

Himachal Pradesh Ferries Act, 1956

10 of 1956

[24 October 1956]

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Himachal Pradesh Ferries Act, 1956

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PREAMBLE

An Act to regulate ferries in Himachal Pradesh.

Amended, repealed or otherwise affected by,-

(i) A.O. 1973, published in R.H.P., dated the 20th January, 1973 at p. 91-112.

(Authoritative English Text of the Himachal Pradesh Tarn Adhiniyam, 1956).

BE it enacted by the Legislative Assembly of the Himachal Pradesh in the Seventh Year of the Republic of India as follows:-

1 Passed in Hindi by the Himachal Pradesh Vidhan Sabha in 1956. For Statement of Objects and Reasons see R.H.P. dated the 29th March, 1956, p. 80. The Act extended to the areas added to H.P. u/s 5 of the Punjab Re-organisation Act, 1966 by the H.P. Act No. 29 of 1976 (sec. 3 and sec. 1).

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called the Himachal Pradesh Ferries Act, 1956.

(2) It extends to ¹[the areas as comprised in H.P. immediately before 1st November, 1966.

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette, fix in this behalf.

1 Subs. for the "words whole of the Himachal Pradesh" by A.O. 1973.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,-

(1) "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;

(2) ¹[* * *]

1 The definition of "State Government" omitted by *ibid*.

CHAPTER 2 PUBLIC FERRIES

3. Power to declare, establish, define of discontinue public ferries :-

(1) 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.

(2) Every such declaration, establishment, definition, change or discontinuance shall be made by notification in the Official Gazette:

Provided that when a river lies between two States the powers conferred by this section may, in respect of such river be exercised by the Himachal Pradesh Government in consultation with the Government of the other State and notification may be issued by the State Governments concerned in their respective Official Gazettes.

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 Deputy Commissioner of the District in which such ferry is situated, 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.

4. Claims for compensation :-

Compensation shall be paid by State Government for any loss sustained by any person in consequence of a private ferry being taken possession of under section 3 after enquiry by the District Magistrate of the District in which such ferry is situated or such officer as he appoints in this behalf.

5. Superintendence of public ferries :-

(1) The immediate superintendence of every public ferry shall, except as provided in sections 6 and 7 be vested in the District Magistrate of the District in which such ferry is situated or in such officer as the State Government may from time to time, appoint by

name or in virtue of his office in this behalf.

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

6. Management may be vested in municipality :-

When State Government may direct that any public ferry situated within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal affairs of such town, and thereupon that ferry shall be managed accordingly.

7. Management may be vested in the Zilla Parishad :-

The State Government may direct that any public ferry wholly or partly within the area subject to the authority of a Zilla ¹[Parishad] may be managed by the Zilla ¹[Parishad] and thereupon that ferry shall be managed accordingly.

1 Subs. for the word "Panchayat" by A.O. 1973.

8. Letting ferry tolls by auction :-

(1) 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 Deputy Commissioner of the District, or by public auction, or otherwise than by public auction, for any term with the previous sanction of the State Government.

(2) The lessee shall conform to the rule made under this Act for the management and control of the ferry, and may be called upon by the officer in whom immediate superintendence of the ferry is vested or if the ferry managed by a municipal or other public body under section 6 or 7, then by that body, to give such security for the punctual payment of rent as the officer or body, as the case may be, thinks fit.

(3) 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 this 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 District Magistrate of the District in which such ferry is situated as if they were arrears of land revenue.

10. Power to cancel lease :-

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

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

11. Surrender of lease :-

The lessee of the tolls of a public ferry may surrender his lease on the expiration of one months notice in writing to the State Government of his intention to surrender his lease, and on payment to the District Magistrate of the District in which such ferry is situated of such compensation as such Magistrate, subject to the approval of the State of Government, may, in each case, direct.

12. Power to make rules :-

(1) Subject to the previous approval of the State Government, the Financial Commissioner or such officer¹ 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 rules² consistent with this Act-

(a) for the control and the management of all public ferries and for

regulating the traffic at such ferries;

(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 auctions, 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;

(d) generally to carry out the purposes of this Act; and when the tolls of a ferry have been let under section 8, such Financial 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 time and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through the same; and

(g) in cases in which the traffic is conveyed in boats for regulating-

(i) the number and kind of such boats and their dimensions and equipment;

(ii) the number of the crew to be kept by the lessee for each boat;

(iii) the maintenance of such boats continually in good condition;

(iv) the hours during which, and the intervals within which, the

lessee shall be bound to ply; and

(v) 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.

(2) The lessee shall make returns of traffic as the Deputy Commissioner of the District or other officer as aforesaid may, from time to time, require.

1 Secretary (PWD) H. P. authorised to frame rules, vide Not. PBW-B (3)-2/84 dated 27-3-84 published in R.H.P. dated 29-12-1984 P. 1461 and subsequently authorised Secretary TPT H. P. vide Not. No. 20-6/84-Tpt dated 24-11-1984 published in R.H.P. dt. 29-12-84 p. 1461.

2 Rules framed vide Not. No. 24-2/65-Rev-I, dated the 6th March, 1965 (Appended).

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

Except with the sanction of the Deputy Commissioner 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 from 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 which do not ply for hire, or which the State Government expressly exempts from the operation of this section.

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 :-

(1) 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 exempted from payment of such tolls.

(2) Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the lease, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Deputy Commissioner of the District 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 Hindi and also if the Deputy Commissioner of the District so directs, in English in some conspicuous place near the ferry, and shall be bound to produce, on demand, a list of the tolls, signed by the Deputy Commissioner 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 the State :-

All tolls, rents, compensation and fines under this Act (other than tolls received by any lessee) shall form part of the revenue 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 Deputy Commissioner of the District 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. 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 punishable with fine which may extend to fifty rupees.

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

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

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

Every person committing a breach of any rule made under section 12 or section 19 shall be punishable 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 District Magistrate of the District may, with the sanction of the State Government, cancel the lease of the tolls of such ferry, and make other arrangement for its management during the whole or any part of the term for which the tolls were let.

25. Penalties on passenger 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 assistance to do so. shall be punishable 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 punishable 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, notwithstanding anything contained in section 17, be at the discretion of the convicting Magistrate, 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 punishable 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 or detain such vessel, raft or timber pending the inquiry and assessment herein after 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 :-

Any Magistrate of the 1st or 2nd class may try any offence against this Act.

31. Magistrate may assess damage done by offender :-

(1) Every Magistrate trying any offence under this Act may inquire 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 any thing found in or upon such vessel or raft.

(2) The State Government 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 District 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 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 District Magistrate of the District may take possession of and use the same paying such compensation for the use thereof as 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 the District Magistrate of the District or any other

Magistrate of a District, or to such other officers as it thinks fit, by name or by viture of his office.