

Punjab. Land Preservation (chose), Act, 1900

(PUNJAB ACT II OF 1900)

An Act to provide for the better preservation and protection of certain portions of the territories of the Punjab

It is hereby enacted as follows

1. Short title and commencement.³ (1) This may be called the Punjab Land Preservation (chos) Act, 1900.

(2)⁴ Section 8, 9 and 10 shall extend to the territories situate within and adjacent to the Siwalik mountain range; the remaining sections shall extend to the whole of the Punjab.

(3) It shall come into force at once.

2. Definitions. In this Act unless a different intention appears from the subject or context,

(a) the expression "land" means land within any⁵ area preserved and protected or otherwise dealt with in this Act provided, and includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

(b) The expression "chos" means a stream or torrent flowing through or from the Siwalik mountain range within the Punjab;

(c) the expression "tree", "timber", "Forest produce" and "cattle", respectively shall have the meanings severally assigned thereto in section 2 of the Forest Act, (1927) XVI of 1927.

(d) The expression "person interested" includes all persons claiming any interest in compensation to be made on account

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1. The words "situate within or adjacent to the Siwalik mountain range" omitted by Punjab Act XI of 1942, section 2.
 2. The preamble omitted by Punjab Act XI of 1942, section 3.
 3. The brackets and word "(chos)" was omitted by Punjab Act, IV of 1944, section 2.
 4. Sub-section (2) was inserted by Punjab Act, XI of 1942, section 4 which again was substituted by Punjab Act, IV of 1944, section 2.
 5. The word "local" omitted by Punjab Act, IV of 1944, section 3.

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of any measures taken under this Act,

- (e) the expression “Deputy Commissioner” includes any officer or officers at any time specially appointed by the ²(Provincial Government) to perform the functions of a Deputy Commissioner under this Act;
- (f) The expression “rightholder” includes
 - (i) Person not being tenants or mortgages having rights to or in land ; and
 - (ii) Persons having rights of collection forest produce of grazing or pasture ; and
- (g) the expression “erosion” includes the removal or displacement of earth, soil stones or other materials by the action of wind or water)⁴

NOTIFICATION AND REGULATION OF AREAS

3. Notification of areas Whenever, it appear to the Provincial Government that it is desirable to provide for the conservation of sub-soil water or the prevention of erosion in any area subject to erosion or likely become liable to erosion, such Government may be notification ⁵ make a direction accordingly.) sub:

4. Power to regulate, restrict or prohibit, by general or special order within notified areas, certain matters. In respect of areas notified under section 3 generally or the whole or any part of any such area, the ⁶(Provincial Government) may, by general or special Order, temporarily ⁷regulate, restrict or prohibit)----

- (a) the clearing or braking up or cultivating of land not ordinarily under cultivation prior to the publication of the notification under section 3.
- (b) the quarrying of stone or the burning of lime at places where

1. The word “and” omitted by Punjab Act, IV of 1944, section 3
2. Substituted for the Words “Local Government” by the Government of India (Adaptation of Indian Laws,) Order, 1937
3. Section 3 substituted by Punjab Act, XI of 1942, section 5.
4. For Notification see Punjab Local Rules and Orders.
5. Substituted for the words “local Rules Government of India (Adaptation of Indian Laws, Order, 1937.
6. The words “or permanently” were omitted by Punjab Act, VII of 1926 section 2.

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such stone or lime had not ordinarily been so quarried or burnt prior to the publication of the notification under section 3.

- (c) the cutting of trees or timber, or the collection or removal or subjection to any manufacturing process, otherwise than as produce in clause (b) of this sub-section of any forest produce other than grass, save for *bana-fide* domestic or agricultural purpose ¹(of right-holder in such area)
- (d) the setting on fire of trees, timber or forest produce;
- (e) the admission, herding, pasturing or retention of sheep ²(goats or camels)
- (f) the examination of forest produce passing out of any such area, and
- (g) the granting of permits to the inhabitants of towns and villages situate within the limits or in the vicinity of any such area, to take any tree, timber or forest produce for their own use there from, or to pasture sheep, ² (goats or camels) or to cultivate or erect buildings therein and the production and return of such permits by such persons.

5. Owner in certain cases, of regulate, restrict or prohibit by special order, within notified areas, certain further matters. In respect of any specified village or villages, or part or parts thereof, comprised within the limits of any area notified under sections the ³(Provincial Government) may, by special order temporarily ⁴regulate, restrict or prohibit.

- (a) the cultivation of any land ordinarily under cultivation prior to the publication of the notification under section 3.
- (b) the quarrying of any stone or the burning of any lime at places where such stone or lime had ordinarily been so quarried or burnt prior to the publication of the notification under section 3.
- (c) the cutting of trees and timber or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (b) of this sub-section of any forest produce ⁵(for any purposes ; and

1. Inserted by Punjab Act, IV of 1944, section 4
2. Inserted by Punjab Act, IV of 1944, section 4
3. For notification see Punjab Local Rules and Orders. Substituted for the words "Local Government" by Government of India (Adaptation of India Laws), Order, 1937. The words "or permanently" were omitted by Punjab Act, VII of 1926, section 3.
4. The words "or permanently" were omitted by Punjab Act, VII of 1926 section 26.
5. Substituted for the words "for *bana fide* domestic or agricultural purpose", by Punjab Act, IV of 1905

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- (d) the admission, herding, pasturing or retention of cattle, generally other than sheep, ⁶(goats and camels), or of any class or description of such cattle.

75. Power to require execution of works and taking of measures In respect of areas notified under section 3 generally or the whole or any part of any such areas, the Provincial Government may, by general or special Order, direct.

- (a) the leveling, terracing, drainage and embanking of fields;
(b) the construction of earth-works in fields and ravines;
(c) the provision of drains for storm water;
(d) the protection of land against the action of wind or water;
(e) the training of streams; and
(f) the execution of such other works and the carrying out of such other measures as may, in the opinion of the Provincial Government, be necessary or carrying out the purpose of this Chapter.

6. Necessity for regulation, restriction or prohibition to be recited in the order under section 4 or 5.---Every order made under ¹(sub-section 4, 5 or 5-A) shall be published in the ²Official gazette and shall set forth that the ³(Provincial Government) is satisfied, after due inquiry that regulations, restrictions, ⁴(prohibitions or directions) contained in the order are necessary for the purpose of giving effect to the provision of this Act.

7. Proclamation of regulations, restrictions and prohibitions and admission of claims for compensation for rights which are restricted or extinguished. (1) When, in respect of any area, ⁵area, a notification has been published under section 3 and

- (a) upon such publication any general Order, made under

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6. Substituted for the words "and goats" by Punjab Act, IV of 1944, section 5
7. Section 5-A added by Punjab Act, IV of 1944, section 6
1 Substituted for the words and figures "section 4 or section 5" by Punjab Act, IV of 1914, section 7
2. Substituted for the words "Gazette" by Government of India (Adaptation of Indian Laws), Order, 1937.
3. Substituted for the words "Local Government" by Government of India (Adaptation of Indian Laws), Order, 1937.
4. Substituted for the words "or prohibitions" by Punjab Act, IV of 1944, section 7.
5. The word "local" by Punjab Act, IV of 1944, section 8.

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section 4⁶(or section 5) becomes applicable to such area,
or

- (d) any special order under ⁷(section 4, 5 or 5-A), is made in respect of such area.

The Deputy Commissioner shall cause public notice of the provisions of such general or special order to be given, and if the provisions of any such order restrict or ⁸(prohibit the exercise of) any existing rights, shall be published in the language of the country and in every town and village the boundaries of which include any portion of the area within or over which the ⁹(exercise of any such rights is so restricted or prohibited) a proclamation stating the regulations, restrictions and prohibitions which have been imposed, by any such order, within the limits of such area or in any part or parts thereof; fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any compensation, in respect of any right so restricted or prohibited, within such period either to present to such officer a written notice specifying, or to appear before him and state, the nature and extent of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

(2) Any claim not preferred within the time fixed in the proclamation made under sub-section (1), shall be rejected.

Provided that, with the previous sanction of the Commissioner, the Deputy Commissioner may admit any such claim as if it had been made within such period.

(7.A Enforcement of orders made under section 5-A. (1)

When an order has issued under section 5-A, the Deputy Commissioner may by notice require the owner or occupier of the land to execute such works or take such measures as may be specified in the notice.

(2) Every such notice shall state the time within which the works are to be executed or measures are to be taken.

(3) A person aggrieved by an order contained in such a notice as aforesaid may, within thirty days from the service of such notice or within

6. Inserted by Punjab Act, IV of 1944, section 8.

7. Substituted for the words and figures "section 4 or 5" by Punjab Act, IV of 1944, section 8.

8. Substituted for the words "extinguish" by Punjab Act, IV of 1926, section 4

9. Substituted for the words "any such rights are so restricted or extinguished" by Punjab Act, VII of 1926, section 4.

1. Section 7-A added by Punjab Act, IV of 1944, section 9.

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such longer period as the Deputy Commissioner may allow in this behalf serve a notice of his objections on the Deputy Commissioner in such manner as may be provided by the rules made under this Act.

(4) If and in so far as an objection under this section is based on the ground of some informality, defect or error in connection with, the notice, the Deputy Commissioner shall dismiss the objection, if he is satisfied that the informality, defect or error was not a material one.

(5) If the objection is brought on all or any of the following grounds, that is to say

- (a) that the notice might lawfully have been served on the occupier of the land in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served.
- (b) that some other person, being the owner, occupier tenant, mortgage with possession or lessee or farm holder, or possessing some other right in or over the land to be benefited, ought to contribute towards the expenses of executing any works or taking any measures required.
- (c) where the work or measure is work or measure for the common benefit of the land in question and other land, that some other person, being the owner or occupier of land to be benefited, ought to contribute towards the expenses of executing any works or taking any measures required ;

The objector shall serve a copy of this notice of objection on each other person referred to, and on the hearing of the objection the Deputy Commissioner may make such order as he thinks fit with respect to the person by whom any work is to be executed or measure is to be taken and the contribution to be made by any other person towards the cost of the work or measure or as to the proportions in which any expenses which may become recoverable by the Deputy Commissioner under sub-section (6) are to be borne by the objector and such other persons.

Provide that no such order shall be made unless the person who is likely to be affected thereby has been given a reasonable opportunity of being heard.

In exercising his power under this sub-section the Deputy Commissioner shall have regard.

- (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy

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and to the nature of works and measures required ; and

- (b) in any case, to the degree of benefit to be derived by the different persons concerned.

(6) Notwithstanding anything to the contrary in any law for the time being in force, no person required by a notice or an order under this section to execute any work or to take any measure shall be required to obtain the consent of any other person before complying with such notice or order.

(7) Subject to such right of objection as aforesaid and the right of appeal under section 18, if the person required by the notice to execute works or to take measures fails to execute the work or to take the measures indicated within the time thereby limited, the Deputy Commissioner may himself or by an agent execute the work or take the measures and recover from that person the expenses reasonably incurred by him in so doing;

(a) Provided that it shall not be necessary for the Deputy Commissioner to wait for the decision of any objection other than, an objection under clause (a) of sub-section (5), or an appeal against any decision on such objection, before taking action under this sub-section.

- (b) provided further that the maximum amount that shall be recoverable in respect of any land in regard to which the work has been executed or the measure taken shall not exceed.

(i) where the work is required to be executed or the measure to be taken by the owner, ten times the land revenue assessed on all the lands owned by him in the Punjab; and

(ii) where the work is required to be executed by the occupier, ten times the land revenue assessed on all the lands, occupied by him in the estate in which such land is situated.

8. If the cost of any work executed or any measure taken by any person remain unpaid by the person from whom it is due after the date specified in a notice issued in this person behalf by the Deputy Commissioner or such other date as is fixed by him, such cost shall be recoverable as an arrear of land revenue and a certificate issued by the Deputy Commissioner in this behalf shall be final and conclusive evidence of the sum so recoverable and the person liable for the same.

9. Every order issued under this section shall be published in such manner as may be prescribed in the rules made under his Act, and upon such publication every person affected thereby shall, unless the contrary be proved, be deemed to have had due notice thereof.

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10. The Deputy Commissioner may be general or special order authorise any Revenue Officer subordinate to him to enquire into any objection that may be brought under this section;

Provided that no final order on any such objection shall be passed except by the Deputy Commissioner himself.

11. In making an order on objections brought under this section, the Deputy Commissioner shall be guided by such rules, if any, as the Provincial Government make in this behalf.

12. For the purpose of this section, the expression "estate" shall have the meaning assigned thereto in the Punjab Land Revenue Act, 1887.

CONTROL OVER THE BEDS OF CHOS

8. Action when Provincial Government considers it desirable to take measures to regulate the beds of chos Vesting of such beds in the Government. (1) Whenever it appears to the ¹(Provincial Government) that it is desirable that measures should be taken in the beds of chos for the purpose of

- (a) regulating the flow of water within and preventing the widening or extension of such bed, or of
- (b) reclaiming or protecting any land situate within the limits of such beds;

1. Substituted for the words "local Government" by Government of the India (Adaptation of Indian Laws) Order, 1937.

Such Government, may either proceed at once in manner in sub-section (2) provided, or, in the first instance, by notification specifying the nature and extent of the measures to be taken and the locality in and the time within which such measures are to be so taken, require all person possessing propriety or occupancy right in land situate in such locality to themselves carry out the measures specified in such notification accordingly.

(2) If the whole or any part (of the bed of an cho be unclaimed, or, if, in the opinion of the ¹(Provincial Government) the measures deemed necessary under sub-section (1) are of such a character, in regard to extent and cost, that the interference of the ¹(Provincial Government) is absolutely

1. Substituted for the words "Local Government by the" Government of India (Adaptation of Indian Laws) Order, 1937.

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necessary, or in the event of the owner or occupier or any portion of the bed of any cho failing to comply with the requirements of any notification issued under sub-section (1), such government may, by notification, declare that the whole or any part of the area comprised within the limits of the bed of any cho shall ²(vest in the Government for the purpose of the Provincial) ³for such period and subject to such conditions (if any) as may be specified in the notification:

Provided that no such declaration shall be made in respect of or shall affect any land included within the limits of the bed of any such cho, which, at the date of the publication of the notification making such declaration, is cultivated or culturable, or yields any produce of substantial value.

(3) When that owners or occupiers of such locality are unable to agree among themselves regarding the carrying out of, such measures, the decision of those paying the larger amount of land-revenue shall be held to be binding on all.

(4) The ¹(Provincial Government) may, from time to time, by like notification, extend the period during which any such area shall remain vested in the ¹Government.

9. Effect of notification to suspend or extinguish private rights in the area notified under section 8.----Upon the making of any declaration under sub-section (2) of section 8, all private rights of whatever kind existing in or relating to any land comprised within the area specified in the notification containing such declaration at the time of the publication thereof. ²(shall be suspended for the period specified in the declaration and for such further period (if any to which such period may at any time be extended).

Provided that, as far as circumstances admit, such rights of way and water shall be reserved, in respect of every such area, as may be necessary to meet the reasonable requirement and convenience of the person (if any) who, at the time of the making of such declaration, possessed any such rights over such area.

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2. Substituted for the words "Vest the Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.
 3. The words "either absolutely and in perpetuity or were" omitted by the Punjab Act, VIII of 1926, Section 2.
 1. Substituted for the words "the Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.
 2. Substituted by Punjab Act, VIII of 1926, section 3 for the following clauses:-

10. Power of Deputy Commissioner to delimit the bed and to decide what constitutes such bed. Power to take possession of bed when vested in the Government.---(1) The Deputy Commissioner shall, for the purposes of every notification issued under sub-section (2) of section 8, fix the limits of the area comprised within the bed of the cho to which such notification is to apply.

(2) Upon the publication of a notification containing any declaration under sub-section (2) of section 8, it shall be lawful for the Deputy Commissioner, to:-

- (a) take possession of the area specified in such declaration
- (b) eject all persons therefrom ; and to
- (c) deal with such area, while it remains vested in ³the Government) as-if it were the absolute property of ⁴the Government.

11. Bar of compensation for acts done under sections 8, 9 or 10.—No person shall be entitled to any compensation for anything at any time done, in good faith in exercise of any power conferred by section 8, section 9 or section 10.

12. (Condition as to sale of land acquired under the Act and obligation of Local Government to keep account of moneys expended on such land) Repealed by Act VIII of 1926, section 4.

POWER TO ENTER UPON AND DELIMIT NOTIFIED AREAS AND BEDS.

13. Power to enter upon, survey and demarcate local area notified under section 3 or section 8.—It shall be lawful for the Deputy Commissioner and for his subordinate officers, servants, caretakers and workman, from time to time, as occasion may require :---

- (a) to enter upon and survey any land comprised within any

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- 3. Substituted by Punjab Act, VIII of 1926, section 3 for the following cases.
 - (a). if no period is specified in such declaration-case and determine absolutely.
 - (b.) if any period is specified in such declaration by suspended for such period and for such further period (if any) to which such period may at any time be extended.
 - 4. Substituted for the words "Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

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area in regard to which any notification has been issued under section 3 or section 8² or in regard to which a notification is proposed to be issued under section 5-A).

- (b) to erect bench marks on and to delimit and demarcate the boundaries of any such ¹area; and
- (c) to do all other acts and things which may be necessary in order adequately to preserve or protect any land or to give effect to all or any of the provisions of this Act.

Provided that reasonable compensation, to be assessed and determined in the manner in this Act provided, shall be made in respect of any damage or injury caused to the property or rights of any person in carrying out any operations under the provisions of this section, but no such compensation shall be payable in respect of anything done under, the said provisions within the limits of any 'area notified under section 8.

INQUIRY INTO CLAIMS AND AWARD OF COMPENSATION

14. Inquiries into claims and awards there.---(1) The Deputy Commissioner shall---

- (a) fix a date for inquiring into all claims under section 7³ and may in his discretion from time to time adjourn the inquiry to a date to be fixed by him;
- (b) record in writing all statement made under section 7 ;
- (c) inquire into all claims duly preferred under section 7 ; and
- (d) make and award upon each such claim, setting out therein the nature and extent of the right claimed, the person or person making such claims, the extent (if any) to which, and the person, or persons in whose favour, the right claimed, is established, the extent to which it is to be restricted (or prohibited and the nature and amount of the compensation (if any) awarded.

(2) For the purposed of every such inquiry the Deputy Commission may exercise all or any of the powers of al Civil Court in the trial of suits under the Code of Civil Procedure.

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1. The ward "local" was omitted by Punjab Act, IV, 1944, Section 10.
 2. Added by Punjab Act, IV of 1944, Section' 10.
 3. The words and figure "or Section 12" were omitted by the Punjab Act, VIII of 1926, Section 5.

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Act XIV of 1882.---(3) The Deputy Commissioner shall announce his award to such persons interested, or their representatives, as are present, and shall record the acceptance of those who accept it. To such as are not present, the Deputy Commissioner shall cause immediate notice of his award to be given---

15. Method of awarding compensation and effect of such award. Act I of 1894.---(1) In determining the amount of compensation, the Deputy Commissioner shall be guided, so far as may be by the provisions of section 23 and 24 of the Land Acquisition Act, 1894, and as to matters which cannot be dealt with under those provisions, by what is just and reasonable in the circumstances of each case.

(2) The Deputy Commissioner may, with the sanction of the ¹(Provincial Government) and the consent of the person entitled, instead of money award compensation in land or by reduction in revenue or in any other form.

(3) If in any case, the exercise of any right, is prohibition for a time only, compensation shall be awarded only in respect of the period during which the exercise of such right is so prohibited.

²(4) * * * * *

PROCEDURE, RECORDS AND APPEAL

16. Record of rights in respect of notified area.---(1) For every area, notified under section 3 or section 8, the Deputy Commissioner shall prepare a. record setting forth the nature, description, local situation and extent of all rights mentioned in section 4 and section 5.

- (a) existing within such area at the time of the publication of the notification relating thereto under section 3 or section 8.
 - (b) regulated restricted or ³⁻⁴(prohibited) by any order section 4 or section 5.
- (2) When any award is made under section 14, its effect upon any right shall also be recorded therein.

1. Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.
2. Repealed by the Punjab Act, VIII of 1926, section 6.
3. The word "suspended" was omitted by Punjab Act, VIII of 1926, section 7.
4. Substituted for the words "extinguished" by Punjab Act, VIII of 1926, section 7.

17. Mode of proclaiming notification and of serving notices, order and processes issued under the Act.---(1) Upon the publication of a notification issued under any of the provisions of this Act, the Deputy Commissioner shall cause public notice of the substance thereof to be given at convenient places in the locality³ to which such notification relates.

(2) The procedure prescribed in sections 20, 21 and 22 of the Punjab Land Revenue Act, 1887, shall be followed, as far as may be, in proceeding under this Act.

18. Appeal, review and revision.---Every order passed and every award made by a Deputy Commissioner under this Act, shall, for the purpose of appeal, review and revision, respectively be deemed to be the order of a Collector within the meaning of section 13, 14, 15 and 16 of the Punjab Land Revenue Act, 1887

XVII of 1887.---Provided that nothing in this Act contained shall be deemed to exclude the jurisdiction of any Civil Court to, decide any dispute arising between the persons interested in any compensation awarded as to the apportionment or distribution thereof, amongst such person or any of them.

PENALTIES, BAR OF SUITS AND RULES

19. Penalty for offence.---Any person within the limits of any ²area notified under section 3, commits any breach of any regulations made, ³(restriction or prohibition imposed, order passed or requisition made under sections 4,5, **5-A** or 7-A), shall be punished with imprisonment for a term which may extend to one month or with a fine which may extend to one hundred rupees, or with both.

20. Application of provisions of Act XVI of 1927.---⁴(The provisions of sections 52, 54, 55, 56, 57, 58, 59, 60, 61, 62, 64 (excluding the last sentence), 66, 67, 68 and 73 of the Forest Act, 1927), shall so far as

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1. See Volume I of Punjab Code.
 2. The word "Local" was omitted by the Punjab Act, IV of 1944, section 11.
 3. Substituted for the words "or restriction for prohibition imposed under section 4 or section 5 "by Punjab Act, IV of 1944, section 11.
 4. Substituted for the words, figures and brackets "The provisions of section 52,53,54, 55, 56, 57, 58, 59, 60, 61, 63 (excluding the last sentence) 64, 65, 66, 67 and 72 of Indian Forest Act, 1878 "by Punjab Act of 1944, section 12.

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Applicable, be read as part of this Act, and for the purpose of those provisions, every offence punishable under section 19 shall be deemed to be a "forest offence", and every officer employed in the management of any area notified under section 3 or section 8, as care taker or otherwise, shall be deemed to be a forest officer.

21. Bar of suits---No suit shall lie against ⁵(the Crown) for anything done under this Act, and no suit shall lie against any public servant for anything done, or purporting to have been done, by him in good faith, under this Act.

22. Power to make rules.---(1) ⁶(Provincial Government) may make rules, consistent with this Act.---

- (a) regulating the procedure to be observed in any inquiry or proceedings under this Act; and
- (b) generally for the purpose of carrying into effect all or any of the provisions of this Act.
- (c) All rules made under this section shall be published in the ¹(Official Gazette).

5. Substituted for the words "the Secretary of State for India in Council or the Government by the Government' of India (Adaptation of Indian Laws) Order, 1937.

6. Substituted for the words "Local Government" by the Government' of India (Adaptation of Indian Laws) Order, 1937.

1. Substituted for the words "Gazette by the Government' of India (Adaptation of Indian Laws) Order, 1937.