector under section 38, sub-section (2), is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

Power of  
payer to  
stamp bills  
and promissory  
notes  
received by  
him un-  
stamped.

<sup>2</sup>47. When any Bill of Exchange, chargeable with the duty of five paise, or promissory note chargeable with the duty of fifteen paise, is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and upon cancelling the same in the manner hereinbefore provided, may pay the sum payable upon

1. Subs. by A.O., 1961, Art. 2 and Schs. for "Chief Controlling Revenue-authority (with effect from the 23rd March, 1956).

2. Subs. by W.P. Act II of 1964.



such bill or note and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill or note shall, so far as respects the duty, be deemed good and valid :

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill or note.]

48. All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land-revenue.

Recovery of  
duties and  
penalties.

## CHAPTER V

### ALLOWANCES FOR STAMPS IN CERTAIN CASES

49. Subject to such rules as may be made by the <sup>1</sup>[Provincial Government] as to the evidence to be required, or the enquiry to be made, the Collector may, on application made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely :—

Allowance  
for spoiled  
stamps.

- (a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person :
- (b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto :
- (c) in the case of bills of exchange <sup>2</sup>[payable otherwise than on demand <sup>3</sup>\*\*\*] or promissory notes—
  - (1) the stamp on <sup>4</sup>[any such bill of exchange] <sup>5</sup>\*\*\* signed by or on behalf of the drawer which has

1. The original words "G.G. in C." have successively been amended by the Decentralization Act, 1914 (IV of 1914), s. 2 and Sch., Pt I, A.O., 1937 and W.P. Ord. XLVI of 1959.

2. Ins. by the Indian Finance Act, 1927 (V of 1927), s. 5.

3. The word "cheques" rep. *ibid.*

4. Subs. *ibid.*, for "any bill of exchange."

5. The words "or cheque" rep., *ibid.*

not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange <sup>1</sup>[\* \* \*] to be afterwards written thereon :

(2) the stamp on any promissory note signed by or on behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands :

(3) the stamp used or intended to be used for <sup>2</sup>[any such bill of exchange] <sup>1</sup>[\*] or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange <sup>1</sup>[\*\*\*], may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee : provided that another completed and duly stamped bill of exchange <sup>3</sup>[\*] or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill <sup>3</sup>[\*] or note :

(d) the stamp used for an instrument executed by any party thereto which—

(1) has been afterwards found to be absolutely void in law from the beginning :

(2) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended :

(3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed :

(4) for want of the execution thereof by some material party, and his inability or refusal to sign

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1. The words "or cheque" rep. by Act V of 1927.

2. Subs. *ibid.*, for "any bill of exchange."

3. The word "cheque" rep. *ibid.*

the same, is in fact incomplete and insufficient for the purpose for which it was intended :

- (5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose :
- (6) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value :
- (7) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value :
- (8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped :

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

*Explanation*—The certificate of the Collector under section 32 that the full duty with which an instrument is chargeable has been paid is an impressed stamp within the meaning of this section.

50. The application for relief under section 49 shall be made within the following periods, that is to say,—

- (1) in the cases mentioned in clause (d) (5), within two months of the date of the instrument :
- (2) in the case of a stamped paper in which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled :
- (3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed :

Application for relief under section 49 when to be made.

Provided that,—

- (a) when the spoiled instrument has been for sufficient reasons sent out of <sup>1</sup>[Pakistan], the application may be made within six months after it has been received back in <sup>4</sup>[Pakistan] :
- (b) when, from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

Allowance  
in case of  
printed  
forms no  
longer  
required by  
Corpora-  
tions.

51. The <sup>2</sup>[Chief Revenue Authority] <sup>3</sup>[or the Collector if empowered by the <sup>2</sup>[Chief Revenue Authority] in this behalf] may, without limit of time, make allowance for stamped papers used for printed form of instruments <sup>4</sup>[by any banker or] by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said <sup>4</sup>[banker], company or body corporate : provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

Allowance  
for misused  
stamps.

52. (a) When any person has inadvertently used, for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty ; or

(b) when any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13 ;

the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

1. Subs. by the Central Laws (Statute Reform) Ordinance 1960, (XXI of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A.O., 1949, Arts. 3(2) and 4, for "British India."

2. Subs., by A.O., 1961, for "Chief Controlling Revenue Authority".

3. Ins. by the Decentralization Act, 1914 (IV of 1914), s. 2 and Sch., Part I.

4. Ins. by the Indian Stamp (Amendment) Act, 1906 (V of 1906), s. 6.

53. In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

Allowance for spoiled or misused stamps how to be made.

(a) other stamps of the same description and value ; or,

(b) if required and he thinks fit, stamps of any other description to the same amount in value ; or,

(c) at his discretion, the same value in money, deducting <sup>1</sup>[ten per centum of the value].

54. When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting <sup>1</sup>[ten per centum of the value] upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction—

Allowance for stamps not required for use.

(a) that such stamp or stamps were purchased by such person with a *bona fide* intention to use them ; and

(b) that he has paid the full price thereof ; and

(c) that they were so purchased within the period of six months next preceding the date on which they were so delivered :

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

55. When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within one month, repay to the person issuing such debenture, the value of the stamp on the original or on the new debenture, whichever shall be less :

Allowance on renewal of certain debentures.

Provided that the original debenture is produced before the Collector and cancelled by him in such manner as the <sup>2</sup>[Provincial Government] may direct.

*Explanation*—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes :—

(a) the issue of two or more debentures in place of one original debenture, the total amount secured being the same ;

1. Subs. by W.P. Act II of 1964, for "one anna for each rupee or fraction of a rupee".

2. Subs. by A.O., 1937, for "G.G. in C."

- (b) the issue of one debenture in place of two or more original debentures, the total amount secured being the same ;
- (c) the substitution of the name of the holder at the time of renewal for the name of the original holder ; and
- (d) the alteration of the rate of interest or the dates of payment thereof.

## CHAPTER VI

### REFERENCE AND REVISION

Control of,  
and state-  
ment of case  
to, Chief  
Revenue  
Authority.

56. (1) The powers exercisable by a Collector under Chapter IV and Chapter V <sup>1</sup>[and under clause (a) of the first proviso to section 26] shall in all cases be subject to the control of the <sup>2</sup>[Chief Revenue Authority].

(2) If any Collector, acting under section 31, section 40 or section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the <sup>2</sup>[Chief Revenue Authority].

(3) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

Statement of  
case by  
Chief  
Revenue  
Authority to  
High Court.

57. (1) The <sup>2</sup>[Chief Revenue Authority] may state any case referred to it under section 56, sub-section (2), or otherwise coming to its notice, and refer such case, with its own opinion thereon,—

(a) <sup>3</sup>[ \* \* \* \* \* ]

(b) if the case arises in <sup>4</sup>[any Province], to the High Court of <sup>4</sup>[the Province].

(2) Every such case shall be decided by not less than three Judges of the High Court <sup>5</sup>[ \* \* \* ] to which it is referred,

1. Ins. by the Indian Stamp (Amdt.) Act 1904 (XVI of 1904), s. 7.

2. Subs. by A.O., 1961, Art. 2 and Sch. for "Chief Controlling Revenue-authority" (with effect from the 23rd March, 1956).

3. Del. by Pb A.O. I. of 1974.

4. Subs. *ibid*.

5. The words "or Chief Court", as amended by A.O., 1937, A.O., 1949 and Act XXVI of 1951, have been omitted by Ord. XXI of 1960, s. 3 and 2nd Sch. (with effect from the 14th October, 1955).

and in case of difference, the opinion of the majority shall prevail.

58. If the High Court <sup>1</sup>[\* \* \*] is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue-authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

Power of High Court to call for further particulars as to case stated.

59. (1) The High Court <sup>1</sup>[\* \* \*], upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

Procedure in disposing of case stated.

(2) The Court shall send to the Revenue-authority by which the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar ; and the Revenue-authority shall, on receiving such copy, dispose of the case conformably to such judgment.

60. (1) If any Court, other than a Court mentioned in section 57, feels doubt as to the amount of duty to be paid in respect of any instrument under proviso (a) to section 35, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the High Court <sup>1</sup>[\*\*] to which, if he were the <sup>2</sup>[Chief Revenue Authority], he would, under section 57, refer the same.

Statement of case by other Courts to High Court.

(2) Such Court shall deal with the case as if it had been referred under section 57, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the <sup>2</sup>[Chief Revenue Authority] and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(3) References made under sub-section (1), when made by a Court subordinate to a District Court, shall be made through

1. The words "or Chief Court" as amended by A. O. 1937, A.O., 1949 and Act XXVI of 1951 have been omitted by Ord. XXI 1960, 2nd Sch. with effect from the 14th October, 1955.

2. Subs. by A.O., 1961, Art. 2 and Sch. for "Chief Controlling Revenue-authority" (with effect from the 23rd March, 1956).

the District Court, and, when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

Revision of certain decisions of Courts regarding the sufficiency of stamps.

V of 1898.

61. (1) When any Court in the exercise of its civil or revenue jurisdiction or any Criminal Court in any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 35, the Court to which appeals lie from, or references are made by, such first-mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration.

(2) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 35, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

(3) When any declaration has been recorded under subsection (2), the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(4) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42, or in section 43, prosecute any person for any offence against the Stamp-law which the Collector considers him to have committed in respect of such instrument :

Provided that—

(a) no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under section 35, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty ;

(b) except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 42.



## CHAPTER VII

## CRIMINAL OFFENCES AND PROCEDURE

## 62. (1) Any person—

(a) drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or in any manner negotiating, any bill of exchange <sup>2</sup>[payable otherwise than on demand] <sup>3</sup>[\* \* \*] or promissory note without the same being duly stamped; or

(b) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped; or

(c) voting or attempting to vote under any proxy not duly stamped;

shall for every such offence be punishable with fine which may extend to five hundred rupees :

Provided that, when any penalty has been paid in respect of any instrument under section 35, section 40 or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(2) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall be punishable with fine which may extend to five hundred rupees.

63. Any person required by section 12 to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribed by that section, shall be punishable with fine which may extend to one hundred rupees.

64. Any person who, with intent to defraud the Government,—

(a) executes any instrument in which all the facts and circumstances required by section 27 to be set forth

Penalty for executing, etc., instrument not duly stamped.

Penalty for failure to cancel adhesive stamp.

Penalty for omission to comply with provisions of section 27.

1. For modification of provisions in respect of instruments to which the Stamp (Specified Instruments) Act, 1924 (XIII of 1924), applies, see s. 3 of that Act.

2. Ins. by the Indian Finance Act, 1927 (V of 1927), s. 5.

3. The word "cheque," rep. *ibid.*

in such instrument are not fully and truly set forth ;  
or,

- (b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances ; or
- (c) does any other Act calculated to deprive the Government of any duty or penalty under this Act ;

shall be punishable with fine which may extend to five thousand rupees.

Penalty for refusal to give receipt, and for devices to evade duty on receipts.

**65. Any person who—**

- (a) being required under section 30 to give a receipt, refuses or neglects to give the same ; or,
- (b) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered ;

shall be punishable with fine which may extend to one hundred rupees.

Penalty for not making out policy, or making one not duly stamped.

**66. Any person who—**

- (a) receives, or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance ; or
- (b) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy ;

shall be punishable with fine which may extend to two hundred rupees.

Penalty for not drawing full number of bills or

**67. Any person drawing or executing a bill of exchange <sup>1</sup>[payable otherwise than on demand] or a policy of marine insurance purporting to be drawn or executed in a set of two or**

---

1. Ins. by the Indian Finance Act, 1927 (V of 1927), s. 5.

more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punishable with fine which may extend to one thousand rupees.

marine policies purporting to be in sets.

**68. Any person who—**

- (a) with intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made ; or
- (b) knowing that such bill or note has been so post-dated endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of, such bill or note, or in any manner negotiates the same ; or
- (c) with the like intent, practises or is concerned in any Act, contrivance or device not specially provided for by this Act or any other law for the time being in force ;

Penalty for post-dating bills, and for other devices to defraud the revenue.

shall be punishable with fine which may extend to one thousand rupees.

**69. (a) Any person appointed to sell stamps who disobeys any rule made under section 74 ; and**

**(b) any person not so appointed who sells or offers for sale any stamp other than <sup>1</sup>[five paise, fifteen paise, or twenty-five paise revenue] adhesive stamp shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.**

Penalty for breach of rule relating to sale of stamps and for unauthorised sale.

**70. (1) No prosecution in respect of any offence punishable under this Act or any Act hereby repealed shall be instituted without the sanction of the Collector or such other officer as <sup>2</sup>[the <sup>3</sup>[Provincial Government] generally, or the Collector specially, authorises in that behalf.**

Institution and conduct of prosecutions.

**(2) The <sup>4</sup>[Chief Revenue Authority], or any officer generally or specially authorized by it in this behalf, may stay any such prosecution or compound any such offence.**

1. Subs. by W.P. Act II of 1964, for "one anna or half an anna".

2. Subs. by A.O., 1937, for "the Local Government".

3. Subs. by W.P. Ord. XLVI of 1959, for "Collecting Government".

4. Subs. by A.O. 1961, for "Chief Controlling Revenue-Authority"

(3) The amount of any such composition shall be recoverable in the manner provided by section 48.

Jurisdiction  
of Magist-  
rates.

71. No Magistrate other than <sup>1</sup>[\* \* \*] a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

Place of  
trial.

72. Every such offence committed in respect of any instrument may be tried in any district <sup>2</sup>[\* \* \*] in which such instrument is found as well as in any district <sup>2</sup>[\* \* \*] in which such offence might be tried under the Code of Criminal Procedure for the time being in force.

## CHAPTER VIII

### SUPPLEMENTAL PROVISIONS

Books, etc.,  
to be open  
to inspec-  
tion.

73. Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorised in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings, and to take such notes and extracts as he may deem necessary, without fee or charge.

Power to  
make rules  
relating to  
sale of  
stamps.

74. The <sup>3</sup>[Provincial Government] <sup>4</sup>[\* \* \*] may make rules for regulating—

- (a) the supply and sale of stamps and stamped papers,
- (b) the persons by whom alone such sale is to be conducted, and
- (c) the duties and remuneration of such persons :

Provided that such rules shall not restrict the sale of <sup>5</sup>[five paise, fifteen paise or twenty-five paise revenue] adhesive stamps.

1. The words "Presidency Magistrate or", omitted by A.O., 1949.

2. The words "or Presidency Town" rep. by the Federal Laws (Revision and Declaration) Act, 1951 (XXVI of 1951), s. 3 and II Sch.

3. Subs. by W.P.Ord. XLVI of 1959, for "Collecting Government".

4. The words "subject to the control of the G.G. in C." rep. by A.O., 1937.

5. Subs. by P.W., Act II of 1964, for "one anna or half an anna"

75. The <sup>1</sup>[Provincial government] may make rules<sup>2</sup> to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.

Power to make rules generally to carry out Act.

76. <sup>3</sup>[(1) All rules made under this Act shall be published in the Official Gazette.]

Publication of rules.

(2) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

<sup>4</sup>[76-A. <sup>5</sup>[ \* \* \* \* ] The Provincial Government, may by notification in the Official Gazette delegate—

Delegation of certain powers.

(a) all or any of the powers conferred on it by sections 2 (9), 33 (3) (b), 70 (1), 74 and 78 to the <sup>6</sup>[Chief Revenue Authority] ; and

(b) all or any of the powers conferred on the <sup>6</sup>[Chief Revenue Authority] by section 45 (1), (2), 56 (1) and 70 (2) to such subordinate Revenue-authority as may be specified in the notification.]

77. Nothing in this Act contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to court-fees.

Savings as to court-fees

78. Every <sup>1</sup>[Provincial Government] shall make provision for the sale of translations of this Act in the principal vernacular languages of the territories administered by it at a price not exceeding <sup>7</sup>[twenty-five paise] per copy.

Act to be translated and sold cheaply.

79. [Repeal]. Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.

1. Subs. by W.P., Ord. XLVI of 1959, for "Collecting Government".

2. See The Stamp Rules, 1927.

3. Subs. by A.O., 1937.

4. Section 76-A inserted by Act IV of 1914.

5. The words "Central Government Subject to the provisions of Section 124(1) of the Government of India Act, 1935 and", del. by W.P. Ord XLVI of 1959.

6. Subs. by A.O., 1961 for, "Chief Controlling Revenue-authority."

7. Subs. by W.P. Act II of 1964 for, "four annas."

## [SCHEDULE 1]

## STAMP-DUTY ON INSTRUMENTS

(See SECTION 3)

| <i>Description of Instrument</i>   | <i>Proper Stamp-duty</i>                             |
|--|--|
| <p>1. <b>ACKNOWLEDGMENT</b> of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book other than a banker's pass-book or on a separate piece of paper when such book or paper is left in the creditor's possession ; provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property :—</p> |  |
| (a) where such amount does not exceed Rs. 100.   | 15 paisa.  |
| (b) where such amount exceeds Rs. 100 but does not exceed Rs. 2,000.   | 40 paisa.  |
| (c) where such amount exceeds Rs. 2,000.   | 80 paisa.  |
| <p>2. <b>ADMINISTRATION BOND</b>, including a bond given under sections 291, 375 and 376 of the Succession Act 1925, section 6 of the Government Savings Banks Act, 1873 :—</p>  | <p>XXXIX of 1925.<br/>V of 1873.</p>                 |
| (a) where the amount does not exceed Rs. 1,000;  | The same duty as on a Bond (No. 15) for such amount. |

1. Schedule I, substituted by W.P. Ord. VII of 1969.

| <i>Description of Instrument</i>  | <i>Proper Stamp-duty</i> |
|---|--------------------------|
| (b) in any other case   | Thirty rupees.           |
| 3. <b>ADOPTION DEED</b> , that is to say, any instrument (other than a will) recording an adoption or conferring or purporting to confer an authority to adopt. | Fifty rupees.            |
| <b>ADVOCATE</b> , <i>See</i> ENTRY AS AN ADVOCATE (No. 30).   |                          |
| 4. <b>AFFIDAVIT</b> , including an affirmation or declaration in the case of persons by law allowed to affirm or declare or declare instead of swearing.        | Four rupees.             |

*Exemptions*

**Affidavit or declaration in writing when made—**

VII of 1911.

XXIX of 1952.

XIV of 1932.

VI of 1953.

- (a) as a condition of enrolment under the Indian Army Act, 1911, or the Pakistan Army Act, 1952 or the Indian Air Force Act, 1932, or the Pakistan Air Force Act, 1953 ;

- (b) for the immediate purpose of being filed or used in any Court or before the officer of any Court ; or

- (c) for the sole purpose of enabling any person to receive any pension or charitable allowance.

| <i>Description of Instrument</i>   | <i>Proper Stamp-duty</i>   |
|--|--|
| <b>5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—</b>   |  |
| (a) if relating to the sale of a bill of exchange ;  | One rupee.   |
| (b) if relating to the sale of Government security ;   | Fifty paisa for every Rs. 10,000 or part thereof of the value of the security, subject to a maximum of fifty rupees. |
| (c) if relating to the sale of a share in an incorporated company or other body corporate ;  | Twenty-five paisa for every Rupees 5,000 or part thereof of the value of the share.                                  |
| (d) if not otherwise provided for  | Four rupees.   |
| <i>Exemption</i>   |  |
| <b>Agreement or Memorandum of an Agreement—</b>  |  |
| (a) for or relating to the purchase of or sale of goods or merchandise exclusively, not being a NOTE OR MEMORANDUM chargeable under No. 43 ; |  |
| (b) made in the form of tenders to the <sup>1</sup> Central Government for or relating to any loan.  |  |
| <b>AGREEMENT TO LEASE, see LEASE (No. 35).</b>   |  |
| <b>6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to—</b>  |  |

1. Now 'Federal Government', see P.O. 4 of 1975.



*Description of Instrument**Proper Stamp-duty*

- (1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than marketable security), or
- (2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the re-payment of money advanced or to be advanced by way of loan or an existing or future debt—
- (a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement ;      The same duty as on a Bill of Exchange [(No. 13 (a))] for the amount secured.
- (b) if such loan or debt is repayable not more than three months from the date of such instrument.      Half the duty [payable on a Bill of Exchange (No. 13 (a))] for the amount secured.

*Exemption*

Instrument of pawn or pledge of goods if unattested.

7. APPOINTMENT IN EXECUTION OF A POWER, where made by any writing not being a will—

- (a) of trustees      Thirty-five rupees.
- (b) of property, movable or immovable.      Seventy rupees.

| Description of Instrument  | Proper Stamp-duty                                    |
|--|--|
| <b>8. APPRAISEMENT OR VALUATION</b> made otherwise than under an order of the Court in the course of a suit—   |  |
| (a) where the amount does not exceed Rs. 1,000 ;   | The same duty as on a Bond (No. 15) for such amount. |
| (b) in any other case  | Thirty rupees.                                       |
| <i>Exemptions</i>  |  |
| (a) Appraisement of valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.  |  |
| (b) Appraisement of crop for the purpose of ascertaining the amount to be given to a landlord as rent.   |  |
| <b>9. APPRENTICESHIP-DEED,</b> including every writing relating to the service or tuition of any apprentice clerk or servant, placed with any master to learn any profession, trade or employment not being <b>ARTICLES OF CLERKSHIP</b> (No. 11). | Twenty-five rupees.                                  |
| <i>Exemptions</i>  |  |
| Instrument of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of any public charity.  |  |

*Description of Instruments**Proper Stamp-duty***10. ARTICLES OF ASSOCIATION OF A COMPANY—**

- (a) where the company has no share capital or the nominal share capital does not exceed Rs. 2,500 ; **Fifty rupees.**
- (b) where the nominal share capital exceeds Rs. 2,500 but does not exceed Rs. 1,00,000; **One hundred rupees.**
- (c) where the nominal share capital exceeds Rs. 1,00,000 but does not exceed Rs. 10,00,000; **Two hundred rupees.**
- (d) where the nominal share capital exceeds Rs. 10,00,000. **Five hundred rupees.**

*Exemption*

Articles of any Association and not formed for profit and registered under section 26 of the Companies Act, 1913.

VII of  
1913.

See also MEMORANDUM OF ASSOCIATION OF A COMPANY (No. 39).

- 11. ARTICLES OF CLERKSHIP** or contract whereby any person first becomes bound to serve as a clerk in order to his admission as an attorney in any High Court. **Five hundred rupees.**

**ASSIGNMENT, see CONVEYANCE (No. 23), TRANSFER (No. 62) and TRANSFER OF LEASE (No. 63), as the case may**

*Description of Instrument**Proper Stamp-duty*

be. ATTORNEY, *see* ENTRY  
AS AN ATTORNEY (No. 30),  
AND POWER OF ATTOR-  
NEY (No. 48).

AUTHORITY TO ADOPT, *see*  
ADOPTION-DEED (No. 3).

12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit. The same duty as on a Bond (No. 15) for the amount or value of the property to which the award relates as set forth in such award subject to maximum of fifty rupees.

13. BILL OF EXCHANGE as defined by section 2 (2) not being BOND, bank note or currency note—

(a) where payable otherwise than on demand but not more than one year after date or sight—

|  | <i>If drawn singly</i> | <i>If drawn in set of two, for each part of the set</i> | <i>If drawn in set of three, for each part of the set</i> |
|--|------------------------|---|---|
| if the amount of the bill does not exceed Rs. 200. | Twenty<br>paise.       | Ten<br>paise.   | Five<br>paise.  |
| if it exceeds Rs. 200 but does not exceed Rs. 400. | Forty<br>paise.        | Twenty<br>paise.  | Ten<br>paise.   |
| if it exceeds Rs. 400 but does not exceed Rs. 600. | Sixty<br>paise.        | Thirty<br>paise.  | Twenty<br>paise.  |

| <i>Description of Instrument</i>   | <i>Proper Stamp-duty</i> |   |   |
|--|--------------------------|---|---|
|  | <i>If drawn singly</i>   | <i>If drawn in set of two, for each part of the set</i> | <i>If drawn in set of three, for each part of the set</i> |
| if it exceeds Rs. 600 but does not exceed Rs. 800.                       | Eighty<br>paise.         | Forty<br>paise.   | Thirty<br>paise.  |
| if it exceeds Rs. 800 but does not exceed Rs. 1,000.                     | One rupee                | Fifty<br>paise.   | Thirty-<br>five<br>paise.                                 |
| if it exceeds Rs. 1,000 but does not exceed Rs. 1,200.                   | Rs. 1.20                 | Sixty<br>paise.   | Forty<br>paise.   |
| if it exceeds Rs. 1,200 but does not exceed Rs. 1,600.                   | Rs. 1.50                 | Seventy-<br>five paise.                                 | Fifty<br>paise.   |
| if it exceeds Rs. 1,600 but does not exceed Rs. 2,500.                   | Rs. 2.50                 | Rs. 1.25  | Rs. 1.00  |
| if it exceeds Rs. 2,500 but does not exceed Rs. 5,000.                   | Rs. 5.00                 | Rs. 2.50  | Rs. 1.75  |
| if it exceeds Rs. 5,000 but does not exceed Rs. 7,500.                   | Rs. 7.50                 | Rs. 3.75  | Rs. 2.50  |
| if it exceeds Rs. 7,500 but does not exceed Rs. 10,000.                  | Rs. 10.00                | Rs. 5.00  | Rs. 3.50  |
| if it exceeds Rs. 10,000 but does not exceed Rs. 15,000.                 | Rs. 15.00                | Rs. 7.50  | Rs. 5.00  |
| if it exceeds Rs. 15,000 but does not exceed Rs. 20,000.                 | Rs. 20.00                | Rs. 10.00   | Rs. 6.75  |
| if it exceeds Rs. 20,000 but does not exceed Rs. 25,000.                 | Rs. 25.00                | Rs. 12.50   | Rs. 8.50  |
| if it exceeds Rs. 25,000 but does not exceed Rs. 30,000.                 | Rs. 30.00                | Rs. 15.00   | Rs. 10.00   |
| and for every additional 10,000 or part thereof in excess of Rs. 30,000. | Rs. 10.00                | Rs. 5.00  | Rs. 3.50  |

| Description of Instrument  | Proper Stamp-duty  |
|--|--|
| (b) where payable more than one year after date or sight.  | One half of the duty payable on a Bond (No. 15) for the same amount. |
| 14. BILL OF LADING (including a through bill of lading).   | One rupee.   |
| Note—If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the sets.   |  |
| Exemptions.  |  |
| (a) Bill of lading when the goods therein described are received at a place within the limits of any port as defined under the Ports Act, 1908, and are to be delivered at another place within the limits of the same port. | XV of 1908.  |
| (b) Bill of lading when executed out of Pakistan and relating to property to be delivered in Pakistan.   |  |
| 15. BOND as defined by section 2 (5) not being a DEBENTURE (No. 27) and not being otherwise provided for by this Act, or by the Court Fees Act, 1870—  | VII of 1870.   |
| where the amount or value secured does not exceed Rs. 10.  |  |
| Twenty-five paisa.   |  |
| where it exceeds Rs. 10 but does not exceed Rs. 50.  |  |
| One rupee.   |  |
| where it exceeds Rs. 50 but does not exceed Rs. 100.   |  |
| Two rupees.  |  |
| where it exceeds Rs. 100 but does not exceed Rs. 200.  |  |
| Four rupees.   |  |

| <i>Description of Instrument</i> | <i>Proper Stamp-duty</i> |
|----------------------------------|--------------------------|
|----------------------------------|--------------------------|

|   |             |
|---|-------------|
| where it exceeds Rs. 200 but does not exceed Rs. 300. | Six rupees. |
|---|-------------|

|   |               |
|---|---------------|
| where it exceeds Rs. 300 but does not exceed Rs. 400. | Eight rupees. |
|---|---------------|

|   |             |
|---|-------------|
| where it exceeds Rs. 400 but does not exceed Rs. 500. | Ten rupees. |
|---|-------------|

|   |                |
|---|----------------|
| where it exceeds Rs. 500 but does not exceed Rs. 600. | Twelve rupees. |
|---|----------------|

|   |                  |
|---|------------------|
| where it exceeds Rs. 600 but does not exceed Rs. 700. | Fourteen rupees. |
|---|------------------|

|   |                 |
|---|-----------------|
| where it exceeds Rs. 700 but does not exceed Rs. 800. | Sixteen rupees. |
|---|-----------------|

|   |                  |
|---|------------------|
| where it exceeds Rs. 800 but does not exceed Rs. 900. | Eighteen rupees. |
|---|------------------|

|   |                |
|---|----------------|
| where it exceeds Rs. 900 but does not exceed Rs. 1,000. | Twenty rupees. |
|---|----------------|

|   |             |
|---|-------------|
| and for every Rs. 500 or part thereof in excess of Rs. 1,000. | Ten rupees. |
|---|-------------|

See ADMINISTRATION  
BOND (No. 2), BOTTOMRY  
BOND (No. 16), CUSTOMS  
BOND (No. 26).

INDEMNITY BOND (No. 34),  
RESPONDENTIA BOND  
(No. 56), SECURITY BOND  
(No. 57).

#### *Exemption*

Bond when executed by any person for the purpose of guaranteeing that the local income derived from private subscription to a charitable dispensary or hospital or any

| Description of Instrument  | Proper Stamp-duty  |
|--|--|
| other object of public utility shall not be less than a specified sum per mensem.  |  |
| 16. <b>BOTTOMRY BOND</b> , that is to say, any instrument where by the master of a seagoing ship borrows money on the security of ship to enable him to preserve the ship or prosecute her voyage.                                 | The same duty as on a Bond (No. 15) for the same amount. |
| 17. <b>CANCELLATION</b> — instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.   | Fifteen rupees.  |
| See also <b>RELEASE</b> (No. 55), <b>REVOCATION OF SETTLEMENT</b> (No. 58 - B), <b>SURRENDER OF LEASE</b> (No. 61). <b>REVOCATION OF TRUST</b> (No. 64-B).   |  |
| 18. <b>CERTIFICATE OF SALE</b> (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue Officer— |  |
| (a) where the purchase money does not exceed Rs. 10;   | Fifty paise.   |
| (b) where the purchase money exceeds Rs. 10 but does not exceed Rs. 25;  | One rupee.   |



| Description of Instrument  | Proper Stamp-duty   |
|--|---|
| (c) in any other case  | The same duty as on a Conveyance (No. 23) for a consideration equal to the amount of the purchase money only. |
| 19. <b>CERTIFICATE OR OTHER DOCUMENT</b> evidencing the right or title of the holder thereof or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body. | Fifty paise.  |
| See also <b>LETTER OF ALLOTMENT OF SHARES</b> (No. 36).  |   |
| 20. <b>CHARTER PARTY</b> , that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.                               | Five rupees.  |
| 21. 1[* * * *]   |   |
| 22. <b>COMPOSITION-DEED</b> , that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a compo-   | Fifty rupees.   |

1. In the original Schedule, this Article was omitted by Act V of 1927. W.P. Ord. VII of 1969, which substituted the Schedule has left it as such.

| Description of Instrument  | Proper Stamp-duty   |
|--|---|
| <p>sition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business under the supervision of inspector or under letters of licence for the benefit of his creditors.</p> |   |
| <p>1[23. CONVEYANCE as defined by section 2(10) not being a TRANSFER charged or exempted under No. 62—</p>   |   |
| (a) In case of agricultural and  | <p>Rupees four for every rupees one hundred or part thereof of the value of land.</p>                     |
| (b) In any other case  | <p>Rupees five and a half for every rupees one hundred or part thereof of the value of the property.]</p> |
| <p><b>CO-PARTNERSHIP-DEED</b><br/>See PARTNERSHIP (No. 46).</p>  |   |
| <p>24. COPY OR EXTRACT certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—</p>  |   |
| <p>(i) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed four rupees ;</p>  | <p>Two rupees.</p>  |

| Description of Instrument  | Proper Stamp-duty                                    |
|--|--|
| (ii) in any other case   | Four rupees.   |
| <i>Exemption</i>   |  |
| (a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose ; |  |
| (b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages (divorces), deaths or burials.                  |  |
| 25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid—                               |  |
| (a) if the duty with which the original instrument is chargeable does not exceed four rupees ;   | The same duty as is leviable on the original.        |
| (b) In any other case  | Four rupees.   |
| <i>Exemption</i>   |  |
| Counterpart of any lease granted to cultivator when such lease is exempted from duty.  |  |
| 26. CUSTOMS-BOND—  |  |
| (a) where the amount does not exceed Rs. 1,000 ;   | The same duty as on a Bond (No. 15) for such amount. |
| (b) in any other case  | Thirty rupees.                                       |
| 27. DEBENTURE (whether a mortgage debenture or not), being a marketable security transferable—   |  |

**Description of Instrument****Proper Stamp-duty**

|   |  |
|---|--|
| (a) by endorsement or by a separate instrument of transfer ;  | The same duty as on a Bond (No. 15) for the same amount. |
| (b) by delivery—  |  |
| where the face value of the debenture does not exceed Rs. 50. | One rupee and fifty paise.                               |
| where it exceeds Rs. 50 but does not exceed Rs. 100.          | Three rupees.  |
| where it exceeds Rs. 100 but does not exceed Rs. 200.         | Six rupees.  |
| where it exceeds Rs. 200 but does not exceed Rs. 300.         | Nine rupees.   |
| where it exceeds Rs. 300 but does not exceed Rs. 400.         | Twelve rupees.   |
| where it exceeds Rs. 400 but does not exceed Rs. 500.         | Fifteen rupees.  |
| where it exceeds Rs. 500 but does not exceed Rs. 600.         | Eighteen rupees.   |
| where it exceeds Rs. 600 but does not exceed Rs. 700.         | Twenty-one rupees.                                       |
| where it exceeds Rs. 700 but does not exceed Rs. 800.         | Twenty-four rupees.                                      |
| where it exceeds Rs. 800 but does not exceed Rs. 900.         | Twenty-seven rupees.                                     |
| where it exceeds Rs. 900 but does not exceed Rs. 1,000.       | Thirty rupees.   |
| and for every Rs. 500 or part thereof in excess of Rs. 1,000. | Fifteen rupees.  |

**Explanation**—The term “Debenture” includes any interest

| Description of Instrument  | Proper Stamp-duty  |
|--|--------------------|
| coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.   |                    |
| <i>Exemption</i>   |                    |
| A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture-holders, provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed. |                    |
| See also BOND (No. 15) and SECTIONS 8 and 55.  |                    |
| DECLARATION OF ANY TRUST. See TRUST (No. 64).  |                    |
| 28. DELIVERY-ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any ware-house in which goods are stored or deposited on rent or hire, or upon any wharf such instrument being signed by or on behalf of the  | Twenty-five paise. |

| Description of Instrument  | Proper Stamp-duty    |
|--|----------------------|
| owner of such goods upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.                |                      |
| <b>DEPOSIT OF TITLE-DEED,</b> <i>see</i> <b>AGREEMENT</b> relating to <b>DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE</b> (No. 6).         |                      |
| <b>DISSOLUTION OF PARTNERSHIP,</b> <i>see</i> <b>PARTNERSHIP</b> (No. 46).   |                      |
| 29. <b>DIVORCE</b> —Instrument of, that is to say any instrument by which any person effects the dissolution of his marriage.        | Fifteen rupees.      |
| <b>DOWER</b> —Instrument of, <i>see</i> <b>STATEMENT</b> (No. 58).   |                      |
| <b>DUPLICATE,</b> <i>see</i> <b>COUNTERPART</b> (No. 25).  |                      |
| 30. <b>ENTRY AS AN ADVOCATE, OR ATTORNEY ON THE ROLL OF ANY HIGH COURT</b> under the Legal Practitioners and Bar Councils Act, 1965— |                      |
| (a) in the case of an Advocate   | One thousand rupees. |
| (b) in the case of an Attorney ..  | One thousand rupees. |
| <i>Exemption</i>   |                      |
| Entry of an Advocate or Attorney on the roll of any High Court when he has previously been enrolled in a High Court.                 |                      |

III of 1965.

| Description of Instrument   | Proper Stamp-duty  |
|---|--|
| <b>31. EXCHANGE OF PROPERTY—Instrument of—</b>  |  |
| (a) When executed in respect of agricultural land.  | One rupee for every rupees one hundred or part thereof of the value of the property.   |
| (b) In any other case   | Five rupees for every rupees one hundred or part thereof of the value of the property.]  |
| <b>EXTRACT see COPY (No. 24)</b>  |  |
| <b>32. FURTHER CHARGE—Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—</b>                              |  |
| (a) when the original mortgage is one of the description referred to in clause (a) of Article No. 40 (that is, with possession) ;                     | The same duty as on a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.  |
| (b) when such mortgage is one of the description referred to in clause (b) of Article No. 40 (that is, without possession)—                           |  |
| (i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument ; | The same duty as on a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge. |
| (ii) if possession is not so given  | The same duty as on a Bond (No. 15) for the amount of the further charge secured by such instrument.   |

| Description of Instrument  | Proper Stamp-duty   |
|--|---|
| <p>133. GIFT—Instrument of, not being a SETTLEMENT (No. 58) OR WILL OR TRANSFER (No. 62)—</p>                        |   |
| <p>(a) When executed in favour of legal heirs in respect of agricultural land.</p>                                   | <p>One rupee for every rupees one hundred or part thereof of the value of the property as set forth in such instrument.</p> |
| <p>(b) In any other case</p>   | <p>Five rupees for every rupees one hundred or part thereof of the value of the property.</p>                               |
| <p>HIRING AGREEMENT or agreement for service, <i>see</i> AGREEMENT (No. 5).</p>                                      |   |
| <p>34. INDEMNITY BOND</p>  | <p>The same duty as on a Security Bond (No. 57) for the same amount.</p>  |
| <p>INSPECTORSHIP-DEED, <i>see</i> COMPOSITION-DEED (No. 22). INSURANCE, <i>see</i> POLICY OF INSURANCE (No. 47).</p> |   |
| <p>35. LEASE, including an under-lease, or sub-lease and any agreement to let or sub-let—</p>                        |   |
| <p>(a) where by such lease the rent is fixed and no premium is paid or delivered—</p>                                |   |
| <p>(i) where the lease purports to be for a term of less than one year.</p>  | <p>The same duty as on a Bond (No. 15) for the whole amount payable or deliverable under such lease.</p>                    |



| <i>Description of Instrument</i>  | <i>Proper Stamp-duty</i>   |
|---|--|
| (ii) where the lease purports to be for a term of not less than one year but not more than three years.   | The same duty as on a Bond (No. 15) for the amount or value of the average annual rent reserved.   |
| (iii) where the lease purports to be for a term in excess of three years, but not more than twenty years. | The same duty as is leviable on a Debenture [No. 27 (b)] for a consideration equal to the amount or value of the average annual rent reserved.   |
| (iv) where the lease purports to be for a term in excess of twenty years or in perpetuity;                | The same duty as is leviable on a Debenture [No. 27 (b)] for a consideration equal to the whole amount of rents which would be paid or delivered in respect of the first ten years of the lease.                               |
| (v) where the lease does not purport to be for any definite term.   | The same duty as is leviable on a Debenture [No. 27 (b)] for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years, if the lease continued so long. |
| (b) (i) where the lease is granted for money advanced and where no rent is reserved.                      | The same duty as is leviable on a Conveyance (No. 23) for a consideration equal to the amount of such advance as set forth in the lease.   |

| Description of Instrument  | Proper Stamp-duty  |
|--|--|
| (ii) where the lease is granted for a fine or premium and where no rent is reserved. | The same duty as is leviable on a Conveyance (No. 23) for a consideration equal to the amount of such fine or premium as set forth in the lease.   |
| (e) (i) where the lease is granted for money advanced in addition to rent reserved : | The same duty as is leviable on a Conveyance (No. 23) for a consideration equal to the amount of advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no advance had been paid or delivered ; provided that, in any case when an agreement to lease is stamped with the <i>ad valorem</i> stamp required for a lease and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed four rupees. |
| (ii) where the lease is granted for a fine or premium in addition to rent reserved.  | The same duty as leviable on a Conveyance (No. 23) for a consideration equal to the amount of such fine or premium as set forth in lease, in addition to the duty which would have been payable on such lease if no fine or premium had been paid or delivered ; provided that, in any case when an  |

| Description of Instrument | Proper Stamp-duty |
|---------------------------|-------------------|
|---------------------------|-------------------|

|  |   |
|--|---|
|  | agreement to lease is stamped with the <i>ad valorem</i> stamp required for a lease and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed four rupees. |
|--|---|

**Exemption**

Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.

36. **LETTER OF ALLOTMENT OF SHARES** in any company or proposed company or in respect of any loan to be raised by any company or proposed company. **Fifty paise.**

See also **CERTIFICATE OR OTHER DOCUMENT** (No. 19).

37. **LETTER OF CREDIT**, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn. **Fifty paise.**

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| <i>Description of Instrument</i> | <i>Proper Stamp-duty</i> |
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LETTER OF GUARAN-  
TEE, *See* AGREEMENT  
(No. 5).

38. LETTER OF LICENCE, Twenty-five rupees.  
that is to say, any agreement  
between a debtor and his cre-  
ditors, that the letter shall, for  
a specified time, suspend their  
claims and allow the debtor  
to carry on business at his  
own discretion.

39. MEMORANDUM OF AS-  
SOCIATION OF A COM-  
PANY—

(a) if accompanied by articles of Seventy-five rupees.  
association under section 35  
of the Companies Act,  
1913 ;

(b) if not so accompanied .. Two hundred rupees.

VII of  
1913.

*Exemption*

Memorandum of any associa-  
tion not formed for profit  
and registered under section  
26 of the Companies Act,  
1913.

VII of  
1913.

40. MORTGAGE-DEED not be-  
ing an AGREEMENT RE-  
LATING TO DEPOSIT OF  
TITLE-DEEDS, PAWN OR  
PLEDGE (No. 6), BOT-  
TOMRY BOND (No. 16),  
MORTGAGE OF A CROP  
(No. 41), RESPONDENTIA  
BOND (No. 56), OR SE-  
CURITY BOND (No. 57)—

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*Description of Instrument*      *Proper Stamp-duty*

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- (a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;      The same duty as on a conveyance (No. 23) for a consideration equal to the amount secured by such deed.

- (b) when possession is not given or agreed to be given as aforesaid;      The same duty as on a Bond (No. 15) for the amount secured by such deed.

**Explanation—**A mortgagor who gives to the mortgagee a power of attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this Article.

- (c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above mentioned purposes where the principal or primary security is duly stamped—
- for every sum secured not exceeding Rs. 1,000 ;      **Ten rupees.**
- and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.      **Ten rupees.**

**Exemptions**

- (1) Instruments, executed by persons taking advances under the Land Improvement Loans Act, 1883, or the [Punjab] Agriculturists Loans Act, 1958 or by their sureties as security for the repayment of such advances.

XIX of  
1883.  
West Pakis-  
tan Act  
XVII of  
1958.

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| <i>Description of Instrument</i> | <i>Proper Stamp-duty</i> |
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(2) Letter of hypothecation accompanying a Bill of Exchange.

41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of mortgage—

(a) when the loan is re-payable not more than three months from the date of the instrument—

for every sum secured not exceeding Rs. 200 ;

Twenty-five paise.

and for every Rs. 200 or part thereof secured in excess of Rs. 200 ;

Twenty-five paise.

(b) when the loan is re-payable more than three months, but not more than eighteen months from the date of the instrument ;

for every sum secured not exceeding Rs. 100 ;

Fifty paise.

and for every Rs. 100 or part thereof secured in excess of Rs. 100.

Fifty paise.

42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a PROTEST (No. 50) made or

Four rupees.

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| <i>Description of Instrument</i> | <i>Proper Stamp-duty</i> |
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signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.

See also **PROTEST OF BILL OR NOTE** (No. 50).

**43. NOTE OR MEMORANDUM**

sent by a broker or agent to his principal intimating the purchase or sale on account of such principal—

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|---|--|
| (a) of any goods exceeding in value twenty rupees ;   | Fifty paisa.   |
| (b) of any stock or marketable security exceeding in value twenty rupees, not being a Government Security ; | Twenty-five paisa for every Rs. 5,000 or part thereof of the value of the stock or security.                                 |
| (c) of a Government security  | Twenty-five paisa for every 10,000 rupees or part thereof of the value of the security subject to a maximum of forty rupees. |

**44. NOTE OF PROTEST BY THE MASTER OF A SHIP.**

Four rupees.

See also **PROTEST BY MASTER OF A SHIP** (No. 51).

**ORDER FOR THE PAYMENT OF MONEY.**

See **BILLOF EXCHANGE** (No. 13).

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*Description of Instrument      Proper Stamp-duty*

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45. PARTITION—Instrument of The same duty as on a  
[as defined by section 2 (15)]. Bond (No. 15) for the  
amount of the value of  
the separated share or  
shares of the property.

*Explanation*—The largest  
share remaining after the  
property is partitioned  
(or if there are two or  
more shares of equal  
value and not smaller  
than any of the other  
shares, than one of  
such equal shares) shall  
be deemed to be that  
from which other shares  
are separated :

Provided always that—

- (a) when an instrument  
of partition contain-  
ing an agreement to  
divide property in  
severalty is execu-  
ted and a partition  
is effected in pursu-  
ance of such agree-  
ment, the duty  
chargeable upon the  
instrument affecting  
such partition shall  
be reduced by the  
amount of duty paid  
in respect of the  
first instrument but  
shall not be less than  
four rupees ;

- (b) where land is held on  
Revenue Settlement  
for a period not ex-  
ceeding thirty years



| Description of Instrument   | Proper Stamp-duty  |
|---|--|
|   | <p>and paying the full assessment, the value for purpose of duty shall be calculated at not more than five times the annual revenue ;</p> <p>(c) where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed four rupees.</p> <p>[(d) when instrument of partition is executed in respect of agricultural land, the Stamp Duty shall be charged as one rupee for every rupees one hundred or part thereof of the value of such land.]</p> |
| <b>46. PARTNERSHIP—</b>   |  |
| <b>A—INSTRUMENT OF—</b>   |  |
| (a) where the capital of the partnership does not exceed Rs. 500. | Ten rupees.  |

| Description of Instrument  | Proper Stamp-duty          |  |
|--|----------------------------|--|
| (b) in any other case  | Fifty rupees.              |  |
| <b>B—DISSOLUTION OF—</b>   | Twenty-five rupees.        |  |
| PAWN OR PLEDGE, <i>see</i><br>AGREEMENT RELATING<br>TO DEPOSIT OF TITLE-<br>DEEDS, PAWN OR PLED-<br>GE (No.6).   |                            |  |
| <b>47. POLICY OF INSURANCE—</b>  |                            |  |
| A— <i>See</i> INSURANCE ( <i>see</i> section 7)  |                            |  |
|  | <i>If drawn<br/>singly</i> | <i>If drawn in<br/>duplicate for<br/>each part</i> |
| (1) For each voyage—   |                            |  |
| (i) where the premium or con-<br>sideration does not ex-<br>ceed the rate of 1/8 per<br>cent of the amount in-<br>sured by the policy, for<br>every full sum of Rs.<br>5,000 and also any frac-<br>tional parts thereof insur-<br>ed by the policy ; | Ten paisa                  | Five paisa.  |
| (ii) in any other case, in res-<br>pect of every full sum of<br>Rs. 2,000 and also any<br>fractional part thereof in-<br>sured by the policy.  | Ten paisa.                 | Five paisa.  |
| (2) For time—  |                            |  |
| in respect of every full sum<br>of Rs. 2,000 or part thereof<br>insured by the policy—   |                            |  |
| (i) where the insurance shall<br>be made for any time not<br>exceeding six months ;  | Thirty paisa.              | Fifteen paisa.                                     |
| (ii) where the insurance shall<br>be made for any time ex-<br>ceeding six months and<br>not exceeding twelve<br>months.  | Sixty paisa.               | Thirty paisa.                                      |

| <i>Description of Instrument</i> | <i>Proper Stamp-duty</i> |
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**B—FIRE—INSURANCE AND OTHER CLASSES OF INSURANCE, NOT ELSEWHERE INCLUDED IN THIS ARTICLE, COVERING GOODS, MERCHANDISE PERSONAL EFFECTS, CROPS, AND OTHER PROPERTY AGAINST LOSS OR DAMAGE—**

- (1) in respect of an original policy—
- (i) when the sum insured does not exceed Rs. 5,000. Fifty paisa.
- (ii) in any other case and One rupee.
- (2) in respect of each receipt for any payment of a premium on any renewal of an original policy. One-half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 53.

**C—ACCIDENT AND SICKNESS-INSURANCE—**

- (a) Against railway accident, valid for a single journey only. Five paisa.

*Exemption*

When issued to a passenger travelling by the intermediate or the third class in any railway.

- (b) In any other case for the maximum amount which may become payable in the case of any single accident. Twenty-five paisa; provided that, in case of a policy of insurance against death by accident when

| <i>Description of Instrument</i>  | <i>Proper Stamp-duty</i>  |
|---|---|
| or sickness where such amount does not exceed Rs. 2,000 and also where such amount exceeds Rs. 2,000 for every Rs. 2,000 or part thereof. | the annual premium payable does not exceed Rs. 2.50 per Rs. 1,000 the duty on such instrument shall be five paise for every Rs. 1,000 or part thereof the maximum amount which may become payable under it. |

**D—INSURANCE BY WAY OF INDEMNITY—**

|   |             |
|---|-------------|
| Against liability to pay damages on account of accidents to workmen employed by or under or against liability to pay compensation under the Workmen's Compensation Act, 1923, for every Rs. 100 or part thereof payable as premium. | Five paise. |
|---|-------------|

VIII of  
1923.

**E—LIFE INSURANCE OR OTHER INSURANCE NOT SPECIFICALLY PROVIDED FOR, except such a RE-INSURANCE as is described in Division of this article—**

|  | <i>If drawn singly</i> | <i>If drawn in duplicate, for each part</i> |
|--|------------------------|---|
| (i) for every sum insured not exceeding Rs. 250 ;  | Ten paise.             | Five paise.                                 |
| (ii) for every sum insured exceeding Rs. 250 but not exceeding Rs. 500 ;   | Twenty paise.          | Ten paise.                                  |
| (iii) for every sum insured exceeding Rs. 500 but not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof in excess of Rs. 1,000. | Forty paise.           | Twenty paise.                               |

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| <i>Description of Instrument</i> | <i>Proper Stamp-duty</i> |
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*Exemption*

Policies of life insurance granted by the Director-General of Post Offices in accordance with rules for Postal Life Insurance issued under the authority of the Central Government.

- F—RE-INSURANCE BY AN INSURANCE COMPANY WHICH HAS GRANTED A POLICY OF THE NATURE SPECIFIED IN DIVISION A OR DIVISION B OF THIS ARTICLE WITH ANOTHER COMPANY BY WAY OF INDEMNITY OR GUARANTEE AGAINST THE PAYMENT ON THE ORIGINAL INSURANCE OF A CERTAIN PART OF THE SUM INSURED THEREBY.**

One-half of the duty payable in respect of the original insurance but not less than five paise or more than one rupee.

*General Exemption*

Letter of cover or engagement to issue a policy of insurance:

Provided that, unless such letter or engagement bears the stamp prescribed by this Act for such policy nothing shall be claimable thereunder, nor shall it be available for any purpose, except to compel the delivery of the policy therein mentioned.

- 48. POWER-OF-ATTORNEY** as defined by section 2 (21), not

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1. Now 'Federal Government', see P. O. 4 of 1975.

*Description of Instrument**Proper Stamp-duty*

being a proxy (No. 52)—

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|---|--|
| (a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such document ; | Two rupees.  |
| (b) when authorising one person or more to act in a single transaction other than the case mentioned in clause (a);   | Five rupees.   |
| (c) when authorising not more than five persons to act jointly and severally in more than one transaction or generally ;  | Twenty-five rupees.  |
| (d) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally ;  | Fifty rupees.  |
| (e) when given for consideration and authorising the attorney to sell any immovable property ;  | The same duty as is leviable on a conveyance (No. 23) for the amount of the consideration. |
| (f) in any other case   | Five rupees for each person authorised.  |

*Explanation 1*—For the purposes of this Article more person than one when belonging to the same firm shall be deemed to be one person.

|                     | <i>Description of Instrument</i>  | <i>Proper Stamp-duty</i>  |
|---------------------|---|---|
| <b>XVI of 1908.</b> | <i>Explanation 2</i> — The term "Registration" includes every operation incidental to registration under the Registration Act, 1908.  |   |
|                     | <b>49. PROMISSORY NOTE</b> as defined by section 2 (22)—  |   |
|                     | (a) when payable on demand—   |   |
|                     | (i) when the amount or value does not exceed Rs. 250 ;  | Fifty paisa.  |
|                     | (ii) when the amount or value exceeds Rs. 150 but does not exceed Rs. 1,000 ;   | One rupee.  |
|                     | (iii) when the amount or value exceeds Rs 1,000 but does not exceed Rs. 5,000 ;   | Five rupees.  |
|                     | (iv) in any other case  | Ten rupees.   |
|                     | (b) when payable otherwise than on demand.  | The same duty as on a Bill of Exchange (No. 13) for the same amount payable otherwise than on demand. |
|                     | <b>50. PROTEST OF BILL OR NOTE</b> , that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or promissory note. | Four rupees.  |
|                     | <b>51. PROTEST BY THE MASTER OF A SHIP</b> , that is to say, any declaration of the   | Four rupees.  |

| <i>Description of Instrument</i>   | <i>Proper Stamp-duty</i> |
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| <p>particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees or not loading or unloading the ship, such declaration is attested or certified by a Notary Public or other person lawfully acting as such.</p> <p>See also NOTE OF PROTEST BY THE MASTER OF A SHIP (No. 44).</p> |                          |
| <p>52. PROXY empowering any person to vote at any one election of the members of a district or local board or of a body of municipal commissioners, or at any one meeting of (a) members of an incorporated company or other body corporate whose stock or funds is or are divided into shares and transferable ; (b) a local authority ; or (c) proprietors, members or contributors to the funds of any institution.</p>   | Twenty-five paisa.       |
| <p>53. RECEIPTS as defined by section 2 (23) for any money or other property the amount or value of which exceeds twenty rupees—</p>   |                          |
| <p>(a) where the amount or value does not exceed one hundred rupees ;</p>  | Fifteen paisa.           |