

1872 : Act IV]

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THE PUNJAB LAWS ACT, 1872.

[ACT IV OF 1872].

[28th March, 1872.]

1	2	3	4
Year	No.	Short title	Whether repealed or otherwise affected by legislation
1872 ..	IV	The Punjab Laws Act, 1872	Rep. in part, Act I of 1878 Rep. in part, Act VI of 1878 Rep. in part, Act X of 1879 Rep. in part, Act IV of 1882 (when extended to the Punjab) Rep. in part, Act X of 1882 Rep. in part, Act XVII of 1887 Rep. in part, Act VIII of 1890 Rep. in part, Punjab Act II of 1903 Rep. in part, Punjab Act II of 1905 Rep. in part, Act III of 1907 Rep. in part, Punjab Act I of 1910 Rep. in part, Act XVII of 1914 Rep. in part, Act IV of 1922 Rep. in part and amended— Act XII of 1878 ² Act XII of 1891 Act VII of 1895 Amended, Act XV of 1875 Amended, Act XXIV of 1881 Amended, Punjab Act IV of 1900 Amended, Punjab Act IV of 1914 Amended, Punjab Act II of 1920 Amended in part, Government of India (Adaptation of Indian Laws) Order, 1937 Rep. in part, by Punjab Act V of 1941 Amended in part, by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948 Amended in part, by the Adaptation of Laws Order, 1950 Amended by the Adaptation of laws (No. 2) order 1956 Amended by Punjab Act No. 15 1961 ³ Amended by the Punjab Reorganisation (Chandigarh) (Adaptation of laws on State and Concurrent Subject) Order, 1968.

¹For Statement of Objects and Reasons, see "Gazette of India", 1871, Pt. V, p. 387, for Proceedings in Council, see *ibid*, 1871, Supplement, pp. 1003, 1292, 1296 and 1542 ; and *ibid*, 1872 Supplement, p. 303.

²Section 7 of Act XII of 1878, prescribes penalty for breach of rules under Act IV of 1872, see foot-note on page 74 *infra*.

³For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1961, pages 168.

An Act for declaring which of certain rules, laws and regulations have to the force of law in the Punjab and for other purposes.

Preamble.

WHEREAS certain rules, laws and regulations, made heretofore for the Punjab, acquired the force of law under the provisions of section 25 of the ¹Indian Councils Act, 1861; and whereas it is expedient to declare which of the said rules, laws and regulations shall henceforth be in force in ²Punjab, and to amend, consolidate or repeal others of the said rules, orders and regulations; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Punjab Laws Act. 1872.

Local extent.

2. It extends to the territories ³[which immediately before the 1st November, 1956 were comprised in the ⁴(States) of ⁵(Punjab) and (Delhi)], but not so as to alter the effect of any regulations made for any parts of the said territories under the ¹Statute 33, Vict., cap. 3, section 1;

And it shall come into force on the first day of June, 1872.

Commencement.

3. The Regulations, Acts and orders specified in the First Schedule hereto annexed are in force in the ³[territories to which this Act extends] to the extent specified in the third column of the said Schedule.

Enactments in force.

4. *[Enactments repealed.] Repealed Act XVII of 1914, s. 3 and Second Sch.*

CIVIL JUDICATURE.

Decisions in certain cases to be according to Native law.

⁵[5. In questions regarding succession, special property of females, betrothal, marriage, divorce, dower,

¹Repealed by the Government of India Act, 1919.

²Substituted for "East Punjab" by Adaptation of Laws Order, 1950. The words "East Punjab" had been substituted for "the Punjab" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

³Substituted for the words "constituting the States of Punjab and Delhi" by the Adaptation of Laws (No. 2) Order, 1956.

⁴Substituted by *ibid*, for the words "States of Punjab and Delhi".

⁵Substituted for the old section by the Punjab Laws (Amendment) Act, 1878 (XII of 1878), section 1.

adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partitions, or any religious usage or institution, the rule of decision shall be—

- (a) Any custom applicable to the parties concerned, which is not contrary to justice, equity or good conscience, and has not been by this or any other enactment altered or abolished, and has not been declared to be void by any competent authority;
- (b) the Muhammadan law, in cases where the parties are Muhammadans, and the Hindu law, in cases where the parties are Hindus, except in so far as such law has been altered or abolished by legislative enactment, or is opposed to the provisions of this Act, or has been modified by any such custom as is above referred to.]

6. In cases not otherwise specially provided for, the Judges shall decide according to justice, equity and good conscience. Decisions in cases not specially provided for.

7. All local customs and mercantile usages shall be regarded as valid, unless they are contrary to justice, equity or good conscience, or have, before the passing of this Act, been declared to be void by any competent authority. Local customs and mercantile usages valid when

	*			1	*		*
2.	*	*	*	1	*	*	*
8.	*	*	*	1	*	*	*
8-A.	*	*	*	1	*	*	*
8-B.	*	*	*	1	*	*	*
8-C.	*	*	*	1	*	*	*

PRE-EMPTION.

9 to 20. * * * * 2 * *

¹Sections 8, 8-A, 8-B and 8-C, substituted for the original section 8 by section 2 of the Punjab Jagirs Act, 1900 (Punjab Act IV of 1900), were repealed together with the heading thereto by the Punjab Jagirs Act 1941 (Punjab Act V of 1941), section 13.

²Repealed by Punjab Act II of 1905, section 2(1).

21. [Copy of decrees affecting land to be forwarded to Deputy Commissioner.] * * *

INSOLVENCY.

22 to 32. * * *

33. [Saving of previous insolvency proceedings.] * * *

Minors and the Court of Wards.

34 to 38. * * *

Indian Penal Code to apply to offences committed previous to 1st January, 1862.

39. The provisions of the 'Indian Penal Code, with ^{XLV of 1860} the exception of Chapter VI, shall be applicable to all offences committed before first January, 1862, in territory which was, at the time of the commission of such offence, subject to the '[Central Government]:

Saving of privileges conferred in certain Chiefs.

Provided that nothing contained in this section shall affect any privilege conferred on certain Chiefs in '[Union Territory of Chandigarh], by the '[Central Government], or by the Board of Administration for the affairs of the '[Union Territory of Chandigarh], nor any indemnity or pardon granted by competent authority.

Power to establish system of village watchmen and municipal watchmen, and to make rules.

²[39-A. The '[Central Government] may establish a system of village-watchmen or municipal watchmen in any

¹Repealed by Act XVII of 1887, schedule.

²Repealed by Act III of 1907, schedule.

³Repealed by Act XII of 1891, schedule.

⁴Repealed by Punjab Act II of 1905, schedule.

⁵Unrepealed Central Acts, Vol. I.

⁶Substituted for the words "State Government of Punjab" by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1963.

⁷Substituted by *ibid* for the word "Punjab".

⁸Substituted for the words "Governor-General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

⁹Sections 39-A to 39-G were inserted by Act XV of 1875, section 2. Original sections 39-A and 39-B were substituted by the present sections 39-A and 39-B by the Punjab Laws (Amendment) Act, 1881 (Act XXIV of 1881), section 2.

part of the territories under its administration, and in furtherance of this object may, from time to time, make rules to provide for the following matters:—

- (a) the definition of the limits of watchmen's beats;
- (b) the determination of the several grades of watchmen, and the number of each grade to be appointed to each beat;
- (c) the appointment, suspension, dismissal and resignation of watchmen of each grade;
- (d) the equipment and discipline of, and the control and supervision over, such watchmen;
- (e) the conferring upon them, and the exercise by them, of any powers and the enjoyment by them of any protection or privilege, which may be exercised and enjoyed by a police-officer under any law for the time being in force;
- (f) the performance by them of such duties relating to police, sanitation or statistics, or for the benefit of the village communities or municipalities within their respective beats, as the¹[Central Government] thinks fit;
- (g) the exercise of authority over, and the rendering of aid to, such watchmen by headmen of the villages or members of the Municipal Committees of the towns comprised in their respective beats;
- (h) the performance, by the headmen of villages comprised in the beat of any watchman, of any of the duties of a village-watchman in aid of, or substitution for, such watchman;
- (i) the exercise, by such village-headmen for the purposes referred to in clauses (g) and (h), or by members of Municipal Committees for the purposes referred to in clause (g) of this section, of any of the powers, and the enjoyment by such headmen or members of any

¹Substituted for the word "State Government" by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968.

privilege or protection, of a village-watchman, or a municipal watchman, as the case may be;

- (j) the determination of the rate at which, and the mode in which, watchmen shall be paid, and, in the case of village watchmen, of the mode in which their pay, the expenses of their equipment, and other charges connected with the village-watchmen-system shall be provided for, whether out of cesses or funds already leviable or available in the villages comprised in the beat, or by a special tax in money or kind to be imposed on any class of persons residing or owning property in, or resorting to, such villages, or partly in one of these ways and partly in the other;
- (k) the collection with or without the aid of the village-headmen, and by any process available for the realisation of the land-revenue, of any tax imposed under clause (j) of this section, and the application of, and the mode of accounting for, the same, and generally for;
- (l) the efficient working of the system of village watchmen or municipal watchmen:

Provided—

1st, that the rules to be made regarding the appointment of village-watchmen shall allow to the headmen of the villages comprised in the beat to which such a watchman is to be appointed a power of nomination, to be exercised in such a manner and subject to such reasonable conditions as may be prescribed by such rules;

2ndly, that the rules to be made under clause (j) of this section with regard to village-watchmen shall include provisions for recording and securing due consideration of the views and opinions on the matters therein referred to of the headmen of the villages comprised in each beat.

39-B. Every person is bound to render to a village watchman, or municipal watchman, or village-headman discharging the duties of a Police-officer under the rules made hereunder, all the assistance which he is bound to render to a Police-officer.

Obligation to assist watchmen and headmen.

Any person who obstructs such watchman or headman in the discharge of such duties may be arrested without warrant by a Police-officer or by any watchman or village headman empowered in this behalf by the ¹[Central Government].

Person obstructing watchman or headman may be arrested without warrant.

²[39-C. Whenever it seems to the ¹[Central Government] expedient that the duties of watch-and-ward and other internal police-service of any town or village not comprised within the limits of a municipality or within the limits of a village-watchman's beat as defined under the power conferred by section 39-A should be performed by Police-officers enrolled under Act V of 1861³, the ¹[Central Government] may direct that the said service shall be so performed, and may also, * * * * *, direct that the charges for the time being fixed by such Government on account of such service shall be defrayed by taxes to be levied in such town or village.

Power to direct local taxation for payment of police enrolled under Act V of 1861.

39-D. When the ¹[Central Government] has, under section 39-C, directed that taxes shall be levied in any town or village, the Deputy Commissioner may from time to time issue a public notice in such town or village explaining the nature of the taxes he proposes to levy.

Notice of taxes proposed to be levied.

Any inhabitant of such town or village objecting to the taxation thus proposed may, within fifteen days from the publication of such notice, send his objection in writing to the Deputy Commissioner.

Objections to taxation.

After the expiry of fifteen days from the publication of the notice, the Deputy Commissioner may submit for

Procedure thereon.

¹Substituted by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968 for the words "State Government".

²Ss. 39-C to 39-G were inserted by Act XV of 1875, s.2.

³Unrepealed Central Acts, Vol. I.

⁴The words "Subject to the control of the Governor-General in Council" were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.

the information of the ¹[Central Government] a report of the proposal made by him. Such report shall contain specific mention of the objections (if any) urged to his proposal and his opinion on such objections.

No such tax shall be levied until it has, upon such report, been approved by the ¹[Central Government].

Power to fix
rates of tax.

39-E. When any such tax has been so approved by the ¹[Central Government], the Deputy Commissioner may from time to time, subject to such rules consistent with this Act as the ¹[Central Government] may from time to time prescribe, determine the rates at which it is to be levied.

Power to make
rules for collec-
tion of taxes.

39-F. The ¹[Central Government] may from time to time make rules to provide for the collection of such taxes by any process available for the realisation of the land-revenue and to regulate the application and mode of accounting for the same.]

39-G. [Validation clause]. * * * * *

HONORARY POLICE-OFFICERS.

¹[Central Govern-
ment] may con-
fer powers of
Police officers.

40. The ¹[Central Government] may, if it thinks fit, confer on any person any of the powers which may be exercised by a Police-officer under any Act, for the time being in force, ³[and may withdraw any powers so conferred].

TRACK LAW.

Trackers may
call for assis-
tance in carrying
on tracks.

41. When an offence is, has been, or may reasonably be supposed to have been committed, and the tracks of the persons who may reasonably be supposed to have committed such offence, or of any animal or other property reasonably supposed to be connected with such offence, are followed to a spot within the immediate vicinity of a village,

¹Substituted by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968, for the words "State Government".

²Repealed by Act XII of 1891, Schedule.

³Added by the Punjab Laws (Amendment) Act, 1878 (XII of 1878), section 5.

the person following such tracks may call upon any headman or village-watchman in such village to assist in carrying on the tracks.

42. If such headman or watchman do not forthwith give such assistance, or if the inhabitants of such village do not afford full opportunity for search in their houses for the offenders, or if, from the circumstances of the case, there shall appear good reason to believe that the inhabitants of such village, or any of them, were conniving at the offence or at the escape of the offenders, and such offenders cannot be traced beyond the village, the Magistrate of the District may, with the previous sanction of the Commissioner of the Division inflict a fine upon such village not exceeding five hundred rupees, except in the case of stolen property over five hundred rupees in value, in which case the fine shall not exceed the value of such property.

Penalty for withholding assistance or conniving at offence or escape.

Limit to fine.

An appeal against all convictions under this section shall lie to the ¹[High Court of Punjab and Haryana].

Appeal to High Court.

The Magistrate may direct that the fine imposed under this section or any part thereof shall be awarded to any persons injured by such offence in compensation for such injury; and, in the case of stolen property recovered through the agency of a tracker, may direct that such property be not restored to its owner until he has paid to such tracker such fee, not exceeding one-fourth part of the value of the stolen property, as the said Magistrate deems fit.

Fine may... be awarded to injured parties, and fee to tracker.

SLAUGHTER OF KINE.

43. The slaughter of kine and the sale of beef shall not take place, except * * * ² * * * subject to rules to be from time to time, either generally or in any particular instance, prescribed by the ³[Central Government].

Control of slaughter of kine and sale of beef.

¹Substituted for the words "High Court of Punjab" by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968.

²The words "with the consent and" were omitted by the Punjab Laws (Amendment) Act, 1878 (XII of 1878), section 6.

³Substituted for the words "State Government" by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects), Order, 1968.

Control of entry into towns of bands of armed men.

44. No band of armed men shall enter into any city or town, except * * * ¹ * * * subject to rules to be from time to time, either generally or in any particular instance, prescribed by the ²[Central Government].

Powers of Magistrate of District as to foreign vagrants.

45. The Magistrate of the District may, if he considers that any band of foreign vagrants is likely to occasion a breach of the peace or to commit any offence under the Indian Penal Code, prohibit such band from entering his district; or, if they are already in his district, may require them within a given time to leave it.

Surveillance, etc., of band failing to comply with Magistrate's order.

46. If any such band fail to comply with the orders of the said Magistrate within the prescribed period, he shall report the matter to the ²[Central Government], and the ²[Central Government] may give such directions for the surveillance, control or deportation of such band as to it seems fit.

MISCELLANEOUS.

Crossing of streams on buoys or skins.

47. No person shall cross any river or stream on a buoy or inflated skin, nor shall have in his possession or custody any buoy or skin for the purpose of being used in crossing any river or stream, except * * * ¹ * * * subject to rules to be from time to time, either generally or in any particular instance, prescribed by the ²[Central Government].

Use of pasturage or natural product of (Government) land.

48. No person shall make use of the pasturage or other natural product of any land being the property of the ³[Government] except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by ⁴[the Government concerned].

49. [Growing, selling or keeping opinion.] * * * ⁵ * *

¹The words "with the consent and" were omitted by the Punjab Laws (Amendment) Act, 1878 (XX of 1878), section 6.

²Substituted for the words "State Government" by the Punjab Re-organisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968.

³Substituted for the word "Crown" by the Adaptation of Indian Laws Order, 1950.

⁴Substituted for the words "the Government for whose purpose the land is vested in His Majesty" by the Adaptation of Laws Order, 1950, First Schedule.

⁵Repealed by Act I of 1878.

¹[50. The ²[Central Government] may from time to time make rules³ as to the matters mentioned in ⁴[sections 43 to 48] inclusive.

Power to make rules as to matters mentioned in sections 43 to 48.

All existing rules upon such matters, which might have been made under this section had it been in force, shall be deemed to have been made hereunder.

Existing rules.

50-A. ⁵[Rules made under this Act shall not be valid unless]:—

Conditions of validity of rules hereafter made under this Act.

(a) they are consistent with the laws for the time being in force in the ⁶[Territories to which this Act extends];

(b) they are published in the Official Gazette;

* * * * *

⁷[50B. If any person contravenes the provisions of any rule made by the ²[Central Government] under this Act, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to fifty rupees, or with both.]]

Penalty for contravention of rules.

¹Ss. 50, 50A and 50B were substituted for the original s. 50 by s. 3 of the Punjab Laws (Amendment) Act, 1875 (XV of 1875).

²Substituted for the words "State Government" by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) order, 1968.

³For rules under s. 50 in conjunction with s. 50B, to regulate the use of pasturage and other natural products, see *Punjab Gazette*, 1900, Pt. I, p. 620, and *ibid.* 1903, Pt. I, p. 563.

⁴Substituted for the original reference by the Amending Act, 1891 (XII of 1891).

⁵Substituted for the words "All rules hereafter made by the Local Government under any power conferred by this Act shall be subject to the control of the Governor-General in Council and no such rules shall be valid unless" by the Government of India (Adaptation of Indian Laws) Order, 1937.

⁶Substituted by the Adaptation of Laws (No. 2) Order, 1956, for the words "States of Punjab and Delhi."

⁷Clause (c) of section 50A was omitted by the Decentralization Act, 1914 (IV of 1914).

⁸Substituted by Punjab Act No. 15 of 1961.

Republication
of rules and
orders.

¹[51. All rules which the ²[Central Government] is empowered to issue under this Act, and all circulars issued by the ³[High Court of Punjab and Haryana], shall be republished from time to time by the ²[Central Government], and upon such republication, shall be arranged in the order of their subject-matter, and all such alterations or amendments as may have been made since the last preceding publication thereof, or may have become necessary or advisable, shall be embodied therewith, and upon such republication all such rules and circulars previously issued shall be repealed.]

52. [*Recovery of advances made by Government.*].

¹Substituted for the old section by Punjab Act I of 1910.

²Substituted for the words "High Court of Punjab" by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968.

³Repealed by Act X of 1879.

SCHEDULE I.¹

ENACTMENTS DECLARED TO BE IN FORCE.

Explanation.—This schedule does not refer to any Act which is in its terms applicable to the Punjab, or which has been extended to the Punjab by competent authority.

No. and year	Title	Extent to which the enactment is in force
¹ Reg. I of 1798	A Regulation to prevent Fraud and Injustice in Conditional Sales of Land under Deeds of bai-bil-wuffa, or other Deeds of the same nature.	The whole, except such parts as relate to interest.
"	"	"
² Reg. XVII of 1806	A Regulation for extending to the province of Benares the Rates of interest on future Loans and Provisions relative thereto, contained in Regulation XV, 1793 ¹ ; also for a general extension of the period fixed by Regulations 1, 1798, and XXXIV, 1803, for the redemption of Mortgages and Conditional Sales of Land, under Deeds of bai-bil-wuffa, Kutcha-baleb, or other similar designation	Sections 7 and 8
"	"	"
Reg. XI of 1825	A Regulation for declaring the Rules to be observed in determining Claims to Lands gained by alluvion or by dereliction of a river or the sea	The whole
"	"	"
"	³ Rules for the conservancy of Forests and Jungles in the Hill Districts of the Punjab Territories Sanctioned by the Governor-General in Council in letter of the Secretary to the Government of India, No. 1789, dated 21st May, 1855	The whole

SCHEDULE II

[Enactment Repealed by Act XVII of 1914]

¹As so much of Act IV of 1872 as related to Bengal Regulations V of 1817 and XX of 1825 and Acts XL of 1858 and XVII of 1861 was repealed by Acts VI of 1878, X of 1882, VIII of 1890 and XII of 1891, respectively, the references to those Regulations and Acts in this Schedule are omitted.

²See the Transfer of Property Act, 1882 (4 of 1882) Ss. 1, 2 and Schedule.

³So much of the first Schedule as relates to Bengal State Offences Regulations, 1804 (Regulation X of 1804) was repealed by Act IV of 1922.

⁴Entry relating to Bengal Regulation 3 of 1818 was omitted by Act 42 of 1953, section 4 and Schedule III.