

THE NORTHERN INDIA FERRIES ACT, 1878

ACT NO.17 OF 1878 [AS ON 1959]

{This Act applies to the Lakhimpur Frontier Tract, and to the Sadiya and Balipara Frontier Tracts in Assam, subject to certain modifications, see Assam Government notification No.442-GS & 443-GS, dated 26th January, 1940

It has been amended in -

C.P. Acts 1 of 1883, 12 of 1883, 12 of 1891, 4 of 1907, C.P. Acts 1 of 1931 and 23 of 1937;

Punjab by Acts 20 of 1883 and 12 of 1891;

U.P. by U.P. Acts 1 of 1914 and 29 of 1948;

Sambalpur district by Acts 1 of 1883, 12 of 1891, Ben Act 1 of 1911 and Orissa Act 6 of 1939; 15 of 1948.

Coorg by Coorg Act 6 of 1904; and

Ajmer by Act 6 of 1945.

Orissa by Orissa Act 23 of 1950.}

An Act to regulate Ferries in Northern India.

[9th November, 1878.]

Contents

I.—PRELIMINARY

1. Short title

2. Rep. by the Repealing Act, 1938 (1 of 1938), s.2 and Sch

3. Interpretation-clause

II.—PUBLIC FERRIES

4. Power to declare establish define and discontinue public ferries

5. Claims for compensation

6. Superintendence of public ferries

7. Management may be vested in municipality

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

8. Letting ferry tolls by auction

9. Recovery of arrears from lessee

10. Power to cancel lease

11. Surrender of lease

12. Power to make rules

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

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

15. Tolls

16. Table of tolls

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

18. Compounding for tolls

III.—PRIVATE FERRIES

19. Power to make rules

20. Tolls

IV.—PENALTIES AND CRIMINAL PROCEDURE

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

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

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

24. Concealment of lease on default or breach of rules

25. Penalties on passengers offending

26. Penalty for maintaining private ferry within prohibited limits

27. Fines payable to lessee

28. Penalty for rash navigation and stacking of timber

29. Power to arrest without warrant

30. Power to try summarily

31. Magistrate may assess damage done by offender

V.—MISCELLANEOUS

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

33. Similar power in cases of emergency

34. Jurisdiction of Civil Courts barred

35. Delegation of powers

36. Validation

Preamble. - WHEREAS it is expedient to regulate ferries in {*Subs.by the A.O.1950 for "the United Provinces, East Punjab, the Central Provinces, Assam, Delhi and Ajmer-Merwara "*}. [Uttar Pradesh, Punjab, the Central Provinces, Assam, Delhi and Ajmer]; It is hereby enacted as follows:—

I.—PRELIMINARY

1. Short title.-

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

Local extent. - {*Subs.by the A.O.1948*} [It extends only to Uttar Pradesh, Punjab, the Central Provinces, Assam, Delhi and Ajmer.]

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

2.

[*Repeal.*] *Rep.by the Repealing Act, 1938 (1 of 1938), s.2 and Sch.*

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 { *Added by the Adaptation of Laws (No.2) Order, 1956.*} [And "Punjab" and "Ajmer" mean the territories which, immediately before the 1st November, 1956, were comprised in the States of Punjab and Ajmer respectively].

II.—PUBLIC FERRIES

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

The 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:

{*Subs. by Act 38 of 1920, s.2 and Sch. I, Pt. I, for the original proviso.*}[Provided that when a river lies between two States' the powers conferred by this section shall, in respect of such river, be exercised jointly by the State Governments of those States by notifications in their respective Official Gazettes {*The words " and in any case where the said Local Governments fail to agree as regards the exercise of any such power they shall exercise such power subject to the control of the G.G.in C." omitted by the A.O.1937*}]

Provided also that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river, such alteration may be made, by an order under his hand, by the Commissioner of the Division in which such ferry is situate, or by such other officer as the State Government may, from time to time, appoint by name or in virtue of his office in this behalf.

5. Claims for compensation.-

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

6. Superintendence of public ferries.-

The immediate superintendence of every public ferry shall, except as- provided in section 7 {*Ins.in the application of the Act to—The U.P.by the U.P. Local Boards Act,*

1883 (14 of 1883), s.65. The Punjab, by the Punjab District Boards Act, 1883 (20 of 1883). The C P. by the C.P. Local Self-Government Act, 1883 (1 of 1883), Assam, by the Assam Local Self-Government (Amendment) Act, 1926 (Assam 8 of 1926), s.43.} [and section 7A], be vested in the Magistrate of the district in which such ferry is situate, or in such other officer as the State Government may, from time to time, appoint by name or in virtue of his office in this behalf;

and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorised tolls liveable thereat.

7. Management may be vested in municipality.-

The State Government may direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town;

{ Subs.by the A.O.1937 for the following words:—" and may further direct that all or any part of the proceeds from such ferry be paid into the municipal fund of such town;" and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.}[And thereupon that ferry shall be managed accordingly.]

{Subs.by the A.O.1937 for s.7A.}

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.]

{Subs.by Act 3 of 1886, s.1 for the original section.}

8. Letting ferry tolls by auction.-

The tolls of any public ferry may, from time to time be let by public auction for a term not exceeding five years with the approval of the Commissioner, or by public auction, or otherwise than by public auction, for any term with the previous sanction of the State Government.

The lessee shall conform to the rules made under 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, 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.]

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 situate as if they were arrears of land-revenue.

10. Power to cancel lease.-

The State Government may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease.

When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situated shall pay to the lessee such compensation as such Magistrate may, with the previous sanction of the State Government, award.

11. Surrender of lease.-

The lessee of the tolls of a public ferry may surrender his lease on the expiration of one {*.Read: "three months" in U.P.—vide 11.P.Act 29 of 1948, s.2,*} months' notice in writing to the State Government of his intention to surrender such lease, and on payment to the Magistrate of the district in which such ferry is situate of such compensation as such Magistrate. Subject to the approval of the Commissioner, may in each case direct.

12. Power to make rules.-

Subject to the control of the State 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;

{*Subs by Act 3 of 1886, s.1, for the original cl.*}(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 swing-bridge, flying-bridge or temporary bridge. for regulating the me and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through tile 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 with in which, the lessee shall be bound to ply; and (5) the number of passengers, animals

and vehicles, and the bulk and weight of other things, that may be carried in each kind of boat at one trip.

The lessee shall make such returns of traffic as the Commissioner or other officer as aforesaid may, from time to time, require.

13. Private ferry not to ply within two miles of public ferry without sanction.-
Subs.by Act 3 of 1886, s.2, for the original para.}[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 { *Ins.by s.2 ibid.*} [Which do not ply for hire or] which the State Government expressly exempts from the operation of this section { *An explanation has been added to s.13 in the C.P.by the Northern India Ferries (C.P. Amendment) Act, 1937 (C.P.23 of 1937).*}

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.-

{ *So much of s.15 is repealed as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things exempted by s.3 of the Indian Tolls (Army and Air Force) Act 1901 (2 of 1901); see s.8 of that Act.*}Tolls, according to such rates as are, from time to time, fixed by the State Government, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service:

Provided that the State Government may, from time to time, declare that any persons, animals, vehicles or other things shall be 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 {*Subs.by Act 3 of 1886, s.1, for "auction "*.}[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.

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.

{ Subs. by the A.O. 1937 for the former section. }

17. Toll, 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.

III.—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 rules for the maintenance of order and for the safety of passengers and property at ferries other than public ferries.

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

IV.—PENALTIES AND CRIMINAL PROCEDURE

21. Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic.- Every lessee or other person authorised to collect the tolls of a public ferry. Who neglects to affix and keep in good order and repair the table of tolls mentioned in section 16,

Or 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. Concealment 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.

{ Subs. by Act 3 of 1886, s.2, for the original section. }

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 {*.See now the Code of Criminal Procedure, 1898 (5 of 1898), Ch.22.*}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 liveable 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.

V.—MISCELLANEOUS

32. Power to take possession of boats, etc., on surrender or cancellation of lease.-When the lease of the tolls of any ferry is surrendered under section 11 or cancelled under section 24, the Magistrate of the district may take possession of all boats and their equipment, and all other material and appliances, used by the lessee for the purposes of such ferry, and use the same (paying such compensation for the use thereof as the State Government may in 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 { *Subs.by the A.O 1950 for " Her Majesty "* } [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 Government, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as { *Subs by the A.O.1937 for " the L G."* } [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.

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

[Validation of proceedings since repeal of Regulation VI of 1819 in Punjab.] Rep.by the Repealing and Amending Act.1891 (12 of 1891), s.2 and Sch. I, Pt. I.