

PUNJAB MINOR CANALS ACT, 1905

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74. Permission to owners and parties interested in any canal to object in certain cases. Mode of serving notice and making proclamations. Bar of compensation where not expressly allowed. Protection of persons acting under the Act. Central Government to be party to certain suits and proceedings. Bar of other suits against Government. Power to recover water-dues, water-rates and other charges by revenue process. Powers as regards canals, creeks, situate partly without the limits of the Punjab. Powers exercisable in cases of urgency with regard to canals situate beyond the Union Territory of Chandigarh. Offences under the Act. Power to arrest without a warrant. Definition of "canal" for purposes of section 71 and 72. Power to make rules. SCHEDULE 11. 1905 : Act JILJ Mt, vort CANALS PUNJAB MINOR CANALS ACT, 1905. 217 ACT of 1905. [7th April, 1905, June, 1905] Year Short Title "Canal" by Order of Act. Amended, Punjab Order. Amended. Of Indian Adaptation of Indian Laws (Third Amendment) Order, Amended by Punjab Order, 1951. Extended to the territories which immediately became the 1st Nov 1956. in the State of Patiala East Punjab States Union. Act of 1967. Amended by 25th Amendment by the Punjab Government (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, An Act to make better provision for the control and management of minor canals in [Punjab]. WHEREAS it is desirable to make better provision for the exercise of control over and for the regulation of the management of certain minor canals in Punjab It is hereby enacted as follows:— CHAPTER T. PRELIMINARY, (1) This Act may be called the Punjab Minor Canals Act of 1905. extent. For Statement of Objects and Reasons, see Punjab Gazette, 1903. Part V. p. 100; for Report of the Select Committee, see ibid, 1905. Part V, p. 7; for proceedings in Council see ibid, Part V. page 27, and ibid. Part V, page 44. For Statement of Objects and Reasons. Punjab Government Gazette (Extraordinary). 1953. page 1315, Statement of Objects and Punjab Government (Extraordinary). 1902. For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 11/64, page 935—37. Substituted for the word "East Punjab" which had been inserted by the Indian Independence (Adaptation of Bengal and Punjab Act) Order, 1948, by the Adaptation of Laws (Third Amendment) Order, 1951, 1905 : Act III. (2) It extend to the whole of Union Territory Chandigarh]. 2. (i) The provisions of this Act shall apply to the operation of Act. extend and in the manner hereinafter provided to every canal specified in either Schedule T or Schedule II as the case may be. (2) At any time after the commencement of this Act, the Government may, from time to time, by notification— (a) include any canal under either Schedule or Schedule the case may be, or transfer a canal from one Schedule to the Other Schedule, and thereupon the provisions of this Act applicable to canals included under such Schedule, or such of the said provisions as the Government may direct, shall apply to such canal; or (b) exclude from the operation of this Act any canal which now is, or hereafter may be, included under either Schedule or Schedule Provided that no canal shall be included under Schedule T, unless— (a) it is owned in whole or in part by the Government; or (b) is, at the commencement of this Act, managed by servants of the Government) or by any local authority; or (c) is situate partly within and partly without the territories to which this Act extends; or (d) has been included under Schedule II and is transferred to Schedule I by direction of the Government. Substituted for the word "Punjab" by the Punjab Reorganisation (Adaptation of Laws on State and Concurrent Subjects) Order, 'Substituted for the words "State Government" by the Punjab Reorganisation (Adaptation of Laws on State and Concurrent Subjects). Order, 1968, Substituted for the words "Magistrate for the purposes of the Province" by the Adaptation of Laws (Third Amendment) Order, 1931. Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937, for "Government Officers". Substituted for the word "Crown" by the Adaptation of Laws Order, 1950. Substituted for the words "by direction Government" by the Government of India (Adaptation of Indian Laws) Order, 1937. 1905 Act 219 (3) The Northern India Canal and Drainage Act, 1873, shall not apply to any canal which is for the time being included under either Schedule I or Schedule II 3, In this Act, unless there is something repugnant Definitions. in the subject or context— (i) "Record-of-Rights" and "Revenue Officer" have the meanings assigned to them respectively in the Punjab Land Revenue Act, 1817; (ii) "Canal" means any canal, natural or artificial channel or line of natural drainage or any reservoir, dam or embankment constructed, maintained or controlled for the supply or storage of water or the protection of land from flood or sand, and includes any water-course or subsidiary works as defined in this section; means the head revenue-officer of a

district, and includes any officer appointed under this Act to exercise all or any of the powers of a Collector ; -(iv) "Commissioner" means a Commissioner Of a Division and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner; (v) "Construction" and "construct" include any alteration which would materially extend the area irrigable by a canal or any other alteration of material importance or the renewal of a canal after disuse for six years, but do not include the re-excavation of a canal-head which has been temporarily abandoned owing to a change in the river, the excavation of new head necessitated by change in the river or a change of water-courses to render existing irrigation more efficient; (vi) "Creek" means any channel of a river other than the main channel through which the water of the river would, unless obstructed by deposit of silt, naturally flow at some period of the year; (vii) "District" means a district as fixed for revenue purposes; (viii) "Irrigator" means in respect of any land which is irrigated from a canal any person for the time being deriving benefit by such irrigation, and includes a landowner or occupancy tenant of such land; 220 CANALS 11905 : Vb. Act (ix) "Labour" includes labourers, cattle and appliances necessary for the execution of the work for which labour is to be supplied; (x) "Mill" means any contrivance whereby the water power of any canal is used for grinding, sawing or pressing, or for driving or working machinery or for any other similar purpose, and includes all subsidiary works and structures connected with any such contrivance except the canal itself; (xi) "Subsidiary works" means all works required for the control or maintenance of the supply to a canal or for the maintenance of a canal in proper condition or for the regulation of the irrigation therefrom or for the prevention of floods or for the provision of proper drainage, in connection with such irrigation, and include also the land required for such works; (xii) "Water-course" means any channel which is supplied with water from a canal and which is machinery or for any other similar purpose, and includes all subsidiary works connected with such channel except the sluice or outlet through which water is supplied to such channel; (xiii) "Water-due" means whatever is payable to Government in cash or kind by the owner of a canal for the diversion by such owner for the purposes of such canal of the water of any river, creek or stream flowing in a natural channel or of any lake or other natural collection of water; (xiv) "Water-rate" means the charge made for canal water other than a water-due or canal ad. vantage land-revenue rate. (xv) "Beneficiary" means, in respect of any canal, any person for the time being deriving, or who is to derive, benefit, directly or indirectly, from such canal.

CHAPTER 11, CONSTRUCTION OF CANALS

WATER-DUES 4, When the [Central Government] has notified in Prohibition against construction of this behalf any natural channel, lake or other collection of water Without permission of the [Central Government] New clause (xv) inserted by Punjab Act, LIV Of 1953. Substituted for the words "State Government" by the Punjab organisation (Chandigarh) (Adaptation of Laws on State and current Subjects) Order, 196B. 1905 : Pb. Act 111.1 MINOR CANALS 221 water, no person shall, without permission previously obtained in the manner prescribed in the section next following, construct a canal intending to be fed from any such channel, lake or other collection of water: Provided that nothing in this section shall apply to the construction of a water-course from an existing canal.

5. (1) Any person desiring to construct a canal Intended to be fed from any source of supply which has been notified by the [Central Government] under section 4, may apply, in writing, to the Collector, for the permission prescribed in that section. (2) Every application under sub-section (1) shall be in such form and shall contain particulars such as the [Central Government] may prescribe in that behalf.

6. (1) When a source of supply has been notified by the Collector to the [Central Government] under section 4 and the Collector constructs a canal considers that the construction of a canal to be fed therefrom will be advantageous, he shall give notice by public proclamation to all persons interested of his intention to construct such canal. (2) If no objection to the construction of such canal shall have been preferred within a period to be specified in the notice under sub-section (1) or if any such objection has been preferred within the said period, but has been finally over-ruled, the Collector may proceed to construct such canal. (3) The provisions of sections 50 and 53 shall apply to all proceedings of the Collector under sub-section (1) of this section and under the preceding section, and the powers conferred upon the Collector by this and the preceding section shall be exercised subject to such sanction the [Central Government] may prescribe and in accord. with the rules made by such Government.

7. (1) If any person, without the permission necessary to prohibit the unauthorised under sections 4 and 5 of this Act, or contrary to any construction or the conditions of such permission, commences to construct or proceeds with the construction of any canal, the Collector may, at any time, by order in writing, prohibit

for the words "State Government" by the Punjab Reorganisation (Chandigarh) (Adaptation) of Laws on State and Central Subjects) Order, 1968, MINOR CANALS 190.6 : Pb. Act such person, and, by general proclamation, all other from continuing the construction thereof: Provided that, in the construction which would materially extend the area irrigable by the canal, no such order or proclamation. the order may be made or issued in respect of any canal which, at the time when it is proposed to make or issue such order or proclamation, been used for irrigation for a three years without interruption Other than such as to natural causes the control the aforesaid. (2) No person shall, at any time after the Commencement of this Act, construct a canal without the permission necessary under sections 4 and 5 Of this Act, the Collector may, With the previous sanction of the "Central Government", close it and shut off the supply of water thereto, and may further, by order in writing, prohibit such person, and, by general proclamation, all other persons, from maintaining, repairing or renewing such canal or continuing to use the water thereof. "a. 8. (i) Subject to the conditions if any, imposed or agreed to by the Central Government, such Government may assess and levy water-dues in respect of— (i) canals made after the commencement of this Act; (ii) canals made before the commencement of this Act— (a) when the right to or question of, water-dues has been expressly reserved by such Government; or (b) when the conditions upon which the owner of the canal has been allowed to use the water have been agreed on for a term and that term has expired; or (c) when such water-dues were already levied at the commencement of this Act. (2) The demand on account of water-dues shall be assessed for a term of years, and shall be limited to an amount not exceeding one-quarter of the net profits which are likely to accrue to the owner of the canal during that term. For words "State Government" by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Central Subjects) Order, 1968. 1905 f. Pb. Act 111.1 MINOR CANALS CHAPTER 223 PROVISIONS APPLICABLE TO CANALS SCHEDULE L 9. Except as the "Central Government" may otherwise direct under section 50 the provisions of this Chapter shall apply only to canals for the time being included under Schedule IO. (1) Notwithstanding the existence of any rights power, Collector, in or over a canal or water-course, the Collector may— (a) exercise all powers control, management and direction for the efficient maintenance and working of such canal or for the due distribution of the water thereof; and (b) whenever and so long as any water-course, sluice or outlet is not maintained in proper customary repair, or any water-course, sluice or outlet through which water is supplied to any person, or, in the case of a sluice or outlet, to any water-course or any person, is subjected to wilful damage or wrongful enlargement, stop the supply of water to such water-course, sluice or outlet or to any person. (2) No claim shall be enforceable against the Central Government for compensation in respect of loss caused by any order passed under sub-section (1), but any person suffering loss by reason of any order passed under sub-section (1) (a) may claim such remission of the ordinary charges payable for the use of the water as is authorised by the Central Government. Provided that if any right to water entered in a record-of-rights prepared or revised under section 28(1.) or circulated under section 28(3) to have been made under this Act or admitted in any agreement between the Central Government, and any person is substantially diminished in action taken under sub-section the Collector shall award compensation under section 55 to such person in respect of the diminution of his right. for the words "State Government" by the Punjab Reorganisation (Adaptation of Laws on State and Central Subjects) Order, 224 CASALS [1903 Ph. Act (3) No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Indian Ry Limitation Act, 1877, nor shall the Government be bound to supply any person with water. (1) The Central Government may at any time Central Government or extinguish any right to which any person in or over any canal if the exercise of such right is prejudicial to the interests of other irrigators on payment of the good management, improvement or extension of (2) In every such case the Central Government shall cause to be paid to the person whose right is lost or extinguished, compensation to be assessed by the Collector under section 55. In assessing compensation for the purposes of this section, the Collector shall have regard to the character of the right, the period during which it has been enjoyed and the damage likely to be occasioned by its suspension or extinction. power to enter 12. The Collector or other person acting under any survey, etc. Power to make general or special orders of the Collector may enter any land adjacent to any canal, or through which a canal is proposed to be made, and undertake to level thereon; and dig and bore into the sub-soil; and make and set up suitable land-marks, level-marks and water gauges; and do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected

canal under the charge of the said Collector; clear and, where otherwise such inquiry cannot be completed, the Collector or such other person may cut down and clear away any part of any standing crop, fence or jungle; and may also enter upon any land, building or water- Power to inspect and regulate course on account of which any water-rate is chargeable, water-supply. for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal • Wee now the Indian Limitation Act, 1963, 2 Substituted for the words «State Government" the Punjab Reorganisation (Chandigarh) (Adaptation) of Laws on State and Concurrent Subjects) Order, 1968, 1905 : Act MINOR 225 Provided that, if such Collector or person proposes to intend to enter into a house, enter into any building or enclosed court or garden attached to a dwelling not supplied with water flowing from any canal, he shall previously give the occupier of building, court or garden at least seven days' notice in writing of his intention to do so. In every case of entry under this section, the Collector shall, upon application made to him in this behalf, by entry and pay compensation for any damage which may be occasioned by any proceeding under this section, 13, In case of any accident happening or being apprehended to enter or repair and connected to a canal, the Collector or any person acting to prevent under his general or special orders in this behalf may enter, enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident. In every such case, the Collector shall upon application made to him in this behalf, assess and pay compensation damage to him under section 55, for any damage which may be occasioned by any proceeding under this section. 14. (1) Collector or any person acting under his general or special orders in this behalf may, within for deposit, such distance from the canal as the Central Government) from time to time determine, occupy land adjacent to any canal to excavate earth repairs to the canal for the purpose of— (a) depositing upon it soil excavated from the canal; or (b) excavating from it earth for repairs to the canal. The Collector shall, upon application, made to him in this behalf, and pay compensation for any damage which may be occasioned by any proceeding under this section. (2) The owner of any land which has been occupied after the commencement of this Act for any purpose under (i) remained in such occupation for a period exceeding three years may require that such land be permanently acquired in accordance with provisions of section 44. Government" the Punjab Reorganisation (Adaptation) or on State and Concurrent Subjects) Order; 1968. 226 CANALS 1905 : Ph. Act III. Supply through cut. Whenever application is made to a Collector for or for the purpose of obtaining a supply of water from canal, and it appears to him expedient that such supply should be given, and that it should be conveyed through existing water-course, he shall give notice to the responsible for the maintenance of such water-course to show on a day not less than fourteen days from the date of such notice, why the said supply not be so conveyed: and, after making inquiry on such the collector shall determine whether and conditions the said supply shall be conveyed through such water-course. The applicant shall not be entitled to use such course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it. and 150 Such share of the first cost of such water-course as the Collector may determine. Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it. Application for construction 16, Any person desiring the construction of new water-course may apply in writing to the Collector, stating— Procedure of Collector there upon, (i) that he has endeavoured unsuccessfully to acquire from the owners of the land through which he desires such water-course to pass, right to occupy so much of the land as will be needed for such water-course. (ii) that he desires the Collector, in his behalf and at his cost, to do all things necessary for acquiring such right; (iii) that he is able to defray all costs involved in acquiring such right and constructing such water-course

17. If the Collector considers—(i) that construction of such water-course is expedient: (ii) though the Collector is not satisfied in any particular, he shall call the applicant to make good the Collector considers necessary to defray the cost of the preliminary and the amount of any compensation which the Collector considers it to become due under section 20: 1905 : Punjab Act II.] MINOR CANALS 227 and, upon such deposit being made, he shall cause enquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out

18. Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Collector stating— (i) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course; (ii) that he desires the Collector, in his behalf, and at his cost, to do all things necessary for procuring such transfer; (iii) that he is able to defray the cost of such transfer. If the Collector considers— Procedure there— (a) that the said transfer is necessary for the better management of the irrigation from such water-course; and (b) that the statements in the application are true, he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section 20 in respect of such transfer; upon such deposit being made, he shall publish a notice of the application in every village affected. 19. (1) When within thirty days from the publication of a notice under section 17 or subsection 18 as the case may be, any person interested in the land or water-course to which the notice refers, applies to the Collector as of right, stating his objection to the construction or transfer for which application has been made, the Collector shall give notice to the other persons that, on a day to be named in such notice or any subsequent day to : 190.3 : Pb. Act 111. v. which the case may be adjourned he to inquire into the validity of such objections the case may be. (2) When the applicant or person aggrieved by the decision in such notice or water-course until he has paid to the Collector as the Collector may direct the amount so occupied or any charge on the land or occupation of land, with incidental such transfer. Compensation to be assessed provided in section 20. If the person to be entitled to the land or occupation transferred, or if such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector. When recovered, he shall pay the same to the person entitled to the same. 21. (1) When any such applicant has duly complied with the conditions laid down in the application he shall be placed in occupation of the land or water-course as aforesaid, and the following rules and conditions shall be after binding on him and his representative interest:— (a) In all cases— First.—All works necessary for the passage across such water-course or water-courses existing previous to its construction and of the drainage intercepted by it, and for communications across for the benefit of the neighbouring lands, shall be constructed by the applicant or his representative in interest to the satisfaction of the Collector. 22. (1) A water-course occupied for a water-course under the provisions of section 17 shall be used only for the purposes of such water-course. proposed water-course shall be constructed to the satisfaction of the Collector within one year after the applicant is placed in occupation of the land. (b) In cases in which land is occupied or a water-course is transferred, on the terms of lease, the applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation. the right to occupy the land ceasing on a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such person as the Collector determines. Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation; and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent per annum from the date on which it became due, and shall pay the same, when recovered, to the person to whom it is due. (2) If any of the rules and conditions prescribed by this section are not complied with, or if any water-course constructed or transferred under this Act is disused for three years continuously, the right of the applicant, or of his representative in interest, to occupy such land or shall cease absolutely. 23. MINOR CANALS [1905 : Pb. Act 111. Ot 22. The Collector may construct or repair or a sluice or outlet to regulate the supply of water from canal to any water-course. (J) In cases where there are water-courses running side by side or so situated as to interfere with the agricultural use or proper management of the land, the Collector, if applied to for that purpose, or on his own motion may require the owners to make arrangements to his satisfaction to unite the water-courses or to substitute for such system as may have been approved by him. (2) If the owners fail within such time as the Collector may fix to comply with any order passed by him under sub-section (1) the Collector may himself do the work.

(3) Whenever a water-course has been reconstructed a new system substituted under sub-section (1) or section 26, the Collector may fix the shares in which the water shall be enjoyed by the persons entitled to use the water-course. Procedure 2i The procedure hereinbefore provided for the tapw plie-able to cupauon for cupatjon of land for the construction of a water-course and shall be applicable to the occupation of land for any exten- alterations. Sion or alteration of a water-course and for the deposit ot soil from water-course clearances, COETs Of execute 25. In every case under section 22 or section 23, the Ing works under section 22 or eec-cost of executing or completing the works shall be payable Lon 23, by whom by such person or persons deriving benefit from the water- payable. courses as the Collector may in each ease determine. Power Of Cen- 1126. The 21Central Governmentl may, by notifica- tral Government to direct (ion, direct that a beneficiary shall be bound to furnish of labour by In-i-cn.skilled labour free of cost to Government for any one gators. iSubEtituted by Punjab Aet LIV of 1953, for Old section 'Substituted for the words "State Government" by the Punjab Reorganicati01i (Chandigarh i, (Adtptation ot Laws on State ond con- current subjects), Order, 1968. 1905 Pb. Act Ill.) MINOR CANALS 231 or more of the following purposes in respect Of any conal:— (a) construction; (b) maintenance in a state of cficiency; (c) annual silt clearance; (d) executing any work necessary thereto

27. Upon the issue of a notification under section 26 power or cni- the Collector may, from time to time, by general or upon is.run of notification special order,— under section 26. (a) determine the amount of labour to be provided or the amount oi work to bc performed by each 'I beneficiaryl ; (b) regulate the attendance, distribution and con- trol of the labourers provided or the manner of the performance of the work; (c) assess and recover the cost of sech labour from any person who fails to comply with an order pass:d under this section; and (d) fur-d all costs so recovered and expend them on the provision of hired labour for any of the canals to which the notification applies, or on any other purpo.ee connected with the well-being thereof: Provided that the costs assessed as aforesaid shall rct tr.ceed eight annas for each day's labour of each of the Ebourers in respect of whom default has occurred. 28. (1) The Collector, shall, whenever, the 3[Central to pare record iot Governmentl mayt by special order or by the rules made canal. under the authority of this Act, so direct, prepare or revise any canal a record showing all or any of the following matters, namely (a) the custom or rule Of irrigation; (b) the rights to water and the conditions on which such rights arc enjoyed; (c) the rights as to the erection, repair, re-construe- tion and working of mills, and the conditions on which such rights are enjoyed; and t.eubgtitute•d by Puniab Act LIV 1953- for the word ;The words • 'subject to the provisions, it any. ot a record ot rights in section 26 or section omitted by ibid. 'Substituted the "Stete Government" by the Punjab Reorganization (Chandigarh) (Adaptation of Laws on Stote ond Con- Current Subjects) Order. 196B. 232 CANAtS (1905 : Pb. Act Ill. (d) .such other matters as tho (Central Govern. menti by rule prescribe in thig behalf. (2) Entries in the rceord so prepared or revised shall bc relevant as evidence in any dispute ns to the tecorded, and shall be presumed to be true until the con- teary is proved or a new entry ig lawfully substituted therefor: Provided that no such entry shall be so construed to limit any of the powers conferred on the t (Central Gov. ernmentl by this Act, (3) When a record showing all or any of the matters enumerated in sub-section (1) has been framed at any sottietment of the land-revenue already sanctioned the I(Centra1l Governmentl and has been attested by a revenue officer, such record shall be deemed to have been made under this section. (4) Every person interested shall be bound to furnish to the Collector, or to any person acting under the di- ec- tion of the Collector, all information necessary for the correct preparation of a record under this section. (5) The provisions of Chapter IV of the Punjab Tend Revenue Act, 1887, shall, so far as may be, apply to the E t preparation and revision of every such record. WATER-RATES. (1) Subject to the terms of any agreement made of it with the owners or irrigators, the tlCentral Govern- rates. mentl may, by notification, direct that a rate or rates shall be levied for the use of water of a canal in an authorised manner. (2) The IICentral Governmentl may. by notification, also impose a special rate for water obtained or used with- cut authority or in an unauthorised manner. (3) The rate or rates imposed under sub-section (1) or sub-section (2) shall be leviabie from such persons deriving benefit from the water as the '(Central Govern- mentl may, by general or special rule direct. iSubstituted for the words "State Government" by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and current Subjects) Order, 196B. toos : i'b. Act 111.1 MINOR CANA'S 233 (4) Subject to the terms of any such agreement ag ä.rot•esaid. the proceeds or any rate or rates levied under this section shall b? disposed of in such mnnner as the tlCentral Governntontl may, by genernj or specinl rule. direct

30. If water supplied through a water-course be used in an unauthorised manner, and if the person by or neglect such use has occurred cannot be identified,—not the person on whose land such water flows; if such land has derived benefit therefrom, or, if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course, shall be liable or jointly liable, as the case may be, to the charges made for such use.

31. If water supplied through a water-course be liable to run to waste, and if, after enquiry by the Collector, the person through whose act or neglect such water suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted. All charges for the unauthorised use or for waste shall be recoverable in addition to any penalties incurred on account of such use or waste. All questions under section 30 or section 31 shall be decided by the Collector.

32. Where there are numerous share-holders in a canal, or where it is difficult to ascertain the persons who are shareholders or the extent of the interest of the Shareholders, or any of them, the Collector may, if there is no proper manager or representative, required by a proclamation or notice in writing, the holders to nominate, within a given period, a fit person as manager of the canal and their representative, and, upon their failure to do so, may himself appoint any person to the manager of such canal and the representative of the shareholders. and the person so appointed may do all acts and things which the shareholder; or any of them might lawfully do in regard to the management of such canal, and all acts and things so done by him shall be binding upon every person who possesses any share in the ownership of such canal.

33. The Central Government may, by notification, Government to the provisions of section 28 (as to the preparation and revision of records) to be applicable to any canal, and, upon any such declaration being made, such provisions shall, as far as may be, apply accordingly.

36. (1) It shall be lawful for the Central Government to assume the control or management, or both, of any canal— (a) if the owner of such canal consents thereto, and subject to the conditions (if any) on which such consent may in any case be given; (b) if, after enquiry, the Central Government is satisfied that the control or management exercised by or on behalf of the owner is such as causes grave injury to the property or health of persons owning lands in the vicinity; (c) in the event of any wilful and continuous breach of orders issued under section 39 of this Act. (2) When the control or management, or both, of any canal is assumed under the provisions of sub-section (1) the Central Government may exercise all or any of the rights and powers in regard thereto which, but for assumption, the owner might lawfully have exercised, and may delegate such powers or any of them to any person. Substituted for the words "State Government" by the Reorganisation (Chandigarh) (Adaptation of Laws on State and current Subjects) Order, 1968. 1909 : Pb. Act III.] MINOR CANALS 235 but Government shall, in the absence of any decree or agreement to the contrary, be liable to account, from time to time, to such owner for the income and expenditure thereof and may at any time restore the canal to the owner

37. When the control or management, or both, of a canal shall be assumed by the Central Government under clause (b), or clause (c) of sub-section (1) of section 36, and such control or management, shall have continued for a period exceeding six years, the owner thereof, may, by notice in writing delivered to the Collector, require that the Government shall acquire such canal. receipt of under section 37, the canal on demand Government] shall by notification declare that the said of the owner. canal will be acquired after a day to be named in the said notification, not being earlier than three months from the date thereof, and after the issue of such notification the Collector shall proceed as in sections 46 and 47 provided. Pursuant to Ex the 39. The Central Government] may, after inquiry limits at irrigation through the Collector, in respect of any canal, issue orders as to all or any of the following things, namely:— (a) rates to be levied on the land (b) fixing the limits within which land may be irrigated from such canal; (c) fixing, as it may deem equitable, the amount and character of the water-rates leviable by the owner, and the conditions on which

such rates are to be paid, suspended, remitted or refunded; (c) regulating the supply and distribution of the water to and from such canal: Provided that if any land which has been continuously irrigated from the canal for three years previously is deprived of irrigation, or the income of the canal-owner from such canal is materially reduced by reason of any orders passed under this section, the owners of such land or the canal-owner shall be paid by Government or by 'Substituted for the words *'State Government*' by the (Chandigarh) of Lt. Gov. on State and Con- current Subject Order. 1968. 236 CANALS 11905 : Act III. such persons as Government may determine such pension as the Collector may consider reasonable: Provided further that, if the canal-owner has in the opinion of the [Central Government] exercised his as such in an arbitrary or inequitable manner, he not be entitled to compensation under this section. Collection. Itt 40. (1) The [Central Government] may, at the certain water-rates or Of the owner, undertake the collection of the water, by the rates leviable in respect of a canal for such period as may be agreed upon with him, and may, thereupon:— ment. (a) regulate such collection and determine the persons by whom it shall be made; (b) direct that by way of payment for service rendered in making such collection, deduction: shall be made not exceeding three per cent the amount collected. (2) During the period for which the [Central GOV. ernment] has undertaken the collection of the water-rates leviable in respect of a canal, no suit for the recovery of any such rates shall be instituted

CHAPTER V. PROVISIONS APPLICABLE TO ALL CANALS. chapter 41. Save as otherwise hereinafter expressly provided, the provisions of this chapter shall be applicable to all canals, whether included under Schedule I or under Schedule II. Consent or de- 42. Whenever, in respect of any canal, any question arises which has under this Act or the rules made there- owner how to be under to be determined by the request, consent or decision determined. the owner, and the ownership of such canal is vested in more persons than one who are unable to agree as to 'Substituted for the words S'State Government" Punjab Reorganisation (Chandigarh) (Adaptation of on State and Con- current Subjects) Order, 1905 ; Pb. Act III.] MINOR CANALS 239 such request, consent or decision, it shall be lawful to the Collector to act on behalf of the owners in any such matter, and the request, consent or decision of the Collector in any such case shall be binding upon every person who possesses any share in the ownership of such canal. In every such case the Collector shall give due consideration to the wishes of the share-holder or share-holders who possess the larger interest, and when the question is one whether the Government shall be required to take any action, the wishes of the Share-holder or share-holders shall prevail and be accepted by the Collector. 43, (1) Save as provided in the preceding section Settlement whenever a dispute arises between two or more persons in regard to their mutual rights and liabilities in respect of the ownership, construction, use or maintenance of a canal or water-course, and any such person applies in writing to the Collector stating the matter in dispute, the Collector shall give notice to the other person or persons interested that on a day to be named in such notice or any such day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute. (2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute in the following manner, that is to say— (a) If the dispute relates to the ownership of a canal or the mutual rights of owners in the use of the water of such canal or the construction or maintenance of a canal or the payment of any share of the costs of such construction or maintenance or the distribution of the supply of water from a canal, the Collector shall proceed as a Revenue Court under the provisions of the Punjab Tenancy Act, 1887, and the provisions of that Act regarding appeals, revisions and reviews shall be applicable. (b) If the dispute relates to a water-course the Collector shall hear and determine the case as a revenue-officer and shall make such order thereon as to him seems fit, and such order shall, unless set aside on appeal to the Commissioner, be conclusive as to the use or distribution of water for any crop sown or growing at 238 CASAT-S Act III. the general order. The order of the Commissioner appeal in every such final. (1) Any who Obtained the permission. Of 44 of the Central Government) to construct, or owns may apply in writing to the Collector to acquire any land required for the purpose- Of such (2) If the Collector is of opinion that the application should be granted, he shall submit it, with his recommendation, for the orders of the Central Government. (3) in the opinion of the [Central Government] the application should, whether in whole or in part, be granted, it may declare that the land is required for a public purpose within the meaning of the Land Act, 1894, and direct the necessary action to be taken thereunder. require 45. Whenever it appears to the [Central Government] by consent or decision expedient in the public interest to acquire any canal, the [Central Government] may by notification declare that the said canal will be acquired after a day to be named in the

said notification, not being earlier than six months from the date thereof. Notice as to 46. As soon as practicable after the issue of such for compensation. Inquiry notification the Collector shall cause public notice to be given at convenient places stating that the Central Government intends to acquire the said canal as aforesaid and that claims for compensation in respect of the same thereof may be made before him. 47. (1) The Collector shall proceed to inquire into any such claims and to determine the amount of compensation which should be given to the claimant. In assessing such compensation the Collector shall proceed as provided in section 55. but for the purposes of this section shall also have regard to the history of the canal, the expenditure incurred thereon and the profits of the owner. •Substituted for the words "State Government" by the Reorganisation (Chandigarh) (Adaptation) of Laws on State and current Subjects) Order, 1968. 1905 Ph. Act MINOR CANALS 239 (2) No claim for compensation shall be enforceable after the expiration of one year from the date of the notice under section 46 unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period. 48. (1) The '[Central Government]' shall by notification declare the day on which a canal has been acquired from the Government. (2) Subject to the award of compensation to the owner or person interested in the said canal, when the '[Central Government]' acquires a canal,— (a) the right, title and interest therein of the owner thereof shall forthwith cease and determine; (b) such canal, subject to any rights to take water for irrigation which any person may have, shall forthwith vest in and be the absolute property of the '[Central Government]'

49. The '[Central Government]', may, by notification to be published in the Official Gazette, take power to regulate in rivers, creeks, the flow of water in any river, creek, natural channel or line of natural drainage whether by the construction or removal of works or otherwise, and whenever it appears therein to such Government, after enquiry through the Collector or removal that the supply of water to a canal or the cultivation of any therefrom or the public health or public convenience is likely to be injuriously affected by the obstruction of any creek, natural channel or line of natural drainage it may, by notification published as aforesaid, prohibit within the limits to be defined by such notification the formation of obstruction, or may within such limits order the removal or other modification of such obstruction. 50. (1) The Collector may, after such publication, order to remove obstruction after issue an order to the person causing or having control over publication of any such obstruction to remove or modify the same within such time and payment or compensation to be fixed in the order. Substituted for the words "State Government" by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and current Subjects) Order, 1968. CANALS 11905 Ph. Act 111. 240 (2) The Collector may himself remove or modify the obstruction— (a) if the person to whom the order under section (j) was issued fails to comply with that order within the time so fixed; and (b) in any case where the obstruction is not caused or controlled by any person. (3) The Collector shall determine from whom the cost of removing or modifying the obstruction shall be covered, and the amount of compensation due to any person injuriously affected by the removal or modification of the obstruction and the person by whom such compensation shall be payable: Provided that no compensation shall be awarded for an advantage obtained by an arbitrary or inequitable course of action. 51. When the '[Central Government]' has by notification as provided in section 49 taken power to regulate the flow of water in any river, creek or natural or removed line of natural drainage it may authorise the Collector to exercise such power on its behalf in accordance with such rules as it may prescribe. A Collector so authorised may, in the execution of such rules exercise all the powers conferred upon him by section 50, and his authority may, include the power to take such action as the Government is empowered by section 49 to take after enquiry through the Collector. Such authority may on every occasion be exercised without the publication of further notification in the Official Gazette powers as to 52, (j) The Collector may, at any time, order the construction owner of any canal under Schedule 11 to— and maintenance of works in respect of canals under Schedule 11 (u) repair and maintain in a proper state, all or any embankments, protective works, reservoirs, channels, water-courses, sluices, outlets and other works connected with the canal; words "State Government" by the Reorganisation (Chandigarh) (Adaptation of Laws on State and current Subjects) Order, 1968. Substituted for the words "Gazette" by the Government of India (Adaptation of Indian Laws) Order, 1937, 1905 : Act III.] MINOR CANALS 241 (b) construct, repair and maintain, in a proper state, a suitable bridge, culvert, or similar work at any place across, under, or over the canal, for the purpose of providing communication with any public road or thoroughfare which was in use before the

canal was made; (e) construct, repair and maintain, in a proper state, suitable works for the passage of the water of the canal across, under, or over any public road or thoroughfare or any canal or drainage or channel which was in use before the canal was made; (d) construct, repair and maintain, in a proper state, a suitable regulator at or near the head of the canal where, for want of such regulator, an excessive, supply of water may enter the canal or cause damage to it, or any crops, lands, roads or property in the neighbourhood. The Collector may at any time order a beneficiary to furnish unskilled labour free of cost for any one or more of the purposes specified in section 26 of this Act. I (3) Every order under sub-section (1) and (2) shall be in writing, and shall specify a reasonable time within which the works or repairs mentioned therein shall be completely executed. (4) If any order made under this section is not obeyed, to the satisfaction of the Collector, within the time therein specified. the Collector may himself execute or complete the execution of, or cause to be executed or completed, all works or repairs specified in the order



53. In the case of canals included under Schedule I, rowers as to construction and the Collector may—maintenance works in respect (a) call upon the ü[beneficiaries] to discharge any Ofor cannu under Schedule L the liabilities specified in section 52, sub-section IThe words •Canal" as used in this sub•section doeg not include "'water-course", by Punjab *Act LIV of 1953. 'Substituted by ibid, 5Sub}tituted for the word "irrigators" by ibi(L 242 MINOR CANALS P b, Act (1) which the -tlCentral Governmentl may have declared to attach to the t [beneficiaries] frw such canal or group of canals; or (b) himself arrange for the performance of fiuch acts and recover the cost as provided tion 57. 54. (1) Jf any new work is immediately required to Power to to prevent serious detriment to the utility of a canal, Collector may, notwithstanding anything in the Land Ac. emergency. quisition Act, 1894, take immediate possession ot any required for the construction of the WOTI,t. (2) When the Collector has taken possession land under sub-section (1 he ghall, upon application to him in this behalf, assess and pay compensation under section 55. (3) In the event of sudden and serious damage urgent risk to a canal or to property situate in the imme. diate neighbourhood thereof, or to irrigation carried therefrom, or to the public traffic, the Collector may, giving previous notice, execute or cause to be executed such works as he may think necessary in order to remedy or prevent such damage or risk, and may require any gator to furnish such labour as to the said Collector may seem reasonable and necessary for the immediate' execu- tic•n Of such works. (4) Labour furnished under this section shall be paid for at the local market rate. (5) An order passed under sub-sections (3) and (4) shall be final. kgsesement of 55. In assessing the amount of compensation to be compengnUon. paid under any section of this Act, other than sections 12, 14, 21, 39, and 50, the Collector shall proceed under the provisions of the Land Acquisition Act, 1894, and the provisions of that Act regarding inquiries and awards by the Collector, references to the Civil Courts and procedure thereon, apportionment of compensation, payment and ap- peals shall, as far as may be, be applicable to all proceed• ings under this section. 'Substituted Jor the words "Stute Government" by the Reorganisation (Chandigurh) (Adaptation of Laws on State and current Subjects) Order, 190b. 1905 : Pb. Act III.] MINOR CANALS 243 56. With the consent of the parties, the Collector tight •may, when assessing thc amount of compensation to be or in paid, direct, in the case of an acquisition of land, that the t of property in such land shall remain with the -owner subject to a right of user so long as the land is required for the purpose Of the canal or water-course, compensation being awarded for the right of user only, or in the case of an gnquisition of a canal, or of land for the purposes of a canal, that the compensation shall take the

form in whole or in part of a right to a supply of water from the canal which has been acquired or for the purposes of which the land has been acquired. (1) When any land is acquired under the provisions of section 44, or when any work is executed by the Collector under the provisions of section 50, section 52, section 53 or section 54, the cost of acquiring such land or of executing such work, as the Collector may be, shall be recoverable— (a) if the canal is included under Schedule 11— from the owner thereof; or (b) if the canal is included under Schedule 1,— from the irrigators or such of them as are, in the opinion of the Collector, benefited or likely to be benefited by the acquisition or equitably liable for the whole or any part of the cost of executing the work or from the proceeds of any water-rate levied under section 29; and (c) if such appropriation is not contrary to the provisions of the record-of-rights specified in section 28 of this Act. (2) When the cost of acquiring any land or of executing any work is, under the provisions of sub-section (1), recoverable from the owner of any canal or from the irrigators therefrom, or any of them, it shall be lawful for the Collector to apportion such cost as to him may seem equitable, among all or any of the persons liable for the whole or any portion thereof and such apportionment shall be final. (3) When the cost of acquiring such land has been paid, such land, if acquired in full proprietary right, shall become the property of the canal-owner. 244 CANALS 11905 : Pb, Act 11. (i) The Central Government may, by general or special order, prohibit or regulate the construction new, and regulate the use of existing, mills upon canals, and the appropriation of the water canals for working mills. Application 59. Except in so far as a contrary intention is seen to the provisions of sections 13 to 16 (both inclusive) of the Punjab Land Revenue Act of 1887, shall apply to all under this Act. Exclusion of 60. Save as in section 55 provided, no Civil Court shall have jurisdiction in any matter which a revenue officer or is empowered by this Act to do, or take cognizance of the manner in which the [Central Government] or any Revenue officer or Revenue Court exercises any powers vested in it or him by under this Act. (1) The Government may appoint any officers to person or any class of officials to perform any functions or under this Act to exercise any powers, by this Act or the rules made thereunder conferred on or vested in the Collector, Commissioner, Financial Commissioner or such Government, (2) Such appointments may be made in respect of any canal or of all or any of the canals situated within any specified local area. (3) In all matters connected with this Act, the [Central Government] shall have and exercise over the Financial Commissioner, the Commissioner and the Collector, and the Financial Commissioner shall have and exercise over the Commissioner and the Collector, and the Commissioner shall have any exercise over the Collector, the same authority and control as it or they respectively have and exercise over them in the general and revenue Administration. Powers of Collector. 62. For the purposes of every enquiry made and proceedings taken under this Act, the Collector or any other officer of the Act. Revenue Officer authorised by him in this behalf shall be substituted for the words "State Government" by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Union Territories) Order, 1968. 1905 : Act III, 245 have power to summon and enforce the attendance of and examine parties and witnesses and compel the production of documents, and for or any of these purposes may exercise all or any of the powers conferred on a Civil Court by the Code of Civil Procedure, 1882, and every such inquiry shall, for the purposes of the Indian Penal Code, be deemed to be a judicial proceeding

63. In all cases under sections G, 11, 21, 29, 30, 31, 34, 36, 38, 39, 41, 42, 43, 47, 49, 50, 52, 53 and 57 of this Act, the owners and other parties interested in the canal shall be given an opportunity of appearing before the Collector and of showing cause to the contrary

64. Every summons, notice, proclamation and other process issued under this Act shall, as far as may be, be served or made in the manner provided in that behalf in section 20, 21 and 22 of the Punjab Land Revenue Act, 1887

65. Save as otherwise expressly provided in this Act, no person shall be entitled to recover any compensation for anything at any time done in good faith intended to be done in exercise of any power conferred by this Act or by the rules made thereunder. No suit, prosecution or other legal proceeding shall lie against any person for anything done, or in good faith intended to be done under this Act or the rules made thereunder. (1) In any suit or proceeding in which an entry in the record prepared under section 28 or section 35 is directly or indirectly called in question, the Court shall, and

proceedings before the final settlement of issues, give notice of the suit or proceeding to the Collector and, if moved to do so by the Collector shall make the '[Central Government] a party to the same. [See now the Code Of Civil Procedure, 1908 (Act V of 1908). *Substituted for the words *'State Government/' by the Punjab (Chandigarh) (Adaptation of Law on State and Con• current Subjects) Order

1968. MINOR CANALS [1905 : Pb. Act m. (2) Save as provided in sub-section (I) no suit shall lie against the [Government] in respect of anything done by the Collector or by any person acting under the orders of the [Central Government], in the exercise of any power conferred on such Collector or the [Central Government]. Power to recover 68. All water-dues, water rates and other payments "water-dues and other charge, by or at any time due by or to be collected from any person revenue payable". under any provision of this Act or under an agreement entered into by the owners of the canal or the person irrigating from it and all arrears of such water-dues, water rates or other payments shall be recoverable as if the same were arrears of land-revenue. Powers as to canals, 69. Any or all of the powers exercisable by the [Central] Government under this Act in respect of any part of a canal, river or creek, may be exercised by such Government in the case of any canal, river or creek, which is or is situated partly within and partly without the limits of [Union Territory of Chandigarh] in respect of so much of any such canal, river, or creek, as is within those limits; and in the case of any such canal, river, or creek, the [Central Government] may by notification and notwithstanding the provisions of section 2, declare what section of this Act shall be applicable thereto

70. In respect of any canal situated beyond the limits Powers exercisable In cases of [Union Territory of Chandigarh] the [Central Government] With regard to may, by notification published in the Official Gazette, declare that the powers exercisable by a Collector under [Union Territory of Chandigarh] section 54 may, under the circumstances there specified, be exercised by the Collector or other authorised officer within the limits of [Union Territory of Chandigarh] for all or any of the purposes of such canal

71. Whoever without proper authority and voluntarily does any of the acts following, that is to say— the Act, (1) damages, alters, enlarges, or obstructs any canal; (2) substituted for the word "Crown" by the Adaptation of Laws Order, 1950. 'Substituted for the words "State Government" by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Con• current Subjects) Order, 1968. (3) substituted for the word "Punjab" by ibid. Pb. Act III.) MINOR CANALS 247 (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal; (3) interferes with or alters the flow of water in any river, creek or stream so as to endanger, damage or render less useful any canal; (4) being responsible for the maintenance of any water-course or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorised distribution of the water therefrom or uses such water in an unauthorised manner; (5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used; (6) being liable to furnish labour under this Act, fails, without reasonable cause, to supply or to assist in supplying the labour required of him; (7) being liable to supply labour under this Act, neglects, without reasonable cause, so to supply and to continue to supply labour; (E) destroys or removes any level mark or water gauge fixed by the authority of a public servant; (9) passes or allows vehicles to pass on or across any of the works, banks or channels of a canal contrary to rules made under this Act after he has been desired to desist therefrom; (10) disobeys any order or proclamation issued under this Act, or commits any breach of any rule made thereunder; shall be liable on conviction before a Judicial Magistrate of such class as the High Court directs in this behalf, to a fine not exceeding, fifty rupees or to imprisonment not exceeding one month, or to both. (2) substituted for the words such class as the court" by Punjab Act No. 25 of 1964. 248 : r b. Act 72. Any person in charge of or employed upon canal management by servants of the Government by a District Board, may take possession of the lands belonging thereto, or may take into custody without warrant, and take forthwith therefrom a Magistrate or to the contrary, to be dealt with according to any person who, within his view commits any of the following offences:— (1) wilfully damages or obstructs any canal; (2) Without proper authority interferes with the supply of, or flow of water in or from or in any river or stream, so as to endanger, damage or render less useful any canal. Definition, 73, in sections 71 and 72 the word 'canal' shall less there be something repugnant in the subject or text) be deemed to include also all lands occupied for purposes of canals and all buildings,

machinery, feneeg, gates and other erections, trees, crops, plantations other produce upon such lands. 74, (1) The '[Central Governrrlent) may consistent with this Act, regulating any matter to which any powers is, by this Act, conferred the '[Central Government), or upon any offcor of the menth and generally to carry out the purFses of this Act- (2) Without prejudice to the generality o! the potrer conferred by sub-section rules made under this Aet may provide for the levy of a rate imposed Upon land in consideration of its protection from sand or flood. (3) All rules made under sub-section (I) shall be se made after previous publication in the Oflicieial Gazette. 'Substituted tor the word '*Crown" by the ot I..avv Order, 'Substituted for the words "State Government" by the Reorganisation (Chandigarh) (Adaptation ot Laws on State and current Subjectzj Order, 1908. '905 Bund re'ilrut B end 250 Bhuna Bund Cibata Sharpsabad Duad nund Bund Sarrawa Bund Shab Chokba Bund Dungocba Bund D auletweh Butawzh Nizamwah Qutabweh Mubarak-nb [1905 : Pb. SCHEDULE I—Covid Act Feroxepore 1905 Sarutti Shah Kiran Pb. Act Ill.) MINOR CANALS Canni SCHEDULE 11 Chakarpur Bund Gaiatpur Bas Bund Gannini Bund Bund Kanrnaidn Bund undoha and Nagli Bund Natha Site of Jhanâwaj's 251 Koroa' Hoshiarpur Gurdaspur Gurgaon Hoshiarpur Canal 'Omitted by the Indian Independence (Adu ot Bengal c.nd Punjab Order, (G,G.O. 40 ot .

