

THE PUNJAB COURT OF WARDS ACT, 1903.

(PUNJAB ACT II OF 1903.)

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THE SCHEDULE

ENACTMENTS REPEALED.

¹THE PUNJAB COURT OF WARDS ACT, 1903.

(PUNJAB ACT II OF 1903.)

[2nd june, 1903, 25th June, 1903]

**An Act to consolidate and amend the law relating to the
Court of Wards in the Punjab.**

WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards in the ²[Khyber Pakhtunkhwa]. It is hereby enacted as follows:-

CHAPTER-I

PRELIMINARY.

1. (1) This Act may be called the Punjab Court of Wards Act, 1903. Title, extent and commencement.

(2) It extends to the whole of the ³[Province of the Khyber Pakhtunkhwa].
2. (1) The enactments specified in the schedule are hereby repealed to the extent mentioned in the third column thereof. Repeal.

(2) But all rules and appointments made, notification and orders issued, authorities and powers conferred, farms and leases granted, rights acquired, liabilities incurred and other things done under any of those enactments shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, acquired, incurred and done under this Act.

(3) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or the corresponding portion thereof.
3. In this Act unless there be something repugnant in the subject or context, the expression- Definition.
 - (a) “immovable property” shall include land, benefits to arise out of land and things attached to the earth or permanently fastened to anything which is attached to hearth, but shall not include growing crops or grass;

¹. For Statement of Objects and Reasons, see Punjab Gazettee, 1902, Part V, page 1141 for Report of the Select Committee, see *ibid.*, 1903, page 21, for Proceedings in Council, see *ibid.*, 1902, Page 128., *ibid* 1903 page 35.

The Act has been applied, with modifications, to the Khyber Pakhtunkhwa by the Khyber Pakhtunkhwa Court of Wards Regulation, 1904, (V of 1904).

². Subs. vide the Khyber Pakhtunkhwa Act IV of 2011.

³. Subs. vide the Khyber Pakhtunkhwa Act IV of 2011.

- (b) “land-holder” shall mean a person who possesses any interest in and, whether as proprietor, assignee of the land-revenue, lessee of waste land or otherwise.
- (c) “minor” shall means a person who has not, within the meaning of the ¹Indian Majority Act, 1875, attained his majority; and
- (d) “ward” shall mean any person in respect of whose person or the whole or any part of whose property, or of whose person and property, the Court of Wards by this Act constituted for the time being has assumed superintendence, but shall not include a joint proprietor the superintendence of whose property has been assumed by the Court of Wards under section 8.

CHAPTER-II.

THE COURT OF WARDS AND ITS JURISDICTION.

4. ²[(1) The Commissioner of the Division within the limits of which may ward ordinarily resides, or any property of any ward is situate, shall be the Court of Wards in respect of the persons and the property of such ward: Constitution of the Court of Wards and its jurisdiction.]

Provided that where nay ward ordinarily resides, within the jurisdiction of one Commissioner and his property or any part thereof is situate within the jurisdiction of any other Commissioner, the Board of Revenue shall determine which Commissioner shall be the Court of Wards in respect of the person and the property of such ward.]

(2) The Court of Wards may exercise all or any of the powers conferred on it by this Act either direct or through ³[XXX] the Deputy Commissioner of the District within the limits of which any ward may at any time reside or any part of the property of any ward may be situate, or through any other person whom it may at any time, in respect of any ward or the whole or any part of the property of any ward, appoint in that behalf.

(3) The Court of Wards may, with the sanction of the ⁴[Provincial Government] from time to time, by general or special order, or by rule made under this Act, ⁵delegate any of its powers to any ⁶[XXX] Deputy Commissioner or other person as aforesaid, and may at any time, with the like sanction, revoke any such 3 delegation.

¹. Now the Majority Act, 1875, Pakistan Code Vol.II.

². Subs by the W.P. Ordinance 3 of 1968, s.2 for the amended sub-section (1) which read as the Commissioner shall be the court of wards for the Khyber Pakhtunkhwa.

³. The Words “Commissioner of the Division or”. Omitted by Central Regulation V of 1904, s.2 (b).

⁴. Subs. for the words “Local Government” by A.O., 1947.

⁵. For delegation of powers to Deputy Commissioner in Khyber Pakhtunkhwa, see Gazettee of India, 1905, Part II p. 458.

⁶. Reference to Commissioner (“commissioner or omitted by Regulation V of 1904s.4 (b).

(4) The Powers and authority by this Act vested in the Court of Wards shall be exercised by it, subject to the control of the ¹[Provincial Government].

5. (1) Any land-holder may apply to the ²[Provincial Government] to make an order directing that his property be placed under the superintendence of the Court of Wards, and, upon receiving any such application, the ³[Provincial Government] may, if it considers it expedient in the public interest so to do, make an order accordingly.

Power of Provincial Government to make order, in certain cases, directing the Court of Wards to assume superintendence of properties of land-holders.

(2) When it appears to the ⁴[Provincial Government] that any land-holder is-

- (a) By reason of being a female; or
- (b) owing to any physical or mental defect or infirmity; or
- (c) owing to his having been convicted of a non-bailable offence and to his vicious habits or bad character; or
- (d) owing to his having entered upon a course of wasteful extravagance likely to dissipate his property, incapable of managing or unfitted to manage his affairs, the ⁵[Provincial Government] may make an order directing that the property of such land-holder be placed under the superintendence of the Court of Wards:

Provided that such an order shall not be made on the ground stated in clause (c) or on the ground stated in clause (d) unless such land-holder belongs to a family of political or social importance and the ⁶[Provincial Government] is satisfied that it is desirable, on grounds of public policy or general interest, to make such order.

(3) Every order made by the ⁷[Provincial Government], under sub-section (1) or sub-section (2) shall be final and shall not be called in question in any Court of Law.

6. When any land-holder is a minor or a person adjudged by a competent Court to be of unsound mind and incapable of managing his affairs, the Court of Wards may make an order assuming the superintendence of the property or the person and property of such land-

Power of Court of Wards of its own motion, to assume superintendence.

¹. Subs. for the words "Local Government" by A.O., 1947.

². Subs. for the words "Local Government" by A.O., 1947.

³. Subs. for the words "Local Government" by A.O., 1947.

⁴. Subs. for the words "Local Government" by A.O., 1947.

⁵. Subs. for the words "Local Government" by A.O., 1947.

⁶. Subs. for the words "Local Government" by A.O., 1947.

⁷. Subs. for the words "Local Government" by A.O., 1947.

holder.

7. (1) When, in respect of any land-holder an order is made by the ¹[Provincial Government] under sub-section (1) or sub-section (2) of section 5, the Court of Wards shall assume the superintendence of the property of such land-holder, and may in its discretion also assume the superintendence of his person.

Court of Wards shall assume superintendence in cases in which an order is made under section 5 and may do so when Collector is appointed guardian under Act VIII of 1890.

(2) When the Deputy Commissioner is appointed or declared to be guardian of the person or property, or both, of a minor, under the provisions of section 18 of the Guardian and Wards Act, 1890, he shall intimate the fact to the Court of Wards, and the Court of Wards may thereupon, in its discretion, either assume, or refrain, from assuming, the superintendence of the person or property or both (as the case may be), of such minor, and provisions of this Act, shall, if such superintendence be so assumed, apply to the person or property, or both (as the case may be), of such minor.

8. When there are two or more proprietors of any property and the shares of the several proprietors have not been separated off, and the Court of Wards, acting under section 6 or section, 7 assumes the superintendence of the property of one or more, but not all, of such proprietors, the Court of Wards may assume the superintendence also of the shares of such joint proprietor or joint proprietors as is or are not disqualified, paying any such proprietor the surplus income accruing from his share of the property. The Superintendence assumed under this section shall extend only to the management of the share of the joint proprietor in such joint property and shall not as regards such share include the power to sell or mortgage the same or any part thereof or to grant a lease thereof for a period exceeding 20 years or to create any charge thereon or interest therein.

Properties of which there are more proprietors than one.

9. Whenever the Court of Wards, assumes the superintendence of the person or property of any person under any of the provisions of this Act, the order of assumption shall be notified in the ²[Official Gazettee] and shall specify in the district the Deputy Commissioner of which shall be put in charge on behalf of the Court of Wards.

Notification of assumption of superintendence.

10. Every order made by the Court of Wards assuming, under section 6, 7 and 8, respectively, the superintendence of the person or property, or both, of any person shall take effect from the date fixed in this behalf in the notification published under section 9, and shall be final and shall not be called in question in any Court of Law.

Operation and finality of orders made under section, 6,7 and 8.

CHAPTER-III

INQUIRY AND ACTION PRECEDING ASSUMPTION OF SUPERINTENDENCE.

11. (1) For the purpose of satisfying himself as to whether, in respect

Inquiry by Deputy

¹. Subs. for the words "Local Government" by A.O., 1947.

². Subs. by A.O., 1937 for the word Gazette.

of any land-holder,-

Commissioner in order to satisfy himself as to whether action should be taken under this Act.

- (a) the ¹[Provincial Government] should be moved to make an order under sub-section (2) of section 5, or
- (b) the Court of Wards should be moved to make an order under section 6,

or for the purpose of making any report which may be called for in connection with any application of a land-holder under sub-section (1) of section 5, the Deputy Commissioner may make such inquiry into the circumstances of such land-holder as he may deem necessary, and, pending the taking of any such action, may issue such orders for the temporary custody and protection of the person or property, or both of such land-holder, as he thinks fit.

(2) if the land-holder be a minor, the Deputy Commissioner may direct that the person, if any, then having the custody of the minor, shall produce him, or cause him to be produced, at such place and time as the Deputy Commissioner appoints, and may make such orders for the future-custody of the minor, pending the orders of the Court of Wards, as he thinks proper.

(3) If the minor is a female who ought not to be compelled to appear in public, the direction under sub-section (2) shall require her to be produced in accordance with the manners and customs of the country.

(4) If the land-holder is alleged to be or is of unsound mind, the Deputy Commissioner shall make application to a competent Court in view to an inquiry being made by such Court for the purpose of ascertaining whether such person is or is not of unsound mind and incapable of managing his affairs.

12. (1) For the purposes of every inquiry to be made, or direction to be given, in pursuance of any of the provisions of this Act, the Deputy Commissioner may exercise all or any of the powers of a Civil Court under the ²Code of Civil Procedure.

Procedure in inquires.

(2) For the purpose of protecting the property, or any part thereof, or any land-holder, pending an inquiry under sub-section (1) of section 11, the Deputy Commissioner may subject to the direction and control of the Court of Wards, take possession thereof and appoint a manager and such care-takers in respect thereto as he may deem fit.

¹. Subs. for the words "Local Government" by A.O., 1947.

². See now the Code of Civil Procedure, 1908, (Act V of 1908), Pakistan Code Volume V.

CHAPTER-IV.

WARDSHIP AND ITS CONSEQUENCES.

13. (1) Upon the publication of notification under section 9, in respect of the property of any person, the whole of such property, at the date of the notification, shall vest in the Court of Wards, and shall remain so vested until the Court of Wards shall, by notification under section 50, divest itself of the superintendence of the whole or any part thereof, or is otherwise divested of such superintendence in due course of law.

Vesting of property of ward in the Court of Wards.

(2) All rights accruing to and property inherited by or vesting in any ward after the publication of notification under section 9, and while the property of such ward is under the superintendence of the Court of Wards, shall vest in the Court Wards:

Provided that the Court of Wards may, in its discretion assume, or refrain from assuming, the superintendence of any property which any ward may acquire, other-wise than by inheritance, subsequent to the date of the notification published under section 9.

14. No land under the Superintendence of the Court of Wards shall be sold for arrear of revenue accruing while such land is under such superintendence.

Non-liability of land vested in the Court of Wards to sale for arrears of revenue.

15. No ward shall be competent,-

Disabilities of wards.

- (a) to transfer or create any charge on, or interest in, the whole or any part of his property which is under the superintendence of the Court of Wards, or to enter into any contract which may involve him in pecuniary liability:

provided that nothing in this clause shall be deemed to affect the capacity of a ward to enter into a contract of marriage: but he shall not incur, in connection therewith, any pecuniary liability, except such as, having regard to the personal law to which he is subject, and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable;

- (b) without the previous sanction, in writing, of the Court of Wards, (1) to adopt, or (2) to give permission to adopt, or (3) to dispose of any property by will.

16. (1) When the property of any land-holder, in respect of whom an order has been made under sub-section (1) or on the last ground stated in sub-section (2) of section 5, is released from the superintendence of the Court of Wards, such land-holder shall not be competent, without the previous sanction of the ¹[Provincial Government] to alienate the whole or any part of the immovable property which has been so released, in

Continuing disabilities in certain cases.

¹. Subs. for the words "Local Government" by A.O., 1947, Sch I.

anyway, or to create any charge upon any such property extending beyond his lifetime, and every transfer made to or attempted to be made, or charge created or attempted to be created, in contravention of this provision, shall be void.

(2) No suit shall be brought whereby to charge any person upon any promise made after he has ceased to be a ward to pay any debt contracted during the period when he was a ward, or upon an ratification made after he has ceased to be award of any promise or contract made during the above period, whether there shall or shall not be any new consideration for such promise or ratification.

17. (1) The Court of Wards, may at any time, mortgage or sell the whole or any part of the property of a ward, and may grant leases or farms of the whole or any part of such property for such remissions of rental or other terms as it thinks fit, and may make such remissions of rental or other arrears and may generally and from time to time pass all such orders and do all such acts, not inconsistent with the provisions of this or any other enactment for the time being in force, as it may deem to be for the advantage of the ward or the benefit of his property.

Power of the Court of Wards to act on behalf of wards and to deal with their properties

(2) The Court of Wards may, for the purpose of raising a loan for the benefit of a ward or his property, hypothecate with the consent of the ¹[Provincial Government] any Jagir, mafi, pension or assignment of land-revenue held by the ward.

18. (1) All deeds, contracts or other instruments executed by the Court of Wards in the exercise of its powers of superintendence under this Act, shall be executed by the Court of Wards on its own name.

Deeds and other instruments.

(2) Covenants entered into by the Court of Wards shall be binding on the Court of Wards only so long as the ward or the property affected by such covenants remain under its superintendence and only to the extent of such property; and such covenants shall be binding on the ward or on the person entitled to such property after the ward or the property or both (as the case may be) shall have been released from superintendence.

(3) This section shall also apply to all deeds, contracts and other instruments executed before the commencement of this Act.

19. No suit relating to the person of any ward or to any property under the superintendence of the Court of Wards shall be instituted in any Civil or Revenue Court until the expiration of two months after notice in writing has been delivered to, or left at, the office of the Deputy Commissioner of the district specified in the order of assumption in the notification under section 9, stating the name and place of abode of the intending plaintiff, the cause of action, and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left:

Notice of suits.

¹. Subs. for the words "Local Government" by A.O., 1947.

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of the notification under section 9.

20. (1) No suit (a) by or on behalf of a ward, or (b) affecting any property under superintendence of the Court of Wards shall be brought without the authority of the Court of Wards or of such officer as it may appoint in that behalf, as in every such suit brought with such authority the Court of Wards shall be named as plaintiff.

Suits to be in name of Court of Wards.

(2) In every suit against a ward or affecting property under the superintendence of Court of Wards shall be named as the defendant.

(3) Suits brought by or against any Court of Wards may be instituted and conducted or defended on behalf of the Court of Wards by the Deputy Commissioner of the district specified in the order of assumption in the notification under section 9, or by the manager or other person authorised by general or special order or rule made under this Act, in that behalf, by the Court of Wards.

CHAPTER-V.

GENERAL PROVISIONS AS TO THE SUPERINTENDENCE OF THE PERSONS AND PROPERTIES OF WARDS.

21. As soon as conveniently may be after the assumption, by the Court of Wards, of the superintendence of the property of any person, the Deputy Commissioner of every district within which any part of such property may be situated, or some person authorised, in writing, by him in this behalf, shall take possession of all such property and all accounts and papers relating thereto, and shall do all other acts and things which may be necessary to secure and protect the same and place it under proper custody and control.

Court of Wards assuming superintendence of the property to take possession thereof. Procedure as to property situate in other districts.

22. The Court of Wards may from time to time direct such provision as it may think fit to be made in respect of the-

Power of Court of Wards as to superintendence control audit of accounts and management of legal affairs of wards and properties.

- (1) Superintendence and supervision of the persons of the wards and properties under its superintendence:
- (2) Periodical or special audit, by an independent auditor, of the accounts of properties generally, or of any particular property as it may think fit;
- (3) Management of the legal affairs of properties generally, or of any particular property, as it may think fit.

23. The Court of Wards may from time to time regulate the expenses to be incurred in the supervision, care and management of the ward and properties under its superintendence and generally in carrying out all or

Power of Court of Wards to charge expenses against properties under its

any of the purposes of this Act, and may order that such expenses, or any of them, including all salaries, gratuities and leave allowances of establishments and all contingent and other expenses whatsoever which it shall consider requisite, be charged against such property generally, or against any one or more properties comprised in such property for the purposes of such establishment, are, or have been entertained or such expenses have been incurred. superintendence.

24. (1) The Court of Wards may pass such orders as it thinks fit in respect of the residence of any ward whose person is for the time being under its superintendence, and when he is a male minor, in respect of his education. Residence and education of wards.

(2) The Court of Wards may from time to time require any such male minor ward to attend such tutor, class, school or college, for the purposes of education, as it thinks fit.

25. (1) The Court of Wards may from time to time determine what sums shall be allowed in respect of the expenses of any ward and of his family and dependants. Allowance for ward and his family.

(2) The Court of Wards may from time to time determine what sums may be spent on the education of any minor ward whose person is for the time being under its superintendence.

CHAPTER-VI.

ASCERTAINMENT AND LIQUIDATION OF LIABILITIES OF WARDS.

26. (1) On the publication of notification under section 9 the Deputy Commissioner of the District specified in the order of assumption or any other Deputy Commissioner whom the Court of Wards may appoint in that behalf shall publish in the ¹[Official Gazettee] a notice in both the English and the Urdu languages calling upon all persons having claims against the ward or against the property under the superintendence of the Court of Wards to notify the same in writing to such Deputy Commissioner within six months from the date of the publication of the notice. Notice to claimants.

(2) The notice may also be published at such places and in such other manner as the Court of Wards may, be general or special order, direct or by rule, made under this Act, prescribe.

(3) The Deputy Commissioner may, if he is satisfied that any claimant had reasonable excuse for not submitting his statement of claim within six months, receive his claim at any time after the expiry of the period aforesaid, but any claim so received shall, unless the Deputy Commissioner otherwise directs and notwithstanding any law, contract,

¹. Subs. for the word "Gazette" by A.O.,1937.

decree or award to the contrary, cease to carry interest from the date of the expiry of the period aforesaid.

27. (1) Every claimant shall, together with his statement of claim, present full particulars thereof. Presentation of claims.

(2) Every document (including entries in books of account) on which the claimant founds his claim, or on which he relies in support thereof, shall be produced before the Deputy Commission with the statement of claim.

(3) Every such document shall be accompanied by a true copy of the same. The Deputy Commissioner or such officer as he may appoint in that behalf, shall mark the original document for the purpose of identification, and after examining and comparing the copy with it shall retain the copy and return the original to the claimant.

28. The Deputy Commissioner shall, after such inquiry as he may consider necessary, decide as to each claim made against any ward or property, in manner in section 26 and section 27 provided whether such claim is, either in whole or in part, to be admitted or disallowed and shall intimate, in writing his decision in respect of each such claim to the claimant thereof. If such liabilities cannot be paid at once, the decision shall fix the interest (if any) to be paid thereon from the date of such decision to the date of the payment and discharge of such claim. Examination into, admission and rejection of claims.

29. Every debt or liability (other than debt due to, or liabilities incurred in favour of, ¹[Government] to which any ward is subject, or with which any property under the superintendence of the Court of Wards or any part thereof is charged, and which is not duly notified to the said Deputy Commission within the time and in the manner hereinbefore prescribed, shall, subject to the provisions of section 7 and section 13 of the ²Indian Limitation Act, 1877, be deemed for all purposes and on all occasions, whether during the continuance of the superintendence of the Court of Wards or after wards, to have been duly discharged: Bar of claims not duly notified.

Provided that the provisions of this section shall not be deemed to extinguish any such debt or liability in any case in which the Court of Wards, after assuming the superintendence of such property, releases the same from such superintendence ascertaining and dealing with the liabilities thereof as in this chapter provided in that behalf, and that, in any such case, in computing the period of Limitation applicable to any suit or application for the recovery of any such debt or the enforcement of any such liability, the time from the date of the notification of claim under section 26, to the date of the release of the property from the superintendence of the Court of Wards, shall be excluded.

30. If any document in the possession or under the control of the claimant is not produced by him as required by section 27, such document Exclusion of documents not

¹. Subs. for the word "the Crown" by W.P., A.O. of 1964, s.2 (i) Sch, Part-III, which was previously subs for the word "Government" by A.O., 1937.

². See now the Limitation Act, 1908, (IX of 1908) Pakistan Code, Volume V.

shall not be admissible in evidence in any suit or proceeding thereafter brought against a ward or as affecting any property under the superintendence of the Court of Wards by the claimant, or by any person claiming under him. produced.

31. (1) Nothing contained in this chapter shall be deemed to empower the Deputy Commissioner to disallow any claim, notified under section 26, which is based upon a decree passed by any competent Court, and any such decree may be proved by the production of a certified copy of the same accompanied by a certificate from the proper Court that such decree remains unsatisfied. Decrees against wards or their properties and their execution.

(2) On the publication of a notice under section 26, all suits and all proceedings in execution of any decree against a ward or as affecting any property under the superintendence of the Court of Wards then pending in any Civil Court shall be stayed until the plaintiff of the decree holder files a certificate that the claim has been notified in accordance with section 26.

(3) No fresh proceedings in execution of any decree against a ward or as affecting such property, other than a decree in respect of a transaction subsequent to the date of the notification under section-9 shall be instituted in, nor shall any attachment or other process in execution of such decree be issued by, any Civil Court, until the decree holder files a certificate to the effect specified in clause (2).

32. (1) Subject to the provisions of section 19 and section 31 nothing in this chapter shall be construed as preventing any claimant from bringing or prosecuting any suit, in any competent Court, in respect of any claim which has been duly notified, within the time and in the manner herein before prescribed, to the Deputy Commissioner, and which has, whether in whole or in part, been disallowed by him, but no suit shall at any time be brought or be maintainable in respect of any claim which has been not so notified or to set aside or modify the order of a Deputy Commissioner (if any), fixing a date for the payment of such claim or regulating the order in which claims against the ward or properties under the superintendence of the Court of Wards shall be paid. Saving of right to sue in certain cases.

(2) In computing any period of limitation prescribed by the ¹Indian Limitation Act, 1877, or section 230 of the ²Civil Procedure Code, every period during which proceedings have been stayed or temporarily barred by reasons of the provisions of this section or of section 31 shall be excluded.

33. No appeal shall lie from any decision given or order made by a Deputy Commissioner under this chapter but nothing in this section shall be deemed in any way to limit or interfere with the power of the Court of wards to revise any such decision or order. Appeal and revision.

¹. See now the Limitation Act, 1908, (IX of 1908) Pakistan Code, Volume V.

². See now the Code of Civil Procedure, 1908, Pakistan Code, Volume V.

34. For the purposes of this chapter, the ¹[Provincial Government], may, at any time or at any stage of any proceedings there under, invest any person with all or any of the powers of a Deputy Commissioner.

Provincial Government may confer the powers of Deputy Commissioner on any person.

CHAPTER-VII.

GUARDIANS AND MANAGERS.

35. (1) The Court of Wards may from time to time appoint guardians for the care of the persons of such wards as are minors or of unsound mind, or are suffering from any physical or mental defect or infirmity, or are female and unmarried, and may control and remove such guardians, and no appointment of a guardian for any ward shall be valid unless and until it has been confirmed by the Court of Wards.

Appointment, removal and control of guardians and tutors.

(2) In appointing a guardian under this section, the Court of Wards shall be guided, as far as may be, by the provisions of section 17 of the ²Guardian and Wards Act, 1890, and if a ward leaves or is removed from the custody of a guardian appointed under this section, the Deputy Commissioner of the District specified in the notification issued under section 9 may exercise the powers conferred by section 25 of the said Act on a Court as defined in that Act.

(3) The Court of Wards may appoint any person to be the tutor of any minor male ward and may control and remove such tutor. Every tutor so appointed shall discharge such duties and regulate his conduct in such manner as the Court of Wards may from time to time direct.

36. No person who would be the next legal heir of a ward, or would otherwise be immediately interested in outliving award, shall be appointed to be his guardian, but nothing in this section shall apply to the mother of a ward or to a testamentary guardian.

No person who can succeed to ward to be appointed guardian.

37. A guardian appointed under this chapter shall be charged with the custody of the ward, and shall, subject to the supervision and direction of the Court of Wards and the rules (if any) made, under this Act, in that behalf, make suitable provision for his maintenance, health and, if he be a minor, his education and such other matters as the personal law to which the ward is subject, requires and shall,-

Duties and responsibilities of guardians.

- (a) give such security, if any, as the Court of Wards thinks fit for the due performance of his duty;
- (b) submit such accounts as the Court of Wards may direct;
- (c) pay the balances due from him thereon;

¹. Subs. for the words "Local Government" by A.O., 1937.

². Pakistan Code, Volume, III.

- (d) continue liable to account to the Court of Wards, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship;
- (e) apply for the sanction of the Court of Wards to any act which may involve expense not previously sanctioned by it; and
- (f) be entitled to such salary or allowance, to be paid out of the proceeds of the property of the ward as the Court of Wards thinks fit, in respect of the execution of his duties as such.

38. The Court of Wards may appoint one or more managers for any properties under its superintendence and may control and remove such managers.

Appointment, control and removal of managers.

39. A manager appointed by the Court of Wards shall, subject to the supervision and direction of the Court of Wards, and the rules (if any) made, under this Act, in that behalf, have power to collect the rents of the lands placed under his charge as well as all other money due to the wards or person whose property he manages, and to grant receipts therefore; and he may subject to the same supervision, direction and rules (if any), grant and renew leases and farms, and do all such lawful acts as he may be generally or specially authorised by the Court of Wards to do for the good management of the property.

Powers of managers.

40. Every manager appointed by the Court of Wards shall, subject to the supervision and direction of the Court of wards, and to the rules (if any) made, under this Act, in that behalf, manage the property or properties placed under his charge diligently and faithfully, and he shall,-

Duties and responsibilities of managers.

- (a) give such security, if any, as the Court of Wards thinks fit, duly to account for what he may receive in respect of the rents and profits and other income of the property under his charge;
- (b) keep accounts in such form and submit them at such times as the Court of Wards may direct;
- (c) deal with all money received by him in such manner as the Court of Wards may direct;
- (d) apply for the sanction of the Court of Wards to any act which may involve the property in expense not previously sanctioned by it;
- (e) be entitled to such salary or allowance, to be paid out of the proceeds of such property, as the Court of Wards thinks fit, in respect of the execution of his duties;
- (f) be responsible for any loss occasioned to the property by his negligence or willful default; and

- (g) continue liable to account to the Court of Wards after he has ceased to be manager for his receipts and disbursements during the period of his management.

41. The appointment of every guardian or manager appointed under this chapter, shall terminate on the Court of Wards ceasing exercise superintendence of the person or property in respect of whom or which such guardian or manager, as the case may be, has been appointed.

Termination of appointment of guardian or manager.

42. (1) Every guardian and manager appointed under this chapter shall be deemed to be a public servant within the meaning of section 21 of the ¹Indian Penal Code and for the purposes of that Code.

Guardians and managers to be deemed to be public servants and certain guardians to be deemed to be public accountants.

(2) Every such manager shall be deemed to be a public accountant within the meaning of the Public Accountants Act, 1850 and every such guardian shall be deemed to be a Public Accountant within the meaning and for the purposes of section 3 to 5 of the Public Accountants Act, 1850.

(3) In the definition of legal remuneration contained in section 161 of the ²Indian Penal Code the word "Government" shall, for the purposes of this section, be deemed to include the Court of Wards.

43. If no such guardian or manager is appointed by the Court of Wards, the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9 or any other Deputy Commissioner whom the Court of Wards may appoint in that behalf, shall be competent to do anything that might be lawfully done by a guardian of the person or a manager of the property appointed under this chapter.

Deputy Commissioner when to discharge the duties of guardian or manager.

CHAPTER-VIII.

RELEASE OF PERSONS AND PROPERTIES FROM SUPERINTENDENCE.

44. The Court of Wards may, at any time, release any person or property or both, from its superintendence:

Power to release from superintendence.

Provided that the property of a land holder who has been made a ward in accordance with an order made under section 5, shall not be released from the superintendence of the Court of Wards without the previous sanction of ³[the Provincial Government]:

Provided, further that persons or property under the charge of the Court of Wards, in accordance with the provisions of sub-section (2) of section 7, shall not be released without the concurrence of the Court which appointed or declared the Deputy Commissioner to be guardian of the person or property, or both, of the person concerned, under the Guardian and Wards Act, 1890.

¹. Now the Pakistan Penal Code, 1860 Pakistan Code, Vol. 1.

². Pakistan Code, Vol. 1.

³. Subs. for the words "Local Government" by A.O., 1937.

45. (1) Whenever a ward dies or ceases to be under any legal incapacity, and his property is, at the time to his death or cessation of incapacity, still encumbered with debts and liabilities, the Court of Wards may either release such property or, with the sanction of the ¹[Provincial Government] retain it or any part thereof under its superintendence until such debts and liabilities have been discharged.

Retention of superintendence of property until discharge of debts.

(2) In any case provided for in sub-section (1) the Court of Wards may together with the property of any such ward also retain, until the said debts and liabilities have been discharged, the property of which it has assumed the superintendence under section 8.

46. If, in the case of any property, there are more proprietors than one, the Court of Wards may retain the whole property under its superintendence if one or more of the proprietors remain Wards, although other or others may have ceased to be under any legal incapacity:

Retention of superintendence where there are more proprietors than one.

Provided that in such cases a proprietor who has ceased to be disqualified shall not, after the cessation of such disqualification, be deemed to be ward for the purposes of this Act, and the Court of Wards shall pay to such proprietor the surplus income accruing from his share of the joint property.

47. (1) When the Court of Wards decides to release from its superintendence the person or property, or both, of any minor, it may, before such release, by an order in writing, appoint any person to be the guardian of the person or property, or both, of such minor.

Appointment of guardian on release of minor.

(2) Such appointment shall take effect from the date of such release.

(3) In appointing a guardian under this section the Court of Wards shall be guided by the provisions of section 17 of the Guardian and Wards Act, 1890, and in every such case the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9 shall have the powers conferred upon a Deputy Commissioner under section 35 (2).

(4) Every such guardian shall have and be subject to the same rights, duties and liabilities as if he had been appointed under the Guardian and Wards Act, 1890.

48. Whenever, in the event of the death of any person of whose property the Court of Wards has assumed superintendence, the succession to his property or any part thereof, is unclaimed or disputed, the Court of Wards may either direct that the property, or part thereof, be made over to any person entitled to or claiming the same, or may institute suit of interpleader against the several claimants, or may retain the superintendence thereof until a claimant has, in due course of law, established his title

Disposal of property after the death of a person of whose property the Court of Wards has assumed superintendence.

¹. Subs. for the words "Local Government" by A.O., 1947.

thereto in a competent Court.

49. Whenever the Court of Wards releases the property of any person from its superintendence, it shall deliver to such person or if it has appointed a guardian under sub-section (1) of section 47, to such guardian all documents of title and all papers and accounts (other than Government records) relating to such property.

Delivery of documents and accounts on release of property.

50. Whenever the Court of Wards releases any person or property from its superintendence, the fact of such release shall be notified in the ¹[Official Gazette] and such release, shall take effect from the date fixed in this behalf in the notification.

Notifications as to release from superintendence.

51. Any expense incurred by the Court of Wards on account of any property under its superintendence may, after the release of such property, be recovered as an arrear of land revenue due in respect of such property or any part thereof.

Recovery of expenses.

CHAPTER-IX.

MISCELLANEOUS PROVISIONS.

52. (1) No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act.

Bar of suits and proceedings.

(2) No suit shall be brought against any officer of Government or any guardian, manager or servant appointed by and discharging his duties under a Court of Wards for anything done by him in good faith under this Act.

53. Every investigation conducted by a Deputy Commissioner with reference to any claim preferred before him under Chapter VI or Chapter VII or to any matter connected with any such claim shall be taken to be a judicial proceeding within the meaning of the ²Indian Penal Code.

Investigations into matters under Chapters-IV and VII to be considered judicial proceedings.

54. The Court of Wards may, with the previous sanction of the ³[Provincial Government] make ⁴rules consistent with this Act, regulating all or any of the following matters, namely:-

Power to make rules.

- (a) the Management of properties or of all or any property under the superintendence of the Court of Wards;
- (b) the procedure to be observed and the powers to be exercised by all or any persons in all or any proceedings under this Act; and

¹. Subs. for "Gazette" by the A.O., 1937.

². Now the Pakistan Penal Code, 1866 Pakistan Code, Vol. 1.

³. Subs. for the words "Local Government" by A.O., 1937.

⁴. For rules for Khyber Pakhtunkhwa, see Gazette of India, 1905, Part, II, p 459.

- (c) generally for the purpose of giving effect to all or any of the provisions of this Act.

SCHEDULE.

ENACTMENTS REPEALED.

| Number and year. | Title. | Extent of repeal. |
|------------------|--|---|
| XXVI of 1854 | Education of male minors subject to the superintendence of the Court of Wards. | The whole so far as it applies to the Punjab. |
| IV of 1872 | The Punjab Laws Act, 1872. | Section 34 to 38, inclusive. |
| XII of 1878 | Amendment of the Punjab Laws Act, 1872. | Section 3 and 4. |