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Bihar Irrigation Act, 1997

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An Act to provide for and consolidate the law relating to irrigation embankment, drainage, levy and assessment of water rates, better contribution and matters related therewith.

Be it enacted by the Legislature of the State of Bihar in the forty-eighth year of the Republic of India as follows:

CHAPTER I – PRELIMINARY

1. This Act may be called the Bihar Irrigation Act, 1997.
2. It extends to the whole of the State of Bihar.
3. It shall come into force at once.

2. Definitions

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

- a. ‘Assured irrigable command’ means an area declared to be an assured irrigable command area under section 50.
- b. ‘Beneficiary’ means:
 - i. In relation to any irrigation channel, a person whose land is irrigated or is capable of being irrigated by any irrigation work of the State Government;
 - ii. In relation to any flood embankment work, a person whose land is protected or is likely to be protected by such embankment;
 - iii. In relation to any drainage work a person whose land is benefited or is likely to be benefited from such drainage work.
- c. ‘Betterment contribution’ means contribution levied under chapter XII of this Act.
- d. ‘Betterment levy officer’ means such officer as the State Government may appoint to be the betterment levy officer in respect of any area of an irrigation work, or portion of an irrigation work.
- e. ‘Block’ means an area defined as such under section 2 of the Bihar Panchayat Raj Act, 1993 (Bihar Act 19 of 1993).
- f. ‘Block Development Officer’ means an officer appointed as such under section 2 of the Bihar Panchayat Raj Act, 1993 (Bihar Act 19 of 1993).
- g. ‘Canal Revenue’ means and includes water rate, betterment contribution, water cess, license fee for fishing and navigation, sale of grass, trees and other produce from the land belonging to irrigation work, proceeds from lease of land belonging to irrigation work, and from water mills.
- h. ‘Collector’ means the head revenue officer of a district and includes a deputy Commissioner or other officer appointed by the State Government to exercise all or any of the powers of a Collector.
- i. ‘Culturable commanded area’ means all lands which are fit for cultivation under irrigable command of an irrigation work.
- j. ‘Canal’ means and includes:
 - i. ‘Main canal’. which takes off from an irrigation work and normally does not irrigate the fields directly;

- ii. 'Branch Canal' which branches off from main canal and feeds the distributaries, like main canal the branch canal may not irrigate the field directly;
 - iii. 'Distributary/Sub-distributary' which takes off directly from main canal or branch canals or a larger distributary to distribute water to minors and watercourses;
 - iv. 'Minor' which takes off from a distributary or sub-distributary to distribute water to other minor watercourses and/or field channels, capacities of the minors may be different in different projects/schemes;
 - v. 'Water course' which takes off from a distributary or a minor to distribute water to the field channels. Its capacity may be different in different projects/schemes;
 - vi. 'Outlet' which is an opening constructed in an irrigation work through which water is delivered to a field channel or directly to the fields.
- k. 'Drainage work' means and includes:
- i. Channels either natural or artificial for the discharge of waste or surplus water and all works connected with or auxiliary to such channel;
 - ii. Escape channel from an irrigation work, dams, weirs, embankments, flood embankments, sluices, groynes and other works connected therewith, but does not include works for the removal of sewage;
 - iii. Any work in connection with a system of reclamation made or improved by State Government for the purpose of drainage of an area;
 - iv. all field drains, namely, drains, except channels and other similar works constructed and maintained by the owners or occupiers or by the State Government on behalf and at the cost of the owners or occupiers.
- l. 'Embankment' means and includes every bank, dam, wall and dyke made or used for excluding water from or for retaining water upon any land; every sluice, spur, groyne, training wall or other work annexed to, or portion of any such embankment; every bank, dam, dyke, wall groyne or spur made or erected for the protection of any such embankment or of any land from erosion or over flow by or of river, tides, waves or waters; and also all buildings and roads, intended for purpose of inspection and supervision and public embankment maintained by the State Government.
- m.
- i. 'Engineer' means an engineer in charge of irrigation works in the area or any engineer specially appointed by the State Government to perform the function of an engineer under this Act;
 - ii. 'Chief Engineer' means the Chief Engineer of the Water Resources Department of the State Government, and includes any person appointed by the State Government, by notification to be Chief Engineer for the purposes of this Act either generally or in respect of any proposed work or sanctioned work specified in such notification who shall be responsible and answerable for the proper and efficient working of the branch of irrigation works under him and work as professional advisor to Government in all matters relating to his branch.
 - iii. 'Superintending Engineer' means an officer appointed by the State Government to be superintending engineer in charge of a circle, an administrative unit of Water Resources Department who shall be responsible to the Chief Engineer for the administration and general professional control of irrigation works and officers of the department within his

circle and includes any person appointed by the State Government, by notification to be Superintending Engineer for the purposes of this Act either generally or in respect of any proposed work or sanctioned work specified in such notification.

iv. 'Executive Engineer' means an officer appointed by the State Government to be executive engineer in charge of a division, an executive unit of Water Resources Department who shall be responsible to Superintending Engineer for execution and management of all works in his division and includes any person appointed by the State Government by notification to be Executive Engineer for the purpose of this Act either generally or in respect of any proposed or sanctioned work specified in such notification.

v. 'Divisional Canal Officer' means an Executive Engineer exercising control over a division of an irrigation work, or a portion of an irrigation work and includes any person appointed by the State Government by notification to be Divisional Canal Officer for the purpose of this Act either generally or in respect of any proposed work or sanctioned work specified in such notification.

vi. 'Canal Officer' means an officer exercising control over a sub-division of an irrigation work or portion of an irrigation work and includes an officer to whom any of the function of a Canal Officer under this Act have been assigned by the State Government.

n. 'Improved land' means the land fit for cultivation before the execution of any works under this Act but of which the productive powers have been increased by such works.

o. 'Irrigation work' means and includes:

i. All reservoirs, tanks, dams, barrages, weirs, canals, channels, domestic water supply works, pipes, ponds, springs-ponds, spring channels, aqueducts, sluices, lift irrigation through pumping installations, constructed, maintained or controlled by the State Government for the supply or storage of water;

ii. All works, embankments, structures, control structures including outlets, supply and escape channels, connected with such reservoirs, tanks, dams, barrages, weirs, canals, channels, domestic water supply works, pipes, ponds, spring ponds, spring channels, aqueducts, sluices, pumping installations and roads constructed for facilitating the construction or maintenance and operation of such works;

iii. All drainage works, flood embankments, wells and village channels;

iv. Any part of a river, stream, lake or natural collection of water or natural drainage and groundwater to which the State Government has applied the provisions of this Act; and

v. All lands held by the State Government for the purpose of such reservoirs, tanks, dams, barrages, weirs, canals, channels, domestic water supply works, pipes, ponds, spring ponds, spring channels, aqueducts, sluices, pumping installations and all buildings, machinery, fences, gates and other erections upon such lands.

p. 'Land' means and includes interest in land, benefit arising out of land and things attached to the earth or permanently fastened to anything attached to the earth.

q. 'Lands under irrigable command' means such lands as are irrigated or capable of being irrigated by flow or lift from an irrigation work being under its command and shall include also such cultivated land which receives, in the opinion of the Executive Engineer, by seepage or otherwise from an irrigation work or by indirect flow, percolation or drainage from or through adjoining land, an advantage beneficial to the crop.

- r. 'Lift irrigation' means irrigation by lifting water by means of a pump operated otherwise than by human or animal power.
- s. 'Line of navigation' means canal navigation.
- t. 'Notification' means a notification published in the Official Gazette.
- u. 'Occupier' means and includes an occupier of land who cultivates or possesses the same for the time being.
- v. 'On-farm development' means and includes any of the following works:
- i. Land-levelling and land shaping including realignment of field boundaries;
 - ii. Providing of falls, culverts, other necessary structures and farm roads in the fields;
 - iii. Land reclamation by use of engineering, biological and chemical measures, including leaching;
 - iv. Contour bunding and nala bunding;
 - v. Such other works as may be necessary or incidental to development of land or ground or flow water potential and for optimising the utilisation of land and water resources.
- w. 'Owner' means and includes every person having interest in the ownership of land or property and the rights and obligations attached to an owner under the provisions of this Act shall attach, jointly and severally, to every person having such joint interest in the ownership.
- x. 'Prescribed' means prescribed by rules made under this Act.
- y. 'Probable irrigable command area' means an area declared to be a probable irrigable command area under this Act.
- z. 'Reclaimed land' means land which was unfit for cultivation before the execution of any work under this Act, but which has been rendered productive by such work.
- aa. 'Vessel' includes any ship, barge, boat, raft, timber, bamboos, or floating materials propelled in any manner;
- ab.
- i. 'Village channel' means a channel or a field channel by which water is led from canal into fields to be irrigated and includes all subsidiary works connected with any such channels except the head sluice through which water is supplied from a canal to such channel, constructed by owners or occupiers or beneficiaries or State Government on their behalf and at their cost and maintained by such owners or occupiers or beneficiaries or by the State Government at their cost and on their behalf; Government distributaries, sub-distributaries, minors and watercourses will also be treated as village channels if these are turned over to the beneficiaries or their representatives or water users' associations formed by the beneficiaries to be maintained and operated by them at their cost, either fully or with part Government grants and will be governed by provisions of Chapter X of this Act;
 - ii. 'Field channel' is a channel constructed from an outlet to or into the irrigation chuk and includes all subsidiary works except the outlet through which water is supplied from an irrigation work;
 - iii. 'Farm channel' is a temporary or permanent channel constructed by the farmers in their fields for taking water from field channels for irrigation;

ac. 'Water users' association' means the water users' association formed by the beneficiaries of a canals or part thereof for maintenance and operation of canal and utilisation of canal water and registered under the Societies Registration Act, 1860 (Act 21 of 1860);

ad. 'Well' means a well sunk for search or extraction of groundwater and includes an open well, dug well, bored well, dug cum bored well, tubewell and filter point.

CHAPTER II – RIGHTS

3. Rights of the State Government in Water

1. All rights in the water of any river, natural stream or natural drainage channel, natural lake or other natural collection of water shall vest in the State Government subject to the provisions of Article 262 and Entry 56 of list of Seventh Schedule of Constitution of India.¹

2. When the State Government proposes to construct a canal it shall publish a notification declaring its intention and indicating the site of head work.

3. No rights shall be acquired against the government under the provisions of the Indian Easements Act, 1882 in the water of any river, natural stream or natural drainage channel, lake or other natural collection of water, which supply water to a canal existing or under construction at the commencement of this Act or any of whose water will supply the canal when constructed.²

4. Irrigation Work to Vest in Government

Every irrigation work and all land, earth, pathways, gates, beams and hedges belonging to, or forming part of or standing on any such irrigation work and every embarked tow path along the embankment maintained by the State Government shall vest in the State Government.

5. Survey of Lands Used for Obtaining Earth for Repairs

1. All plots or parcels of land which, before the commencement of this Act, have been used for the purpose of obtaining earth or other materials for the repair of any irrigation work, natural channel and reservoir, embanked tow path or which by agreement have been substituted for such lands, shall be deemed to be at the disposal of the State Government for such purpose without payment of compensation for the use or removal of such earth or other materials.

2. The collector may cause all such plots or parcels of land to be ascertained, surveyed and demarcated.

CHAPTER III – POWERS OF OFFICERS

6. Entry for Enquiry

Whenever it becomes necessary to make any enquiry or examination in connection with a projected irrigation work or its construction or with the maintenance of an existing irrigation work or with the application or use of the water of any irrigation work for the purpose of regulation, supply or storage of water, any Canal Officer duly empowered in this behalf may:

¹ Editorial note: Article 262 and Entry 56 of the Seventh Schedule are reproduced at p **Error! Bookmark not defined.**

² Editorial note: Extracts from the Easements Act are reproduced above at p **Error! Bookmark not defined.**

- a. enter upon such land and structure or anything attached to land as he may think necessary for the purpose;
- b. undertake survey or take levels thereon;
- c. dig and bore into the subsoil;
- d. where otherwise such enquiry cannot be completed, cut down and clear away any part of any standing crop, fence or jungle;
- e. exercise all powers and do all things in respect of such land as he might exercise and do if the State Government had issued a notification under the provisions of section 4 of the Land Acquisition Act, 1894 to the effect that land in that locality is likely to be needed for a public purpose;³ and
- f. set up and maintain gauge discharge or silt measurement stations and do all other things necessary for purposes of such inquiry and examination.

7. Power to Inspect and Regulate the Water Supply

Any Canal Officer or any person acting under his general or special orders in this behalf may enter upon any land, building, village channel on account of which any water rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a canal revenue and of doing all things necessary for the proper regulation and management of the irrigation work from which such water is supplied.

8. Notice to Occupier of Building

When such Canal Officer or such person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, and not being adjacent to a flood embankment, he shall previously give to the occupier of such building, court or garden such reasonable notice as the urgency of the case may allow.

9. Power to Make Repairs

The Engineer may make repairs and may do all acts necessary and proper for the maintenance of, any irrigation work or any other work executed or taken charge of under the provisions of this Act.

10. Power to Make Temporary Roadway, Water Channel or Dam

1. Whenever any person desires that a temporary roadway should be made over an irrigation work or that a temporary water channel should be made through any public embankment, or that a temporary dam should be constructed in any embanked river or public water-channel, he shall apply to the Executive Engineer in charge.
2. Such engineer shall transmit the application with his opinion to the Superintending Engineer, and shall await his order in respect thereof, unless he thinks that there is special reason for the immediate execution of the work, in which case he may execute the same without awaiting for the orders of the Superintending Engineer.
3. If the proposed work is to be executed by an officer of the Government, the applicant, before the commencement of the work, shall deposit the amount estimated by the Executive

³ Editorial note: Section 4 of the Land Acquisition Act is reproduced above at p **Error! Bookmark not defined.**

Engineer to be necessary to defray the expenses of, and incidental to making and removing such roadway, or of and incidental to making, closing, removing such water channel or dam.

4. If the amount deposited is found afterwards to exceed the amount required, such excess amount shall be returned to the said applicant and likewise if the actual expenditure is more than the amount deposited, the balance amount shall be recovered from the said applicant.

11. Power to Take Earth from Lands

Whenever it is requisite to repair any irrigation work, embankment or water channel or embanked towpath maintained by the State Government, it shall be lawful for the Executive Engineer, or any person authorised in that behalf, to enter in and upon any land and take possession of, appropriate and remove any earth or other material there from, and use the same for the purposes of such repairs.

CHAPTER IV – IRRIGATION

12. Notification When Water to be Supplied for Public Purposes

1. Whenever it appears expedient to the State Government that the water of any river (including its tributaries) or stream flowing in a natural channel or of any lake or any other natural collection of still water or groundwater or water flowing in a channel where such water or part thereof, is received from any irrigation work constructed by the State Government, whether by percolation, regeneration, release, or otherwise should be applied or used by the State Government for the purpose of any existing or projected irrigation work, or for the regulation, supply of storage of water, the State Government may by notification declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

2. As soon as practicable after the issue of a notification under subsection (1), the Divisional Canal Officer or any officer duly empowered under this Act shall cause public notice to be given at convenient places, stating that the State Government intends to apply or use the water referred to in that subsection.

3. The application or use of the said water or the application or use of water of any irrigation work under the management or control of the State Government shall be regulated according to the provisions of this Act.

4. Where the State Government is of the opinion that in the interest of proper irrigation from any irrigation work constructed or proposed to be constructed it is necessary to control the construction of wells for any purpose other than exclusively domestic use, either on personal or community basis, in any area or areas the State Government may by notification specify such area or areas, and there upon no person shall within such area or areas construct any such well except with previous sanction of the State Government or other authority authorised by the State Government in this behalf, and subject to such conditions as the State Government or such authority may impose.

5. Where the State Government is of the opinion that in the interest of proper irrigation from any irrigation work constructed or proposed to be constructed it is necessary to regulate the operation of the existing wells for any purpose other than exclusively domestic use, either on personal or community basis, in any area or areas, the State Government may by notification specify such area or areas and impose such conditions as it may deem fit with regard to extraction of water therefrom. There upon no person shall within such area or areas extract water from such well except according to conditions which the State Government may impose.

6. When the State Government is of the opinion that in the interest of proper irrigation, a block of land under any existing or proposed irrigation work is to be transferred to another proposed or existing work or completely excluded from any existing work, the State Government may by notification specify such area and such works to take effect from a date specified in the notification, not being earlier than six months from the date thereof.

7. When the State Government is of the opinion that in the interest of proper utilisation of available water resources, it is necessary to subject a block of land for temporary submersion without damage to crop, the State Government may by notification specify such areas and period of such submersion on a date specified in the notification, not being earlier than six months from the date thereof.

CHAPTER V – DRAINAGE AND PREVENTION OF WATER LOGGING

13. Prohibition of Obstructions

1. Whenever it appears to the State Government that injury to the public health or public convenience or to any irrigation work or to any land for which irrigation from a canal is available, has arisen or may arise from the encroachment of any river, stream or natural-drainage course, the State Government may, by notification published in the official Gazette, prohibit, within limits to be specified in such notification, the formation of any such encroachment or may order the removal or other modification of such encroachment.

2. Thereupon so much of the said river, streams or natural drainage channel as is comprised within such limits shall be held to be a drainage work.

14. Order to Remove Obstructions

The canal officer or other person authorised by the State Government in that behalf may, after such notification, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

15. Removal of Encroachment

If, within the time so fixed, such person does not comply with the order, the canal officer may cause the encroachment to be removed or modified; the expenses involved in such removal or modification, shall be recovered from person concerned:

Provided that the Divisional Canal Officer may, in cases of emergency, remove the encroachment before the publication of notification and the expenses incurred shall be recoverable from the person concerned.

16. Notification for Construction of Drainage Work

1. Whenever it appears to the State Government that any drainage work excluding field drainage is necessary in the interest of public health, or for improvement of any lands, or for proper cultivation or irrigation thereof or that protection from floods or other accumulation of water or injurious salt or from erosion by a river, is required for any lands, the State Government may by notification declare that the drainage work shall be constructed after a day to be mentioned in the said notification, not being earlier than three months from the date thereof.

2. As soon as practicable after the issue of a notification under sub section (i) the Divisional Canal Officer or any Officer duly empowered under this Act shall cause public notice to be given at convenient places, stating that the State Government intends to construct the drainage work excluding field drain.

17. Execution of Drainage Schemes

After the day mentioned in the notification under section 16, the State Government may cause a scheme for such works to be drawn up and carried into execution, and the Divisional Canal Officer or any officer authorised by the State Government to draw up and execute such scheme may exercise in connection therewith all or any of the powers conferred on canal officers and shall be liable to any or all of the obligations imposed upon canal officers.

CHAPTER VI – EMBANKMENT WORKS

18. Execution of Embankment Work

1. Whenever it appears to the concerned Divisional Officer (EE) of the department that any of the following acts should be done, or works executed, that is to say:

a. that any embankment which connects public embankments or forms by function with the part of a line of embankments, or that any embankment or water channel which is necessary for the protection or drainage of the neighbouring country, should be taken charge of and maintained by the officers of Government;

b. that any embankment, or any obstruction of any kind, which endangers the stability of a public embankment or the safety of any town or village, or which is likely to cause loss of property by interfering with the general drainage or flood drainage of any tract of lands, should be removed or altered;

c. that the line of any public embankment should be changed or lengthened or that a new public embankment should be constructed instead of any public embankment, or that any embankment should be constructed for the protection of any land or for the improvement of any water channel, or that a sluice in any public embankment should be made;

d. that any sluice or water channel should be made, or that any public water channel should be altered for the improvement of the public health or for the protection of any village or cultivable land;

e. That any road which interferes with the drainage of any tract of land should be altered, or that any water channel under or through such road should be constructed.

2. The concerned Divisional Officer (EE) shall cause to be prepared estimates of the cost of such works together with plans and specifications of the same as may be required, he shall also cause to be prepared from the survey map of the district, a map showing the boundaries of the lands likely to be affected by the said acts and work, and he shall cause a general notice to be given on his intention to cause such works to be executed:

Provided that whenever it shall appear to the concerned Divisional officer (EE) that delay in execution of any works occasioned by proceeding commenced by a general notice under the Act would be attended with grave and imminent danger of life or property, he may forthwith cause the execution of such works to be begun in anticipation of the completion of such proceeding:

Provided further that without delay the estimates, specifications and plans of the proposed works together with a copy of the map as provided shall be prepared and general notice shall be given that the work mentioned therein has already been commenced.

19. Form of Notice

Such general notice as may be prescribed shall be given along with a list of all villages, as far as is known, which are likely to be affected by the proposed work.

20. Application for New Sluices, Embankments and Drainage

If any person desires that:

- a. a sluice be made in any public embankment for the purpose of drainage or irrigation; or
- b. any new embankment be erected, or any existing embankment be lengthened, enlarged, repaired or removed, or that the line of any embankment be altered or that any new water channel be made, or that any water channel be obstructed or diverted;

he may make an application in writing to the concerned Executive Engineer.

21. Operation of Sluices

Sluices constructed in any public embankment shall be opened only by or with the general or special permission of the Executive Engineer or of the officer in the immediate charge of the embankment, under such order, either general or special, as he may receive from the Executive Engineer.

CHAPTER VII – PRIVATE IRRIGATION WORKS

22. Notice by Collector for Repair of Existing Irrigation Work or Construction of New Work

1. Whenever it appears to the Collector:

- a. that the repair of an existing private irrigation work is necessary for the benefit of any village or local area within the district and that the failure to repair such irrigation works adversely affects, or is likely to affect adversely, the lands which are dependent thereon for supply of water; or
- b. that it is desirable for the purpose of settling or averting dispute of preventing waste of water or injury to land by the wrongful or undue diversion of a stream or channel or any sluice, weir, outlet, escape, headwork dam or other work should be constructed in any private irrigation work, in order to regulate the supply or distribution of water for agriculture purpose.

2. If he is satisfied that the matter is of public importance, he may:

- a. cause in the prescribed manner a notice to be served on the owner of the land in which the irrigation work is situated and public notice to be given at convenient places in every village in which such irrigation work is situated stating that he intends to take action under this chapter for the repair of the said work or for extending or altering it and specifying the date on which an inquiry shall be held;
- b. serve a notice in the prescribed manner on every person known or believed to be under an obligation to maintain the irrigation work in an efficient state calling on him to show cause on the date specified in the notice why he should not be required to repair the said work or extend or alter it as aforesaid.

23. Inquiry by Collector

On the date fixed in the notices or any other date to which the proceedings may be adjourned, the Collector shall hold an inquiry and shall hear the persons on whom the notices have been served and any other persons affected or likely to be affected by the order who may attend, and may take down in writing any evidence that he may think fit regarding:

- a. the necessity for repairing, extending or altering the said irrigation work;
- b. the nature of the works required for such repair (extension or alteration);

- c. the obligation to maintain the irrigation work in an efficient state and the reasons why the person under such obligation has failed to repair it; and
- d. the probable cost of the proposed work of repair, extension or alteration.

24. Power of Collector to Order Repair or Construction

If after making the said inquiry the Collector is satisfied that the state of disrepair of the irrigation work is such as materially affects or is likely to affect materially the irrigation of the lands which are dependent thereon for supply of water or that any extension or alteration of such irrigation work is necessary, he shall, subject to the provisions of clause (a), issue an order in writing requiring that the proposed work of repair, extension or alteration shall be carried out:

- a. by one or more of the persons on whom notice under clause (b) of subsection (2) of section 22 have been served and who agrees or agree to carry out the said work; or
- b. by any such agency as he thinks proper, for reasons to be recorded in writing.

25. Proceedings in Emergencies

1. Notwithstanding anything to the contrary contained in this Act, whenever the Collector, for reasons to be recorded by him, is of opinion that the delay in the repair of any existing irrigation works adversely affects or is likely to affect adversely lands which are dependent on such irrigation work for supply of water, he may forthwith cause the repair of such irrigation work:

Provided that the Collector shall cause public notice to be given at convenient places in every village in which the irrigation work is situated stating that the work mentioned therein has already been begun.

2. When any such work has been completed, the Collector shall cause notice to be given in the manner aforesaid stating that the work mentioned therein has been completed.

26. Delegation by Collector of Authority to Repair or Construct

If any person required to carry out any work of repair, extension or alteration fails to do so in the manner and within the period specified or within such further period, if any, as may be allowed by the Collector in writing, the Collector may subject to the rules prescribed by a written order, authorise any agency to carry out the said work in the manner and within the period specified in the order.

CHAPTER VIII – NAVIGATION WORKS

27. Navigable Channels

It shall be lawful for the State Government from time to time, by notification to that effect published in the official Gazette to declare that the provisions of this chapter shall apply to any line of navigation specified in such notification and from and after such publication the provisions of this chapter shall apply to, and be in force as regards, such navigation channel.

28. Authority for Navigable Channels

It shall be lawful for the State Government from time to time, to authorise any of the concerned officers to make and open any line of navigation or to clear and deepen any navigable canal and to stop any watercourse, or make any tracking path, or do any other act necessary for the making or improvement of any such canal.

29. Appointment of Supervisor and their Power

It shall be lawful for the State Government to appoint any person to be the supervisor of any line of navigation subject to the provisions of this chapter, and such person shall be empowered to cut down and remove any tree which may have fallen or may be likely to fall into such line of navigation and to remove any sunken vessel, and to prevent or remove any other obstruction to navigation, of whatever description, whenever he may think it necessary.

30. Mode of Exercising Power

1. Whenever such supervisor shall consider that the cutting down and removal of any tree or the removal of any other obstruction is necessary, he may in cases of emergency at once remove the same, and may for that purpose enter on any private property.
2. In cases not of an emergent nature, he shall serve a notice in writing on the owner or occupier of such private property, directing him to remove the same within a reasonable time.
3. If the owner or occupier cannot be found, notice may be served by affixing it in some conspicuous place of his dwelling house.
4. If the owner or occupier shall not remove the obstruction within the time given in the notice, the supervisor may proceed to remove it himself and may for that purpose enter on any private property.
5. Payment of all expenses of such removal may be enforced by the sale of the thing removed in the manner provided for the recovery of tolls as provided in this Act.

CHAPTER – IX – VILLAGE CHANNELS

31. Register of Village Channels to be Kept

1. The Canal Officer shall keep a register of all village channels whether already existing or constructed under this Act, and shall note thereon in respect of every village channel whether it is a public channel or a private channel and whether maintained at the cost of the Government or the owners, and shall register the names of the owners of every such private channel.
2. A village channel made as an extension of, or a branch to, an existing village channel shall be registered as a separate village channel; and so much of the length of any village channel as lies within the limits of any one village or mauza shall be entered on the register as a separate village channel. Every section of a village channel so separately entered on the register shall be deemed to be a separate village channel in respect of all rights and liabilities imposed by this Act:

Provided that, whenever it appears to the canal officer for any special reason to enter upon his register as one village channel a section of village channel which includes portions lying within two or more villages or mouzas, the canal officer may register such section as one village channel and such section shall be deemed to be one village channel in respect of all rights and liabilities imposed by this Act.

32. Acquisition of Village Channel by Agreement

Any person may, with the consent of the Canal Officer, acquire the ownership of an existing village channel for the purpose of improving or maintaining it:

- a. by taking over any village channel belonging to the Government;
- b. by transfer of ownership of village channel from the owner thereof by private agreement.

Explanation: 'Person' in this chapter includes any number of persons acting jointly and also a water users' association.

33. Construction of New Village Channel

Any person may with the permission of a canal officer, construct a new village channel if he has obtained the consent of the owners and occupiers of the land required therefore.

34. Application for Construction of new Village Channel

Any person desiring the construction of a new village channel, but being unable or unwilling to construct it under a private arrangement with the owners and occupiers of the land affected, as mentioned in the last preceding section, may apply in writing to the Canal Officer stating:

- a. that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for constructing such village channel;
- b. that he is ready to defray all costs necessary for acquiring the land and constructing such village channel.

35. Procedure for Construction of Village Channel

1. If the Canal Officer considers the construction of such village channel expedient, he may call upon the applicant to deposit any part of the expense as he may consider necessary.
2. Upon such deposit being made, the Canal Officer shall:
 - a. cause inquiry to be made into the most suitable alignment for the said village channel, and mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof;
 - b. forthwith publish a notification in every village through which the village channel is proposed to be taken that so much of such land as is situated within such village has been so marked out, and shall send a copy of such notification to the collector of every district in which any part of such land is situated;
3.
 - a. Such notification shall also call upon any person who wishes to be admitted a joint owner of such village channel to make his application in that respect within thirty days of the publication of such notification;
 - b. If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such village channel and in the cost of acquiring such land, and shall be a co-owner of such village channel when constructed.

36. Acquisition of Land

1. On receipt of copy of notification, the Collector shall proceed to acquire land under the provisions of the Land Acquisition Act, 1894.
2. No land acquired for the construction of village channel shall be used for any other purpose without the order of the Divisional Canal Officer.

37. Procedure After Construction of Village Channel

1. On being put in possession of the land the Canal Officer shall construct the required village channel, and on its completion shall give the applicant notice thereof, and of any sum payable by him on account of the cost of acquiring the land and constructing the village channel.
2. On such notice being given, such sum shall be due from the applicant to the canal officer.
3. On receipt of payment in full of all expenses incurred, the Canal Officer shall make over possession of such village channel to such applicant.

38. Canal Officer May Direct Transfer of Village Channel

1. Whenever a Canal Officer considers that the transfer of a village channel from the owner is necessary for the proper management of the irrigation from such village channel, he may cause a notice to be served on the registered owner to appear on a certain day, not less than fifteen days after service of the notice, and to prefer any objection to such transfer.
2. After hearing such objection, the Canal Officer may order that such village channel shall be transferred to such person as he may think fit, and that such person be registered as owner of the said village channel:

Provided that no person shall be registered as the owner of a village channel under this section, unless he has expressed in writing his willingness to be so registered, and until he has paid to the Canal Officer such sum as may be fixed by the Canal Officer.

39. Admission of Joint Owner of Village Channel

1. Any person wishing to become the joint owner of an existing village channel may petition the Canal Officer to that effect, and on receipt of such petition the Canal Officer may, if he thinks fit, issue a notice as provided in last preceding section upon the registered owner, and, after hearing any objection which the registered owner may prefer against the admission of such applicant to be a joint owner, may direct that the applicant shall be registered as such joint owner.
2. All joint owners of a village channel shall be held to have an equal interest in it, unless with the permission of the Canal Officer, they register specific unequal interests.

40. Payment for Joint Ownership

When deciding the question of transfer or of admission of joint ownership under either of the two last preceding sections, the Canal Officer shall also determine what amount shall be paid as the cost of the proceeding. As compensation to the previous owners and the amount so determined shall be due by the transferee, or the person admitted to registry as a joint owner, as the case may be and on payment of such amount, the village channel shall be transferred, or the applicant shall be registered as a owner or a joint owner thereof, as the case may be.

41. Rent for a Transferred Village Channel

Instead of awarding payment of compensation, under the last preceding section, the Canal Officer may fix an amount of rent to be paid annually to the previous owner by the person to whom the village channel is transferred.

42. Rights and Obligations of Owner of Village Channel

1. Every owner of a village channel shall be bound:
 - a. to construct and maintain all works necessary for passage across such village channel of canals, village channels, drainage channels, and public road existing at the time of its

construction, and of the drainage intercepted by it, and for affording proper communication across it for the convenience of the occupants of neighbouring lands;

b. to maintain such village channel in a proper state of repair for the conveyance of water;

c. to allow the use of it to others on such terms as may be declared equitable by the Canal Officer;

d. to have supply of water by such village channel at such rates and on such terms as are prescribed by the State Government;

e. to receive such rent for the use of village channel by other persons as the Canal Officer may award.

2. If any village channel transferred under this Act is disused for three years continuously, the right of the applicant or of his representative in interest, to occupy such village channel shall cease absolutely.

43. If Owner of Village Channel Fails to Execute Work or Repair, Canal Officer May do so

If the owner of a village channel fails to fulfil the obligations mentioned in clauses (a), (b) and (c) of subsection (1) of the last preceding section, the Canal Officer may require him by notice to execute the necessary works or repairs within a period not being less than fifteen days, and in the event of failure may execute them on his behalf;

And all expenses incurred by the executions of such works or repairs shall be a sum due by such owner to Government;

And, if any such owner who has already failed on one occasion to execute such works or repairs when required to do so, and has left them to be executed on his behalf by the Canal Officer, again fails to execute any such works or repairs when required to do so; or if any such owner shall refuse in any respect to fulfil the obligation mentioned in clause (c) of subsection (1) of the last preceding section, after having been required to fulfil the same by a notice in writing from the Canal Officer, the Canal Officer may strike such village channel off the register, and so disqualify it to be any longer a medium for the conveyance of canal water.

44. Procedure when Joint Owner Neglects or Refuses to Maintain the Village Channel

1. If any person, jointly responsible with others for the maintenance of a village channel, or jointly making use of a village channel with others, neglects or refuses to pay his share of the maintenance or to execute his share of the maintenance or to execute his share of any work necessary for such maintenance, the Divisional Canal Officer, on receiving an application in writing from any person aggrieved by such neglect or refusal, shall serve notice on all the parties concerned that on the expiration of fifteen days from the service, he shall investigate the case, and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as he deems fit.

2. Such order shall be appealable to the Superintending Engineer, whose order thereon shall be final.

3. Any sum directed by such order shall be paid within a specified period.

45. Divisional Canal Officer May Authorise Supply

1. Whenever application is made to a Divisional Canal Officer for supply of water from an irrigation work, and it appears to him expedient that such supply should be given and that it should be conveyed through some village channel, he shall give notice to the persons

responsible for the maintenance of such village channel to show cause on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed, and, after making enquiry on such day, the Divisional Canal Officer shall determine whether and on what conditions the said supply shall be conveyed through such village channel:

Provided that such application is made for lands already included in the irrigation work.

2. Any person, aggrieved by the determination of the Divisional Canal Officer, may prefer an appeal to the Superintending Engineer within thirty days of such determination.
3. When the Divisional Canal Officer determines that supply of water of an irrigation work may be conveyed through any village channel as aforesaid, his decision shall, when confirmed or modified by the Superintending Engineer on appeal, be binding on the applicant and also on the person responsible for the maintenance of the said village channel.
4. Such applicant shall not be entitled to use such village channel until he has paid the expense of any alteration of such village channel necessary in order to his being supplied through it, and also such share of the first cost of such village channel as the Divisional Canal Officer or, as the case may be, Superintending Engineer may determine.
5. Such applicant shall also be liable for his share of the cost of maintenance of such village channel so long as he uses it.
6. The Canal Officer shall fix a sum as rent to be paid for the use of such village channel to the owner.

46. Government May Transfer Distributary, Minor or Watercourse to Water Users' Association

1. Government may transfer any Government distributary, minor or watercourse to the water users' association(s) formed by the beneficiaries or to a group of person who may be considered fit by the Government to be owner of the said channels for their maintenance and operation. These channels, in such a case, will be considered as village channels and will accordingly be governed by the provisions of this chapter.
2. In case the management of distributary, sub-distributary or minor is handed over to the WUA, the WUA shall be supplied with authorised discharge at the head regulator of such channel. The Executive Engineer will ensure that the water so supplied will be in proportion to the area to be irrigated from that channel. In the case of deficient water supply in the parent channel, the shortage shall be equitably distributed to the various channels.

47. Preparation of Draft Scheme for On-Farm Development

1. Notwithstanding anything contained to the contrary in this Act and subject to the rules that may be made by the State Government in this behalf, an officer designated by the State Government in this behalf may, on his own motion or on the application of not less than fifty percent of the owners or occupiers of land in the culturable commanded area, prepare a draft scheme to provide for on-farm development on a group or block of fields.
2. Every scheme prepared under subsection (1) shall among other matters, set out the cost of the on-farm development works, sketch plan of the area proposed to be covered by the said scheme, and particulars of the owners or occupier to be benefited by the said scheme.
3. Every scheme shall, as soon as may be after its preparation, be published in such form and manner as may be prescribed inviting objections and suggestions with respect thereof within twenty-one days of the publication.

4. After consideration of such objections and suggestions if any, the said officer shall approve the scheme either as it was originally published or in such modified form as he may consider fit and publish the same.

5. The officer designated by the State Government in this behalf may, at any time or on an application by any person aggrieved by the approved scheme made within a period of thirty days from the date of publication of the particulars of the scheme under subsection (4), revise the scheme approved by the said officer:

Provided that such revision shall not be made without affording the person affected an opportunity of being heard.

6. An owner or occupier aggrieved by the order of the said officer in respect of a scheme, which has not been approved, may prefer an appeal, within thirty days of the passing of the order to such officer designated by the State Government in this behalf whose decision shall be final.

7. After a scheme has been approved by the said officer under subsection (4) or where an appeal is pending before an officer under subsection (6), after it has been disposed of by him, the scheme shall be published in such manner as may be prescribed and upon such publication, it shall be executed or got executed by the owners or occupiers in the group or block of field at their cost, within such period of time as may be specified by the said officer.

8. In the event of the failure of any or all of the said owners or occupiers to execute the works within the said period of time specified by the said officer or in the event of any or all of the owner or occupiers informing in writing the said officer prior to the expiry of the said period of time that they are unable to execute or get executed the works as required, the works may be carried out by the State Government or by an agency determined by the State Government in that behalf, and the cost of the works to be executed by the State Government or by the said agency, as the case may be, shall be recoverable by the State Government or the said agency, as the case may be, from the owners or occupiers who fail or indicate their inability, to execute or get executed the works as required.

9. The share of the individual owners or occupiers of the cost of the works executed in the said group or block of field by the State Government or by the said agency, as the case may be, shall be as determined by the State Government or by the said agency, as the case may be.

48. Divisional Canal Officer May Construct Field Drains on Behalf of Owners or Occupiers

1. Notwithstanding anything contained to the contrary in subsection (1) of section 16 the Divisional Canal Officer may cause a scheme for field drain to be drawn up.

2. Every scheme drawn up under subsection (1) amongst other matters shall set out the estimated cost thereof, the alignment of the proposed field drain or realignment of the existing field drain, as the case may be, the particulars of the owners or occupiers to be benefited and other persons who may be benefited thereby and sketch plan of the area proposed to be covered by the scheme.

3. The Divisional Canal Officer may construct the field drain on behalf of the owners or occupiers and recover the cost pro rata from the owners or occupiers.

CHAPTER X – THE SUPPLY OF WATER

49. Divisional Canal Officer to Regulate the Supply of Water for Irrigation

A Divisional Canal Officer duly empowered by the State Government by a notification in respect of any irrigation work or class of irrigation works may, after such inquiry as he deems

fit, regulate in respect of any irrigation work for each year or part thereof or for a specified term of years at a time, as circumstances may require:

- (i) the time for letting out water for irrigation;
- (ii) the period of supply;
- (iii) the quantity of supply; and
- (iv) the areas to be supplied at different times.

Explanation: A land shall be deemed to have been supplied with water notwithstanding that the water is not utilised for irrigation; or such non-utilisation is due solely to the section or inaction on the part of the owners or occupiers interested in such land.

50. Declaration of Assured Irrigable Command Area of a Canal

(1) The Divisional Canal Officer or officer authorised by the State Government may, for the purpose of this Act, by notification, declare any area to be assured irrigable command area which shall comprise of such lands the irrigation of which is assured by direct or indirect flow from a canal during, such period of the year as may be specified in the notification which in the opinion of the Divisional Canal Officer or any officer authorised by the State Government be sufficient for maturity of the crops during the said period, and any area to be probable irrigable command area which shall comprise of such lands the irrigation of which is unassured and is subject to availability of water during the said period.

(2) A public notice shall be affixed for the recovery of rent in such area in all the offices of the gram panchayats, police station, office of the anchal adhikaris and in all cutcheries of the State Government and the substance of the notice shall be announced by beat of drum in all the village falling in the notified area and the substance shall be published in two consecutive number of two newspapers circulating in the area.

51. Filing of Application for Inclusion in or Exclusion from Assured Irrigable Command or Probable Irrigable Command Area

(1) Any of the occupiers of land may file an application before the Canal Officer for inclusion of any land in, or exclusion of any land from, the assured irrigable command area or probable irrigable command area within ninety days of publication of the notification referred to in section 50.

(2) On receipt of such application the Canal Officer shall hear the applicant and pass such orders as he may deem fit.

(3) An appeal against the order of the Canal officer shall lie to the Divisional Canal Officer within thirty days of the order passed under subsection (2) and the order of the Divisional Canal Officer thereon shall be final.

52. Order to be Recorded in Writing

If, on an application made under section 51 the Canal Officer passes orders for inclusion of any land in, or exclusion of any land from, the assured irrigable command area or probable irrigable command area of a canal he shall cause his orders to be recorded in writing in such forms as may be prescribed by rules made.

53. Person Entitled to have Supply of Water

(1) Every occupier of land within an assured irrigable command area of a canal shall be entitled to have supply of water from the canal for irrigation purpose sufficient for the

maturity of the crop grown during the period, specified, in the notification under section 50 and every occupier of land in the probable irrigable command area of a canal shall be entitled to have such supply subject to the availability of water during that period, and every such occupier shall be liable to pay such water charges as may be determined irrespective of the fact whether he uses such water or not.

(2) Till such time as the assured irrigable command area or probable irrigable command area is notified, water will be supplied for irrigation by the Canal Officer and every person to whom water supplied shall be liable to pay such water charges as may be determined by the State Government.

(3) Any occupier of land beyond assured irrigable command or probable irrigable command area, desirous of supply of water to his land from a canal shall make written application to that effect to the Canal Officer in the form prescribed, and water may be supplied (provided the area to be irrigated forms one compact block) after assessing the needs of the assured irrigable command and probable irrigable command areas and every such occupier shall be liable to pay water charges as may be determined by the State Government.

54. Regulation of Supply of Water

(1) The Canal Officer may stop the supply of water to any village channel, or to any person who is entitled to such supply, in the following cases:

(a) Whenever and so long as it is necessary to stop such supply for the purposes of executing any work ordered by competent authority;

(b) Whenever and so long as the village channel is in such disrepair as to prevent the wasteful escape of water therefrom;

(c) Whenever and so long as it is necessary to do so in rotation to supply the legitimate demands of other persons entitled to water;

(d) Whenever and so long as it may be necessary to stop the supply in order to prevent the wastage or misuse of water;

(e) Within the period fixed from time to time by the Divisional Canal Officer of which due notice shall be given;

(f) Whenever there is diminution in the supply of water in the irrigation work due to any natural or seasonal cause and so long as it is necessary to do so;

(g) for any reason beyond the control of the Divisional Canal Officer.

(2) No claim shall be made against the State Government for compensation in respect of loss caused by the failure or stoppage of water from an irrigation work:

Provided that the person suffering such loss may claim such remission of the charges payable for the use of the water as is specified by the State Government.

55. Sale or Subletting of Right to Use Canal Water

(1) Except with the permission of the Superintending Engineer no person entitled to use the water of any irrigation work shall sell or sublet or otherwise transfer his right to such use or use it for unauthorised purposes:

Provided that no permission shall be necessary for use of water for authorised purposes by a cultivating tenant of water supplied by the owner of a village channel for the irrigation of the land held by such tenant.

(2) Every right to supply of water for agricultural purposes to any land or other immovable property shall be attached thereto and shall be presumed to have been so transferred whenever a transfer of such land or immovable property takes place.

56. Duration of Supply

When water from an irrigation work is supplied for the irrigation of one or more crops only, the right to use such water shall be deemed to continue only until such crop or crops shall come into maturity, and to apply only to such crop or crops.

57. Canal Officer may Supply Water for Purposes Other than Those of Irrigation

On an application being made for supply of water to be used for purposes other than those of irrigation, the Canal Officer may give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation and control of the supply as he shall think proper to impose in each case.

58. Declaration of Cropping Pattern for Assured Irrigable Command by the State Government

(1) Where the State Government is satisfied that, for the better cultivation of lands, and production of crops and due preservation and proper utilisation of water resources of any irrigation work, or in the public interest, it is expedient to regulate the kind of crops that should be sown, planted or grown on land under the irrigable command of an irrigation work or any part thereof, and the period during which such crops should be sown, planted or grown on such lands, the State Government may, having regard to the soil characteristics, climate, rainfall and water available, by order in writing make a declaration to that effect. Such a declaration shall be given wide publicity in such manner by the Canal Officer authorised by the State Government as he may think fit.

(2) On such a declaration, the Canal Officer with the approval of the superior officer authorised by the State Government, may specify by notice published in such manner as may be determined by him, the kind of crops that shall be sown, planted or grown on the lands under the irrigable command of the irrigation work or any part thereof, the area of crops, and the periods during which such crops shall be sown, planted or grown. The Canal Officer shall, subject to the provisions of this Act, thereupon by order regulate the supply of water from the irrigation work for sowing, planting and growing such crops during the periods specified in the order.

(3) The State Government may, by notification in the Official Gazette, make rules for determining the crops, and the periods during which such crops may be sown, planted or grown and for regulating supply of water for the purpose. Such rules may provide for fixing the extent of irrigation for sowing, planting or growing different crops on the lands under the irrigable command on an irrigation work.

(4) On the publication of the notice under subsection (2), no person shall sow, plant or grow or allow any crop, other than the crop or crops specified in such notice, to be sown, planted or grown on any land under the irrigable command of the irrigation work or any part thereof, specified in such notice and during the periods specified therein.

(5) Any person aggrieved by any notice given under subsection (2), may, within thirty days from the date of publication of such notice, file an appeal before such officer not below the rank of Superintending Engineer as the State Government may appoint. The appellate officer may on hearing the parties pass such order as he thinks fit; and thereupon, the notice shall stand modified to such extent as may be specified in the order.

(6) The person, who has sown, planted or grown any unauthorised crop, or allowed any lands to be sown, planted or grown with such unauthorised crop, shall:

(a) be liable for contravening the provisions of this section; and

(b) also be liable to pay such water rate, as may be prescribed by the State Government, not being less than five times and not exceeding ten times the water rates which he would otherwise have been required to pay in addition to any penalty he may incur under the Act for such unauthorised crop:

Provided that if no water is utilised either directly or indirectly from the irrigation work for growing any crop, the provisions of subsections (4) and (6) shall not be applicable.

59. Transfer of Schemes to Water Committee

(1) Where in the opinion of the State Government an irrigation work is likely to irrigate lands not exceeding 200 hectares in an area as may be prescribed; the State Government may, in the public interest by notification prepare a draft scheme for supply of water from such irrigation work to such lands. The draft scheme shall provide for handing over the management of the irrigation work and distribution of water therefrom to the Water Committee appointed in this behalf.

(2) The draft scheme shall contain the following particulars:

(a) the area to which the scheme is applicable;

(b) the survey numbers of lands included in such area and the names of owners and occupiers thereof;

(c) the period or periods during which water will be supplied to such lands;

(d) the crop or crops which will be permitted to be grown thereon;

(e) the water rate at which water may be supplied to such land included in the scheme;

(f) the amount to be paid by the State Government for the management of the irrigation work to the Water Committee; and

(g) fixing a period of not less than three months from the date of publication of such notification, for submission of objections or suggestions to such scheme.

(3) After the publication of such notification, it shall also be published by the Canal Officer duly empowered in this behalf as soon as practicable in the language of the residents of the area through which the irrigation work passes in such place or places and in such manner as he thinks fit for the information of the owners and occupiers who are likely to be affected by such notification.

(4) After considering such objections and suggestions, if any, as may have been received within the period fixed as aforesaid, the State Government may, after making due inquiries, sanction the draft scheme with or without any modifications or may reject it.

(5) The scheme as sanctioned under subsection (4) shall be published in the official Gazette, and in the village and at the headquarters of the Block Office and of the district in which the lands included in the scheme are situated; in such manner as the State Government deems fit, and shall, on such publication, be final.

60. Enforcement, Alteration and Cancellation of the Scheme

(1) The scheme shall come into force on such date as the State Government may, by notification, appoint.

- (2) The scheme may at any time be varied by a subsequent scheme made, published and sanctioned in accordance with the provision of section 59.
- (3) The scheme may at any time be cancelled by the State Government by a notification.

61. Appointment of Water Committee

- (1) After a scheme has come into force under subsection (1) of section 60, the State Government shall appoint a Water Committee to execute the Scheme, subject to the superintendence, direction and control of the Canal Officer appointed by the State Government for the purpose.
- (2) The Water Committee shall consist of five persons or as may be prescribed, appointed from amongst the owners and occupiers of lands included in the scheme.
- (3) The members may be appointed by the State Government or any officer thereof duly empowered by it in that behalf.
- (4) The members of the Committee shall ordinarily hold office for a period of two years from the date of their appointment.
- (5) The members of the Committee shall hold office at the pleasure of the State Government and the State Government may terminate the appointment of all or any of the members of the Committee at any time by an order in writing in that behalf.
- (6) The Water Committee may meet from time to time, and may follow such procedure as it deems fit for the transaction of its business.
- (7) The Water Committee shall:
 - (a) manage the irrigation work and ensure proper distribution of water to the lands included in the scheme;
 - (b) decide the crops to be grown during any period or periods according to the provisions of the scheme;
 - (c) carry out day to day maintenance and repair of the irrigation work;
 - (d) maintain the irrigation system of the irrigation work beyond the outlet in a fit state of supply of water;
 - (e) assist the Canal Officer:
 - (i) in detecting and preventing encroachment on the irrigation work and on the lands appertaining thereto;
 - (ii) for preventing damage to the irrigation work;
 - (iii) for repairing any damage caused to the irrigation work;
 - (f) have power to impose a penalty in the manner prescribed for unauthorised use of water, or use of water out of turn or for growing crops contrary to the provisions of the scheme;
 - (g) maintain accounts of the amount paid to it in such manner as may be prescribed.
- (8) The penalty may consist of a fine not exceeding Rs 1'000.
- (9) Any person aggrieved by the decisions of the Water Committee may within thirty days from the date of receipt of the decision of the Water Committee make an appeal to the Canal Officer or any officer duly empowered by the State Government for the purpose.

(10) The State Government may, not later than two years from the date of the order, call for and examine the record of any inquiry or proceeding underlying such order of the Water Committee, or of the officer appointed by it, for the purpose of satisfying itself as to the legality or propriety of any decision or order passed or as to the regularity of the proceeding, and it may pass any order upholding, annulling, modifying or reversing the order of the Water Committee or of any such officer:

Provided that no order affecting any person shall be made unless such person is given a reasonable opportunity of being heard.

(11) If at any time the State Government is of opinion:

(a) that the Water Committee has persistently made default in the performance of the functions imposed on it by or under this Act; or

(b) that the circumstances exist which render it necessary in the public interest so to do, the State Government may, by notification, supersede the Water Committee for such period, not exceeding two years as may be specified in the notification:

Provided that before issuing a notification under this subsection for the reasons mentioned in clause (a), the State Government shall give a reasonable opportunity to the Water Committee to show cause why it should not be superseded and shall consider the explanation and objection, if any, of the Water Committee.

(12) Upon the publication of a notification under subsection (11) superseding the Water Committee:

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under this Act, be exercised, performed or discharged by the Water Committee shall, until, the Water Committee is reconstituted under subsection (13) be exercised, performed or discharged by the Canal Officer as the State Government may direct;

(c) all property owned or controlled by the Water Committee shall until the Water Committee is reconstituted under subsection (13) vest in the State Government.

(13) On the expiration of the period of supersession specified in the notification issued under subsection (11), the State Government may:

(a) extend the period of supersession for such further term, not exceeding six months as it may consider necessary; or

(b) reconstitute the Water Committee by fresh appointment, and in such case any person who vacated his office under clause (a) of subsection (11) shall not be deemed to be disqualified for appointment:

Provided that the State Government may at any time before the expiration of the period of supersession, whether originally superseded under subsection (11) or as extended under this subsection, take action under clause (b) of this subsection.

CHAPTER XI – WATER RATES AND TOLL

62. Charges for Water

Whenever:

(a) water is supplied, made available or used for purposes of irrigation, municipal supply, industrial or commercial purposes from any irrigation work belonging to or constructed by, or on behalf of the State Government; and

(b) water from any such work, by direct flow or percolation or by indirect flow, percolation or drainage from or through adjoining land, irrigate any land under cultivation or flows into a reservoir and thereafter by direct flow or percolation or by indirect flow, percolation or drainage from or through adjoining land irrigates any land under cultivation and, in the opinion of the Divisional Canal Officer such irrigation is beneficial to crops on such land:

the Government shall be entitled to levy a separate charge for such water hereinafter referred to as water rate and the Government may prescribe the rates at which such water rates shall be levied, which may be:

- (i) different in respect of water supplied, made available or used having regard to the costs of operation and maintenance of irrigation or drainage work;
- (ii) different in respect of water supplied made available or used for different purposes;
- (iii) different in respect of water supplied, made available or used for irrigation of any land with reference to the crop or crops grown or which may be grown on such lands;
- (iv) different in respect of the quantity and timeliness of supply of water or the number of watering.

63. Assessment of Water Charges

The Canal Officer shall prepare an assessment of the water charges for the purposes in respect of which water was supplied, made available or used from an irrigation work, and serve the same on the owner or occupier.

64. Appeal Against Assessment

An appeal against the assessment order of the Canal Officer shall lie to the Divisional Canal Officer in the prescribed manner within twenty-one days of the passing of the order.

65. Notice for Demand

As soon as an assessment is made under section 63 or where an appeal has been preferred and disposed off under section 64, the Canal Officer shall serve a notice of demand in the prescribed manner for the amount of water charges assessed.

66. Period to be Prescribed by the State Government

Any person on whom a notice of demand has been served shall be liable to pay the same within the period prescribed in this behalf.

67. Liability of Occupiers of Lands Benefiting from Unauthorised Use of Water

If canal water is used in an unauthorised manner and if the person by whose act or neglect such use has occurred can not be identified, the occupiers of the lands on which such water has flowed, if such lands have received benefit therefrom, shall be liable to the charges made from such use as determined by the State Government.

Explanation: Water is said to be used in an unauthorised manner when it is taken from any canal, outlet or village channel or from the assured irrigable command area or probable irrigable command area in contravention of any of the provisions of this Act or the rules made under or of any order passed by a Canal Officer in this behalf.

68. Liability when Water Runs to Waste

(1) If water supplied through a village channel be suffered to run to waste and if, after enquiry by the Canal officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such village channel for the crop then on the ground shall be jointly liable for the charge made in respect of the water so wasted, as prescribed by the State Government.

(2) All questions arising under this and the last preceding section shall be decided by the Canal Officer, subject to the provisions of the Act.

69. Charges Recoverable in Addition to Penalty

All charges for the unauthorised use or for waste of water shall be deemed to be water rate due on the crop, and may be recovered as such water rate in addition to any penalties incurred on account of such use or waste.

70. Contract for Collection of Dues

The Canal Officer may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

71. Tolls on Lines of Navigation

Tolls at such rates as shall be fixed in manner hereinafter mentioned shall be paid in respect of all vessels entering upon or passing along any of the lines of navigation subject to the provisions of this Act:

Provided that such tolls shall be payable only so long as such line of navigation shall be open.

72. State Government may Fix and Alter Rates of Tolls

The State Government may fix and, from time to time, alter the rates at which such tolls shall be levied.

73. Publication of Rates of Toll

Notification of the rates of toll and of the places of collection shall be exhibited to public view at every toll house in the Hindi language in Devanagri script.

74. State Government to Appoint Person to Collect Tolls, Who, may Farm Collection

(1) The State Government shall appoint such person as it may think fit to collect tolls under this Act, and it shall be lawful for any person so appointed to farm the collection of tolls to any other person, with the sanction of the State Government or to employ any other person in such collection.

(2) The person to whom the collection of tolls may be farmed out, or who may be employed in the collection of them, shall have power to collect and be authorised to receive them in the like manner as any person appointed as aforesaid.

75. Payment of Tolls

(1) If any toll due under the provisions of this Act in respect of any vessel shall not be paid on demand to the person authorised to collect the same it shall be lawful for such person to seize such vessel, and any furniture thereof, and to detain the same.

(2) Such person shall, within 24 hours of such seizure and detention, report the same to the nearest Collector or Deputy Collector of the district in which the seizure has been made or other public officer duly authorised by the Government in that behalf.

(3) On receipt of this report the Collector, Deputy Collector or other officer as aforesaid shall publish a notice appointing a day for the sale of the said vessel and any furniture thereof.

(4) The sale shall be held at some period not less than fifteen days from the date of the publication of notice of sale; and if the toll and also any expenses occasioned by non-payment be not paid, or sufficient cause for non-payment be not shown, at or before the time of sale to the Collector, Deputy Collector or other officer as aforesaid, such officer shall sell the vessel and furniture seized, or so much thereof as may be necessary to pay the toll and also any expenses occasioned by non-payment.

(5) So much of the property seized as may not have been sold, and so much of the sale proceeds as may be in excess of the sum necessary for satisfying the toll and for defraying the expenses occasioned by non-payment, shall be returned to the person in-charge of the vessel.

CHAPTER XII – LEVY OF BETTERMENT CONTRIBUTION

76. Beneficiaries to Pay Betterment Contribution

(1) There shall be levied a tax called betterment contribution in accordance with the provisions of this chapter from the owner who is benefited by the construction, expansion, improvement or alteration of any irrigation work by the State Government.

Explanation (1): A land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed, provided such non-enjoyment is due solely to the action or inaction on the part of the person or persons interested in such land.

Explanation (2): A land shall not be deemed to be benefited merely by reason of the execution of repairs and maintenance of an irrigation work wholly or partly at the expense of the State Government.

(2) For purpose of levy of betterment contribution, the prescribed officer shall, by notification, specify the dates of commencement and completion of the construction, expansion, improvement or alteration of any irrigation work and different dates of commencement and completion of any irrigation work depending upon the date on which water is made available to such lands.

77. Assessment of Betterment Contribution

(1) The amount of betterment contribution payable in respect of any land shall be an amount equal to the fraction as specified by the State Government of the total cost of the construction, expansion or improvement or alteration of the irrigation work:

Provided that the amount of betterment contribution payable in respect of, any land shall not be more than the cost per hectare as may be prescribed by the State Government from time to time:

Provided further that the Government may prescribe a different fraction of the total cost of construction, expansion, improvement or alteration of the irrigation work and different rates per hectare for different lands covered by different projects for purpose of betterment contribution:

Provided also that no betterment contribution shall be leviable in respect of a land:

- (a) not earlier than five years from the date on which water is made available;

(b) which is unculturable;

(c) benefited by the construction, expansion, improvement or alteration of an irrigation work which is not capable of irrigating more than 40 hectares of land.

(2) As soon as may be, after the publication of notification under subsection (2) of section 76 in respect of any irrigation work, the Betterment Levy Officer shall prepare a statement showing the land under the irrigable command of the irrigation work in respect of which the betterment contribution in accordance with the provisions of subsection (1) is payable, and the nature and extent of irrigability of different lands.

(3) The Statement so prepared along with a public notice shall be published in the village and the Block Office and in such other manner as may be prescribed and such notice shall require the owners of lands under the culturable commanded area of the irrigation work to appear before the Betterment Levy Officer either personally or by agent at a time and place therein mentioned, such time not being earlier than one month from the date of publication of the notice, and to state:

(a) their objection:

(i) to the inclusion of lands in the statement as land under the irrigable command of the irrigation work;

(ii) to the inclusion of the lands in the statement as land of any specified nature and extent of irrigability; and

(b) in respect of payment of betterment contribution, the basis on which they claim that the amount of betterment contribution has to be computed and such statement shall be made in writing and signed by the party or his agent.

(4) The Betterment Levy Officer shall also serve notice to the same effect on the owner of such land or his agent authorised to receive service on his behalf, who resides within the revenue district in which the land is situated and in case any owner resides elsewhere and has no such agent, the notice shall be sent to him by registered post.

(5) On the date fixed under subsection (3) or on such other date to which an inquiry may be adjourned, the Betterment Levy Officer shall after holding an inquiry in the manner prescribed and after giving an opportunity of being heard to every person who has made a statement under subsection (3), make an order specifying:

(a) the amount of betterment contribution payable in respect of the said lands; and

(b) the date from which such betterment contribution shall be payable.

(6) Any person aggrieved by an order made under subsection (5) may, within sixty days from the date of the order, appeal to the prescribed authority and the authority may pass such orders on the appeal as it may deem fit.

(7) An order passed by the prescribed authority on an appeal preferred to it under subsection (6) and subject to the orders of the authority the order of the Betterment Levy Officer under subsection (5) shall be final.

(8) At the end of every four years from the year in which the betterment contribution is finally determined under subsection (1) any future instalment of such contribution shall be liable to be revised on the same basis as provided in the said subsection.

(9) If, in the opinion of the State Government the enforcement of all or any of the provisions of this chapter will cause hardship in any case or cases, the Government may, by notification, setting out the ground therefor, exempt either permanently or for a specified period such case

or cases from all or any of the provisions of the chapter, subject to such condition, if any, as the Government may deem fit to impose.

78. Betterment Levy Officer to Serve Notice of Demand on Owner

The contribution shall become payable under this chapter on a written notice of demand thereof issued by the Betterment Levy Officer being served on the owner:

Provided that no notice of demand shall be served on owner until an order made under subsection (5) of section 77 becomes final:

Provided further that where, before the commencement of this Act, five years or more have elapsed from the date of completion of the construction, expansion, improvement or alteration of the work such notice may be served at any time after such commencement.

79. Betterment Contribution Deemed to be Revenue Demand

(1) The owner of any land, in respect of which contribution is payable, shall pay it in cash in such annual instalment not exceeding 20 as may be prescribed:

Provided that if, on or before the date on which the first instalment is payable, or at subsequent date within a period of two years from that date, the owner pays the entire contribution or balance of contribution, as the case may be, he shall be entitled to a rebate as may be prescribed on such contribution or balance of contribution, as the case may be.

(2) Contribution payable under this Act in respect of any land shall be deemed to be revenue demand due upon the said land.

80. Any Person having Interest in the Land may Pay the Contribution

Any person having interest in a land may, notwithstanding that he is not the owner of such land, pay the contribution payable by the owner in respect of such land and shall, if such person pays the entire contribution within a period of two years from the date on which the owner becomes liable to pay the contribution, be entitled to a rebate as may be prescribed.

81. Claim on Account of Failure or Stoppage of Water in Irrigation Work

No claim shall lie against the State Government for compensation or for the refund of betterment contribution on account of loss occasioned by any temporary failure or stoppage of water in an irrigation work or by any cause beyond the control of the Divisional Canal Officer or by any repairs, alterations or additions made to such work.

CHAPTER XII – OFFENCES AND PENALTIES

82. Offences under this Act

Whoever voluntarily and without proper authority, does any of the following acts:

- (a) damages, alters, enlarges or obstructs, or encroaches upon any irrigation work;
- (b) interferes with, increases, or diminishes the supply of water from, through, over or under, any irrigation work, or by any means raises or lowers the level of the water in any such work;
- (c) interferes with or alter the flow of water in any river, or stream, so as to endanger, damage or render less useful any irrigation work;
- (d) being responsible for the maintenance of a village channel, or using it, neglects to take proper cautions for the prevention of waste of the water thereof, or interferes with the

authorised distribution of the water therefrom, or uses such water in an unauthorised manner, or refuses to allow the use of the channel to others;

(e) corrupts or fouls the water of any canal so as to render it less fit for the purpose for which it is ordinarily used;

(f) destroys, defaces or moves any level mark or water gauge fixed by the authority of a public servant;

(g) destroys or removes any apparatus, or part of any apparatus for controlling or regulating the flow of water in any irrigation work;

(h) causes vehicles of any type to pass in or across any of the work, banks or channel of a canal through other than the specified places, contrary to the rules made under this Act;

(i) without the permission of the canal officer knowingly or willingly roots up grass or other vegetation growing on any such embankment or removes, cuts or in any way injures any trees, bushes, grass or hedges intended for the protection of such embankments;

(j) causes any vessel to enter or navigate on any irrigation work contrary to the rules prescribed by the State Government;

(k) while navigating on any irrigation work neglects to take proper precaution for the safety of the irrigation work and of vessel thereon;

(l) neglects, without reasonable cause, to carry out duties in connection with the execution of any repair or work, when lawfully bound to do;

(m) grows or allows to grow any crop in contravention of a notification under the provision of the Act;

(n) uses water from an irrigation work without obtaining the permission;

(o) wilfully obstructs any person duly authorised under this Act, in removing and levelling any embankment houses, hut or other building, or in lawful exercises of any power in this Act;

(p) violates any rule made under the Act, for breach where of a penalty may be incurred;

(q) erects or causes or wilfully permits to be erected any new embankment, or adds to any existing embankment without previous permission of the Collector;

(r) wilfully causes or aids in causing any obstruction to any line of navigation or damages the works of such line of navigation:

shall on conviction, be liable to fine not exceeding Rs 500 or to imprisonment for a term not exceeding six months or to both:

Provided that on conviction for neglect of duty under Section 91, shall be liable to fine not exceeding Rs 500 or to imprisonment for a term not exceeding one month or to both.

83. Further Offences

Whoever, without the authority of the Canal Officer:

(a) pierces or cuts through, or attempts to pierce or cut through, or otherwise damage, destroy or endanger the stability of, any flood embankments;

(b) opens, shuts or obstructs or attempts to open, shut or obstruct, any sluice in any such embankments;

(c) makes any dam or other obstruction for the purpose of diverting or opposing the current of a river on the banks whereof are flood embankments, or refuses or neglects to remove any such dam or obstruction when so required by a Canal Officer;

shall, on conviction be liable to a fine not exceeding Rs 2'000 or to imprisonment for a term not exceeding one year.

84. Obstruction to be Removed and Damage Repaired

(1) Whenever any person is convicted of an offence under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction or repair the damage in respect of which the conviction is held within a period to be fixed in such order.

(2) If such person neglects or refuses to obey such order within the fixed period, the Canal Officer may remove such obstruction, or repair such damage and the cost of such removal or repair shall be levied from such person by the Collector under the procedure provided by the Bihar and Orissa Public Demands Recovery Act, 1914 (B & O Act 4 of 1914) for the recovery of public demand.

85. Persons Employed on Canal may Take Offenders into Custody

Any person in charge of or employed upon, any canal may remove from the lands or building belonging thereto or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police station, to be dealt with according to law, any person who within his view commits any of the following offences:

(a) wilfully damages or obstructs any canal;

(b) without proper authority interferes with the supply or flow of water in or from any canal or in any river or stream, so as to make any canal dangerous or render the same less useful.

86. Compensation to Person Injured

Whenever any person is fined for an offence under this Act, the Court may direct that the whole or any part of such fine may be paid by way of compensation to any person injured by such offence, or to any person who gave information leading to the detection of such offence, or to the conviction of the offender.

87. Saving of Prosecution under Other Laws

Nothing herein contained shall prevent any person from being prosecuted under any other law for the time being enforced for any offence punishable under this Act.

88. All Offences under the Act to be Cognizable and Bailable

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under this Act shall be cognizable and bailable.

89. Procedure when the Person Committing an Offence is a Company

(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this subsection shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in subsection (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary or other officers of the company such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purpose of this section:

(a) 'Company' means a body corporate and includes a firm or other association of individuals; and

(b) 'Director' in relation to a firm means a partner in the firm.

90. Compensation for Offences

Any Canal Officer duly empowered under this Act, may accept before the institution of a prosecution under this Act, from any person, against whom a reasonable belief exist that he has committed an offence punishable under this Act or the rules made thereunder a sum of money as may be prescribed but not exceeding Rs 2'000, by way of compensation for such offence.

CHAPTER XIV – OBTAINING LABOUR AND MATERIALS FOR IRRIGATION WORK IN EMERGENCY

91. Canal Officer Empowered to Obtain Labour from Locality in Case of Emergency

(1) Whenever it appears to the Divisional Canal Officer acting under his general or special orders in this behalf that unless some works or repair is immediately executed such serious damage will happen to any irrigation work as to cause sudden and extensive public injury or serious interruption of the established course of irrigation and that labour necessary for the proper execution thereof cannot be obtained in the ordinary manner in time to prevent such injury or interruption or to remedy it within a reasonable time, the Divisional Canal Officer or any officer acting under the said orders may by public proclamation by beat of drum require the labours enlisted under Section 92 who reside in any village within eight kilometres of the place where the work is to be executed to carry out such duties as he may allot to them in connection with the execution of the work necessary for the safety of the particular irrigation work.

(2) All persons so labouring shall be entitled to payment at rates which shall not be less than the highest rates for the time being paid in the neighbourhood for similar labour.

(3) In case the management of distributaries, sub-distributaries or minor is handed over to water users' association under this Act, the water users' association shall be an agency acting under the order of Divisional Canal Officer and on his behalf in the jurisdiction of water users' association and may act accordingly and seek help from the Government under the provision of the act related to obtaining labour and materials for irrigation works in emergency.

92. Preparation of List of Such Labour

Subject so such rules as may be made in this behalf, the Division Canal Officer shall prepare list of labours willing and capable to carry out the duties as aforesaid and may from time to time add to or alter such list or any part thereof.

93. Canal Officer may take Possession of Materials Required for Work in Emergency

Whenever it appears to a Divisional Canal Officer or any officer acting under his general or special orders in this behalf that it is essential for carrying out urgent works on any irrigation work to prevent public injury caused by damage to works, he may enter upon or into any immovable property in the neighbourhood of the irrigation work requiring immediate repair, or other work and take possession, appropriate, cut or remove any trees, timber, bamboos, mats, ropes, straw, earth, stone and other materials and prepare an inventory of the materials taken, such materials shall be paid for at the highest prices for which they are sold in the neighbourhood and in case damage is sustained by any person in consequence of the removal, seizure or cutting of any such material, compensation shall be paid for such damage by the Divisional Canal Officer.

94. Appeal by Such Labour when Aggrieved by Fixation of Wages

Any person aggrieved by fixation of wages under subsection (2) of section 91 may prefer an appeal within sixty days to the Superintending Engineer whose decision shall be final.

CHAPTER XV – SAFETY OF IRRIGATION WORK

95. Encroachment upon Irrigation Works Forbidden

Except as may be prescribed no person without the permission of the Canal Officer shall:

- (a) interfere with or encroach upon an irrigation work, or
- (b) construct any earthen or masonry bund or weir on any channel or stream flowing above or below any irrigation work.

96. Constructions above Irrigation Work

(1) Every owner whose tank, well, pond, spring pond or other reservoir is situated above any irrigation work, shall maintain the bunds and surplusings (sic) arrangements of such tank, well pond, spring pond, spring channels or reservoir in a safe and efficient condition.

(2) If, in the opinion of the Canal Officer, such bunds or surplusings arrangements of the works referred to in subsection (1) are not in a fit condition and are likely to endanger the irrigation works below, then the owner concerned shall be served with a notice to bring such bund or surplusings arrangements to a reasonably fit condition in such manner and within such time as may be specified in the notice.

(3) If the said owner fails to comply with the notice within the time specified or does repair which in the opinion of the Canal Officer are unsatisfactory the Canal Officer may carry out the necessary repairs and recover the cost from the said owner.

(4) From any order of the Canal Officer under this section an appeal shall lie within thirty days from the date of communication of the order to the Divisional Canal Officer, whose decision thereon shall be final.

97. Use of Explosives in the Vicinity of Irrigation Works Prohibited

No person shall conduct mining or quarrying operations requiring the use of explosives within such distance as may be prescribed from the boundaries of an irrigation work, without the written permission of the Canal Officer.

98. Excavation of Wells near Irrigation Work

Notwithstanding any thing contained to the contrary in subsection (4) of section 12 no well exclusively for domestic use, either on personal or community basis shall be excavated within such distance as may be specified by the State Government from time to time, from the boundaries of an irrigation work without the previous sanction of the authority specified by the State Government and subject to such condition as the authority may impose.

99. Permission for Fishing

No person shall have the right to fish of ply, any vessel in a reservoir, pond or tank or along a canal or channel maintained or controlled by the Government without the permission in writing of the State Government or of such officer as may be empowered in this behalf by the State Government and except under such terms and conditions and subject to payment of such fees as may be prescribed.

100. No Person Entitled to Let out Water from a Canal

No person other than the Canal Officer of any officer duly empowered in this behalf shall let out water from a canal or channel by cutting the bund, constructing a sluice or outlet or any other similar contrivance.

101. Permission for Pumping Water from Irrigation Works

(1) Save as provided in this Act, no person shall abstract water for any purpose by the installation of pump sets or other electrical or mechanical devices for pumping water from an irrigation work except with the permission of the Divisional Canal Officer within whose jurisdiction such pump sets or other devices for abstraction of water are installed and subject to such terms and conditions and subject to the payment of such fees, as may be prescribed.

(2) If any person abstracts water from an irrigation work in violation of subsection (1), the Divisional Canal Officer or any person authorised by him in that behalf shall have the power to enter any property, place or premises in which any construction is made or any pump set or other electrical or mechanical device is installed for the abstraction of the water and remove or cause to be removed such construction or pump set or other device.

(3) This type of action shall be treated as theft, the pump set shall be seized and criminal case shall be instituted against the person involved.

102. Prohibition to Deposit Produce of Mines or Earth Near any Irrigation Channel

No person shall deposit any produce of mines or earth or any other material in or near any channel or field drain or other work, whether natural or artificial through which rain or other water flows into any irrigation work.

103. No Person Shall Pollute Water of Irrigation Work

(1) No person shall pollute, or discharge sewage effluent or trade effluent in the water of any irrigation work which may cause injury to the irrigation work or may deteriorate the quality of water of the irrigation work or may give rise to the growth of any weeds in the irrigation work.

(2) The provisions of the Water (Prevention and Control of Pollution) Act, 1974 will apply with regard to matters in subsection (1).⁴

CHAPTER XVI – JURISDICTION

104. Settlement of Disputes as to Mutual Rights and Liabilities of Person Interested in Village Channel

(1) Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a village channel, any such person interested may apply in writing to the Canal Officer stating the matter in dispute.

(2) Such Officer shall thereupon give notice to the other persons interested that on a day to be named in such notice, he will proceed to inquire into the said matter and after such inquiry he may pass his order thereon, or may transfer the matter to the Divisional Canal Officer who shall thereupon inquire into and pass his order on the said matter.

105. Dispute as to Share and Payments

Whenever any dispute arises among joint owners of a village channel as to their shares of expense or as to the amounts severally contributed, or as to failure on the part of any owner to contribute his share, the matter may be decided after inquiry by the Canal Officer or Divisional Canal Officer.

106. Revision by the Superintending Engineer

The Superintending Engineer, within whose jurisdiction the village channel is situated, may on his own motion or on an application made in this behalf by an aggrieved person, revise an order passed by a Divisional Canal Officer:

Provided that no such application shall lie unless it is made within a period of thirty days from the date of such order.

CHAPTER XVII – MISCELLANEOUS

107. State Government or its Officers not Liable for Loss or Damage

No suit shall lie against the State Government or any servant of the Government serving in connection with the affairs of the State in respect of:

(a) any loss caused by the failure or stoppage of water in any irrigation work or the failure or partial failure of any drainage or other work, or

(b) any loss or damage caused by the overflow of water from any such work or resulting directly or indirectly from any such work.

108. Claim for Compensation to Include Claim for Every Loss

Every claim for compensation for any loss resulting from an act done or purported to be done under any of the provisions of this Act shall include the whole of the claim for compensation in respect of every loss which the person making the claim has sustained or is likely to sustain as a result of such act, and where any person omits to claim compensation or intentionally relinquishes any claim to compensation in respect of any such loss, he shall not afterwards be entitled to claim any compensation in respect thereof.

⁴ Editorial note: The Water (Prevention and Control of Pollution) Act, 1974 is reproduced at p **Error! Bookmark not defined.**

109. Power to be Cumulative

The powers conferred by the Act are in addition to, and not in derogation of, any powers which would be exercisable by the State Government or any officer of the Government apart from this Act.

110. Mode of Publishing Proclamation and Issuing Notice

Every proclamation and general notice by this Act required to be issued or given shall be published by affixing a copy of the same in the office of every Collector, Sub-divisional Officer and Munsif within whose jurisdiction, and at every police station within the limits of which any lands affected by such proclamation or notice are known by the Collector to be situated; and by affixing copies of the same in conspicuous positions in such hats, bazars, towns, villages or other public places as the Collector may direct and also by giving notice by beat of drum at such public places that such copies have been affixed and that one copy of the papers containing the information which is the subject of such proclamation or general notice is open to inspection by all concerned at the office of the Collector.

111. Service of Notices

Every notice or order by this Act required to be served shall be served:

- (1) by delivering a copy of the same to the person to whom it is directed, or, on failure of such service, by posting a copy on some conspicuous part of the house in which the said person resides, or by delivering a copy to any agent authorised to appear generally for the person to whom such notice or order is directed; or
- (2) by sending a registered letter containing a copy of such notice or order directed to the said person at his usual place of abode, or at the place where he may be known to reside; or
- (3) by posting a copy of the notice or order at the Panchayat Office, if no such Panchayat Office be found, on some conspicuous place of the said village.

112. Disposal of Lands no Longer Required for Any Irrigation Work

- (1) Whenever the retention of any land appropriated to the purposes of any irrigation work, may no longer be required, and the permanent relinquishment of the same may be deemed expedient, such land shall be restored by the Collector to the owner from which such land was originally taken on return of the compensation amount, if any, which was paid for such land when the same was taken for the purpose of the irrigation work.
- (2) If persons who are entitled to the restoration of any land under this section, or any of them, refuse or neglect to pay such price within a reasonable time after demand, the land shall be sold by the Collector as a revenue-free holding for such price as he can obtain for the same.
- (3) All sums obtained for lands conveyed under the provisions of this section shall, after the payment of all expenses incurred on account of the same, be applied to the payment of the cost of any new irrigation works, or of the expenses of maintaining any irrigation works affecting the said lands and other adjacent lands, in reduction of the amount chargeable upon the beneficiaries of the lands benefited, as herein before provided, if any amount be so chargeable.

113. Government to Provide Means of Crossing Canals and Drainage

Suitable means of crossing canals constructed or maintained at the cost of Government shall be provided at such places as the State Government thinks necessary for the reasonable

convenience of the inhabitants of the adjacent lands and suitable bridges, culverts or other works shall be constructed to prevent drainage of the adjacent lands being obstructed by any canal.

114. Recovery of Dues

Every sum declared to be due under this Act shall be recoverable on behalf of the State Government by such officer who may be authorised in this behalf.

115. Power to Make Rules

(1) The State Government may by notification in Official Gazette make rules to carry out the purposes of this act or for matters connected therewith or which are required to be prescribed by rules under provisions of this Act.

(2) No such rules shall be made by the State Government until a draft of the same shall be published in the Official Gazette for one month.

116. Repeal and Saving

(1) On the commencement of this Act, the following, namely:

- (i) the Bengal Canal Act, 1864 (V of 1864);
- (ii) the Bengal Embankment Act, 1873, (VI of 1873);
- (iii) the Bengal Irrigation Act, 1876, (III of 1876);
- (iv) the Bengal Drainage Act, 1880, (VI of 1880);
- (v) the Bengal Embankment Act, 1882 (II of 1882);
- (vi) the Bihar Private Irrigation Works Act, 1922, (V of 1922);
- (vii) the Bihar Public Irrigation and Drainage Works Act, 1947, (X of 1947);
- (viii) the Bihar Lift Irrigation Act, 1956, (XVI of 1956);
- (ix) the Bihar Irrigation Field Channel Act, 1965, (XVII of 1965), are hereby repealed.

(2) Provided that such repeal shall not affect:

- (a) anything duly done or action taken under the repealed Acts;
- (b) any right, privilege, obligation, or liability acquired, accrued or incurred under any law so repealed; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed; or
- (d) any investigation, proceeding, legal proceeding or remedy in respect of any right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, proceeding, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment that may be imposed as if this Act has not been passed.

(3) Notwithstanding such repeal anything done or any action taken in exercise of any power conferred by or under the said Acts shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing or action was done or taken.