

NORTHERN INDIA FERRIES ACT, 1878

17 of 1878

[9th November, 1878]

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"An Act for the regulation of ferries in the Punjab is much needed. Up to the 1st June 1872, when Act No. IV of 1872 (the Punjab Laws Act) came into force ferries in the Punjab were governed by Bengal Regulation VI of 1819; but by the Punjab Laws Act that Regulation was inadvertently repealed, and, no other law being substituted for it, there has from that date been no law for the control of ferries in the Punjab. Another result is that, as the law now stands, it would be difficult for the Local Government to prevent an unlicensed person from setting up a rival ferry alongside of a Government ferry, and thus materially reducing the income of the latter ferry and the funds available for its maintenance. To remedy this state of things, and at the same time to provide generally for the regulation of Government ferries, a Bill to regulate ferries in the Punjab was prepared. About the same time the Lieutenant Governor of the North-Western Provinces and Chief Commissioner of Oudh submitted a draft Bill for the regulation of ferries in the territories under his administration. The Bill so submitted, and the Bill for the Punjab, as modified and supplemented in accordance with communications subsequently received from the Punjab, were found to differ a little that it was

thought advisable to amalgamate the two Bills, and accordingly the present Bill. extending to the Punjab, the North-Western Provinces and Oudh, has been prepared. The Bill is based upon the Burma Ferries Act, II of 1873, and the provisions of that Act have been followed as closely as the different circumstances and requirements of the Provinces with which this Bill deals would permit. - Gaz. of India, 1878, Part V, page 135.

CHAPTER 1
PRELIMINARY

1. Short title :-

This Act may be called The Northern India Ferries Act, 1878.

Local extent.- ²[It extends only to Uttar Pradesh, Punjab, the Central Provinces,³ Assam, Delhi and Ajmer.]

Commencement.- It shall come into force in each of the said territories on such date⁴ as the State Government may, by notification in the Official Gazette, fix in this behalf.

[a] Added by 2 A.L.O., 1956 (1-11-1956).

[b] This Act, as in force in the Mahakoshal region of Madhya Pradesh, is extended to and shall be in force in all other regions of that State- M.P. Act 23 of 1958, Section 3(1). In its application to the Vidarbha region of the State of Bombay (now Maharashtra) this Act is repeated-Bom, Act 60 of 1959, Section 19(19-10-1959).

[c] The Act was brought into force in Punjab on 1-4-1881, see Punj. Gaz., 1881, Pt. I. p. 139; in U.P. on 1-1-1889, see N.W.P. and Oudh Gaz., 1878. Pt. I , p. 2035; in Assam, on 1-4-1897. see Assam Gaz., 1879, Pt. I. p. 187.

1A. Provisions relating to levy and collection of tolls not to apply till notification for their application is issued :-

Nothing contained in this Act providing for the levy and collection of tolls on persons, animals, vehicles and other things crossing any river by a public ferry shall apply to the State of Punjab : Provided that the State Government may, by notification, apply the provisions referred to above to the State of Punjab from such date as may be specified in the notification."-Punj. Act 10 of 1983, S. 2 (9-5-1983).

2. Repealed :-

Repealed by the Repealing Act, 1936 (I of 1938), Section 2 and Schedule.)

3. Interpretation clause :-

In this Act the word "ferry" includes also a bridge of boats, pontoons or rafts, a swing-bridge, a flying-bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry ⁵ [and "Punjab" and "Ajmer" mean the territories which, immediately before the' 1st November, 1956, were comprised in the States of Punjab and Ajmer, respectively].

[a] Added by 2 A.L.O., 1956 (1-11-1956).

CHAPTER 2

PUBLIC FERRIES

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

The ¹[State Government] may from time to time-

(a) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate;

(b) take possession of a private ferry and declare it to be a public ferry;

(c) establish new public ferries where, in its opinion, they are needed;

(d) define the limits of any public ferry;

(e) change the course of any public ferry; and

(f) discontinue any public ferry which it deems unnecessary. Every such declaration, establishment, definition, change or discontinuance shall be made by notification in the Official Gazette; **3/FNR>[Provided that when a river lies between two 8[States,] the powers conferred by this section shall, in respect of such river, be exercised jointly by the 1/FNR>[State Governments] of those 10[States] by notifications in their respective Official Gazettes 11[* * *].] Provided also that, when any alteration in course or in the limits of a public ferry is rendered necessary by changes in the river, such alteration may be made, by an order under his hand, by the Commissioner of the Division in which such ferry is situate, or by such other officer as the 12 [State Government] may, from time to time, appoint by name or in virtue of his office in this behalf.**

[b] Substituted by the Northern India Ferries (Amendment) Act, 1886 (3 of 1886), section 1.

[c] Assam-For exemption in favour of I.G.N.R. and R.S.N. Company's Steamer Services on the Brahmaputra between Dhubri and Dibrugarh to come into force from 1-11-1952. sec Assam

Gazette, 1953. Pt. II-A, page 18.

[d] The words 'and in any case where the said Local Governments fail to agree as regards the exercise of any such power they shall exercise such power subject to the control of the Governor-General in Council' were omitted by A.O., 1937 (1-4-1937).

[a] For the Orissa Private Ferries Rules, 1954, see Orissa Gaz., 1954, Pt. III, p. 226.

5. Claims for compensation :-

Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under section 4, shall be inquired into by the Magistrate of the district in which such ferry is situate, or such officer as he appoints in this behalf and submitted for the consideration and orders of the ¹³ [State Government].

[a] For the Orissa Private Ferries Rules, 1954, see Orissa Gaz., 1954, Pt. III, p. 226.

6. Superintendent of public ferries :-

The immediate superintendence of every public ferry shall, except as provided in section 7 ¹⁴ [and section 7A] be vested in the Magistrate of the district in which such ferry is situate, or in such other officer as the ¹⁵ [State Government] may, from time to time, appoint by name or in virtue of his office in this behalf; and such Magistrate or Officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorised tolls leviable thereat.

[a] For the Orissa Private Ferries Rules, 1954, see Orissa Gaz., 1954, Pt. III, p. 226.

[b] Substituted by the Northern India Ferries (Amendment) Act, 1886 (3 of 1886), section 1.

7. Management may be vested in municipality :-

The ¹⁶ [State Government] may direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town; ¹⁷ [and thereupon that ferry shall be managed accordingly.]

[a] For the Orissa Private Ferries Rules, 1954, see Orissa Gaz., 1954, Pt. III, p. 226.

[b] Substituted by the Northern India Ferries (Amendment) Act, 1886 (3 of 1886), section 1.

7A. Management may be vested in District Council or District or Local Board :-

The State Government may direct that any public ferry wholly or partly within the area subject to the authority of a District Council or a District Board or, a Local Board in the State be managed by that Council or Board, and thereupon that ferry shall be managed accordingly.]

8. Letting ferry tolls by auction :-

The tolls of any public ferry may, from time to time, be let by public auction for a term not exceeding five years with the approval of the Commissioner,²⁰ or by public auction, or otherwise than by public auction, for any term with the previous sanction of the State Government. The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or, if the ferry is managed by a municipal or other public body under Section 7 or section 7A,²¹ then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be, thinks fit. When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf may, for reasons recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.]

[b] Substituted by the Northern India Ferries (Amendment) Act, 1886 (3 of 1886), section 1.

[c] Assam-For exemption in favour of I.G.N.R. and R.S.N. Company's Steamer Services on the Brahmaputra between Dhubri and Dibrugarh to come into force from 1-11-1952. see Assam Gazette, 1953. Pt. II-A, page 18.

9. Recovery of arrears from lessee :-

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

10. Power to cancel lease :-

The ¹[State Government] may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease. When any lease is cancelled under this section, the Magistrate of the district in which

such ferry is situate shall pay to the lessee such compensation as such Magistrate may, with the previous sanction of the ²³ [State Government], award.

[a] For the Orissa Private Ferries Rules, 1954, see Orissa Gaz., 1954, Pt. III, p. 226.

11. Surrender of lease :-

The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the ²⁴ [State Government] of his intention to surrender such lease, and on payment to the Magistrate of the district in which such ferry is situate of such compensation as such Magistrate, subject to the approval of the Commissioner, may, in each case, direct.

[a] For the Orissa Private Ferries Rules, 1954, see Orissa Gaz., 1954, Pt. III, p. 226.

12. Power to make rules :-

Subject to the control of the State Government, the Commissioner of a division, or such other officer as the State Government may, from time to time, appoint in this behalf, by name or in virtue of his office, may, from time to time, make rules consistent with this Act-

(a) for the control and the management of all public ferries within such division and for regulating the traffic at such ferries;

²⁵ [(b) for regulating the time and manner at and in which, and the terms on which, the tolls of such ferries may be let by auction, and prescribing the persons by whom auctions may be conducted;]

(c) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and

(d) generally to carry out the purposes of this Act; and, when the tolls of a ferry have been let under section 8 , such Commissioner or other officer may, (from time to time subject as aforesaid), make additional rules consistent with this Act;

(e) for collecting the rents payable for the tolls of such ferries:

(f) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swingbridge, flying-bridge or temporary bridge, for regulating the time and

manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and drafts through the same; and

- (g) in cases in which the traffic is conveyed in boats, for regulating
- (1) the number and kind of such boats and their dimensions and equipment;
 - (2) the number of the crew to be kept by the lessee for each boat;
 - (3) the maintenance of such boats, continually in good condition;
 - (4) the hours during which, and the intervals within which, the lessee shall be bound to ply; and
 - (5) the number of passengers, animals and vehicles, and the bulk and weight of other things, that may be carried in each kind of boat at one trip. The lessee shall make such returns of traffic as the Commissioner or other officer as aforesaidi may, from time to time, require.

[a] For the Orissa Private Ferries Rules, 1954, see Orissa Gaz., 1954, Pt. III, p. 226.

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

²⁶[Except with the sanction of the Magistrate of the district or of such other officer as the State Government may, from time to time, appoint in this behalf, by name or in virtue of his office, no person shall establish, maintain or work a ferry to or from any point within a distance of two miles from the limits of a public ferry] : Provided that, in the case of any specified public ferry, the State Government may, by notification in the Official Gazette, reduce or increase the said distance of two miles to such extent as it thinks fit : Provided also that nothing hereinbefore contained shall prevent persons, plying between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or apply to boats ²⁷[which do not ply for hire or] which the State Government expressly exempts ²⁸ from the operation of this section.

[a] For the Orissa Private Ferries Rules, 1954, see Orissa Gaz., 1954, Pt. III, p. 226.

[b] Substituted by the Northern India Ferries (Amendment) Act, 1886 (3 of 1886), section 1.

[c] Assam-For exemption in favour of I.G.N.R. and R.S.N.

Company's Steamer Services on the Brahmaputra between Dhubri and Dibrugarh to come into force from 1-11-1952. see Assam Gazette, 1953. Pt. II-A, page 18.

14. Person using approaches, etc., liable to pay toll :-

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

15. Tolls :-

²⁹Tolls, according to such rates as are, from time to time. Fixed by the State Government, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service : Provided that the State Government may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls. Where the tolls of a ferry have been let under section 8 , any such declaration, if made after the date of the ³⁰ [lease], shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the Division or such other officer as the State Government may, from time to time, appoint in this behalf by name or in virtue of his office.

[a] For the Orissa Private Ferries Rules, 1954, see Orissa Gaz., 1954, Pt. III, p. 226.

[b] Substituted by the Northern India Ferries (Amendment) Act, 1886 (3 of 1886), section 1.

16. Table of tolls :-

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

17. Tolls, rents, compensation and fines are to form part of revenues of State :-

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

18. Compounding for tolls :-

The State Government may, if it thinks fit, from time to time, fix

rates at which any person may compound for the tolls payable for the use of a public ferry.

CHAPTER 3

PRIVATE FERRIES

19. Power to make rules :-

The Commissioner of the Division may, with the previous sanction of the State Government, from time to time, make rules³² for the maintenance of order and for the safety of passengers and property at ferries other than public ferries.

[a] Substituted for the original section by the Northern India Ferries (Amendment) Act, 1886 (3 of 1886), section 2.

20. Tolls :-

The tolls charged at such ferries shall not exceed the highest rates for the time being fixed under section 15 for similar public ferries.

CHAPTER 4

PENALTIES AND CRIMINAL PROCEDURE

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

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

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

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

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

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

hundred rupees, or with both.

24. Cancellation of lease on default or breach of rules :-

When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 23 , or, having been convicted of an offence under section 21 or section 22 , is again convicted of an offence under either of those sections, the Magistrate of the district may with the sanction of the Commissioner of the Division, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were let.

25. Penalties on passengers offending :-

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

26. Penalty for maintaining private ferry within prohibited limits :-

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

27. Fines payable to lessee :-

Where the tolls of any public ferry have been let under the provisions hereinbefore contained, the whole or any portion of any fine realised under section 25 or section 26 may, notwithstanding anything contained in section 17 . be at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.

28. Penalty for rash navigation and stacking of timber :-

Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry or any of his assistants may seize and detain such vessel, raft or timber pending the inquiry and assessment hereinafter mentioned.

29. Power to arrest without warrant :-

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

30. Power to try summarily :-

Any Magistrate or Bench of Magistrates having summary jurisdiction under Chapter XVIII of the Code of Criminal Procedure may try any offence against this Act in manner provided by that Chapter.

31. Magistrate may assess damage done by offender :-

Every Magistrate or Bench of Magistrates trying any offence under this Act may enquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act, and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section 28 , by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft. The Commissioner of the Division may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

CHAPTER 5

MISCELLANEOUS

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

When the lease of the tolls of any ferry is surrendered under section 11 or cancelled under section 24 , the Magistrate of the district may take possession of all boats and their equipment, and all other material and appliances used by the lessee for the purposes of such ferry, and use the same (paying such compensation for the use thereof as the State Government may in

each case direct) until such Magistrate can conveniently procure proper substitutes therefor.

33. Similar power in cases of emergency :-

When any boats or their equipment, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of ³⁴[the Government of India] on duty, or of any other persons on the business of Government, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of ³⁵[Government], the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as ³⁶ [the Central Government (where the transport is in connection with the affairs of the Central Government) and the State Government in other cases] may in each case direct) until such transport is completed.

[a] Substituted for the words 'Her Majesty', where they occurred first in this section by A.L.O.. 1950 (28-1-1950

[b] Substituted for 'Her Majesty', by A.L.O.. 1950.

[c] Substituted for the Local Government by A.O., 1937 (1-4-1937).

34. Jurisdiction of Civil Courts barred :-

No suit to ascertain the amount of any compensation payable, or abatement of rent allowable, under this Act shall be cognizable by any Civil Court.

35. Delegation of powers :-

The State Government may, from time to time, delegate, under such restrictions as it thinks fit, any of the powers conferred on it by this Act to any Commissioner of a division or Magistrate of a district, or to such other officer as it thinks fit, by name or by virtue of his office.

36. Validation of proceedings since repeal of Regulation 6 of 1819 in Punjab :-

Repealed by the Repealing and Amending Act, 1891 (12 of 1891), section 2 and Schedule I, Part 1.]