

The Uttar Pradesh Participatory Irrigation Management Act, 2009¹

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[U.P. Act No. 4 of 2009]

(As passed by the Uttar Pradesh Legislature Assembly)

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An Act to provide for empowering the water users' association to play their role as effective instruments of participatory irrigation management and for matters connected therewith or incidental thereto

Whereas the State Government has in its State Water Policy declared in 1999 resolved to adopt integrated water resources management through participatory approach;

And whereas, water users' associations have to be given an effective role in equitable distribution of water and its efficient and optimum use, operation and maintenance of irrigation and drainage systems, promotion of conjunctive use of surface and ground water, command area development, assessment and recovery of water charges and protection of environment and ecology.

It is hereby enacted in the Sixtieth Year of the Republic of India as follows:—

Prefatory Note—Statement of Objects and Reasons.—In Uttar Pradesh Canal System of 74,000 km length and 29,000 tube well are under the administrative control of the Irrigation Department of the State Government. The gross command area of Uttar Pradesh is 2.579 crore hectare of which irrigation facility is available to 66 per cent of the total 1.697 crore hectare of irrigated area 26.3 per cent is irrigated by canals. In spite of the said irrigation facilities the agricultural productivity of command area was inadequate as compared to other States of the country. The canal irrigation could not work with its full skill the reason of which was inadequate maintenance including short realization of revenue and increasing expenditure on management and the total management by the State Government. The other aspects to be worried were large number of agricultural holdings in the command area due to which the farmers were not economically capable themselves to adopt modern means. As a result thereof the distribution of irrigation water, maintenance of record of irrigated area, recovery of revenue and management etc. had become very difficult for the government institutions. It was felt that the productivity of agricultural holdings of command area may continue to decrease unless the farmer of the command area form their associations and adopt modern agricultural process, irrigation and input management. Therefore for the proportional and desired utilization of canal water, and long term stability of irrigated agriculture with the co-operation of the community, it was necessary to secure community co-operation by forming water users' associations. It was, therefore decided to make a law to provide for constitution of the water users' association and empowering them to play their role as effective instruments of participatory irrigation management.

Since the State Legislature was-not in session and immediate legislative action was necessary to implement the aforesaid decision, the Uttar Pradesh Participatory Irrigation Management Ordinance, 2008 (U.P. Ordinance No. 8 of 2008) was promulgated by the Governor on December 26, 2008.

This Bill is introduced to replace the aforesaid Ordinance.

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement—(1) This Act may be called the **Uttar Pradesh Participatory Irrigation Management Act, 2009.**

(2) It extends to the whole of Uttar Pradesh.

(3) Save as otherwise expressly provided in this Act, it shall come into force on such date as the State Government may, by notification in the Gazette appoint and different dates may be appointed for different areas, different irrigation systems, different levels (e.g. minor canal level, distributary canal level and other higher levels) of an irrigation system and for different provisions of this Act.

2. Definitions.—(1) In this Act, unless the context otherwise requires,—

- (a) “Agreement” means an agreement between the lower level water users’ association and upper level water users’ association or the competent canal officer, as the case may be, for the supply of water on volumetric or area basis for irrigation water and handing over of operation, maintenance and management;
- (b) “Apex Committee” means a state level committee constituted by the State Government for monitoring, evaluation and research on participatory approach to water management so as to give feedback and advice to Government on related policy matters;
- (c) “Appellate Officer” means an officer authorised by the State Government to hear and decide the appeal against order and decision of a competent canal officer or a water users’ association, as the case may be;
- (d) “Area of Operation” or “Delineated Area” in relation to a water users’ association means a contiguous block of land in the command area of an irrigation system delineated by a competent canal officer on topographic, hydraulic and/or administrative basis, as may be notified by the State Government;
- (e) “Branch” means a canal with all works whose designed head discharge is 500 cusec or more;
- (f) “Canal” means a channel with all works used for irrigating fields including water courses, drains and their appurtenant structures in the command area. It also includes all lands occupied by the State Government for the purposes of a canal, and all buildings, machinery, fences, gates and other erections, trees, plantations or other produce occupied by or belonging to the State Government upon such lands;
- (g) “Canal system” means a canal including the canals linked therewith;
- (h) “Command Area” means an area whether irrigated or capable of being irrigated under any irrigation system either by gravity flow or by lift or by any other method within prescribed area of operation, for which a water users’ association is formed;

- (i) “Competent Authority” means the State Government or any authority notified by the State Government;
- (j) “Competent Canal Officer” means an officer of Irrigation Department, Uttar Pradesh authorized by the State Government to perform any function under this Act within the area of his jurisdiction;
- (k) “Competent Investigating Agency” means an upper level water users’ association or the competent canal officer, as the case may be, responsible for investigating the offences under this Act;
- (l) “Culturable Command Area” means a culturable area within the gross command area;
- (m) “Designed Discharge” means the maximum discharge for which a canal system has been designed;
- (n) “Deficit Year” in relation to a diversion system or reservoir based canal system, means a year in which the water availability at the head works is less than that in a normal year;
- (o) “Discharge” means volume of water passing through a canal per unit of time;
- (p) “Distributary” means a canal so designated by the irrigation department or a canal with all works, whose designed head discharge is between 20 cusec and 500 cusec;
- (q) “Collector” Shall include an officer appointed to exercise all or any of the powers of a Collector provided under this Act;
- (r) “Election Officer” means an officer authorised by the State Government to perform functions related to elections of representative of a water users’ association;
- (s) “Field” means agricultural field;
- (t) “Field Drain” means a channel with all subsidiary works to discharge waste or surplus water from a field to the nearest drain;
- (u) “Gauge” means a graduated scale or measuring device to measure the flow or level of water at a particular section of canal;
- (v) “General Body” in relation to a kulaba samiti shall mean a body consisting of all members of that kulaba samiti and in relation to a upper level water users’ association shall mean the body consisting of all members of managing committee of immediate lower level water users’ associations;
- (w) “Gross Command Area” means a gross area commanded by an irrigation system and bounded by natural drains;
- (x) “Hydraulic Basis” means the basis for identifying an area of operation of a water users’ association served by a canal system on topographical basis

bounded by natural depressions or drains having major area that can receive irrigation water by gravity flow;

- (y) “Immediate Lower Level Water Users’ Association” in relation to a water users’ association in the command area of a canal means a water users’ association in the command area of a direct offtake from that particular canal;
- (z) “Immediate Upper Level Water Users’ Association” in relation to a water users’ association means a water users’ association in the command area of the particular parent canal from which canal system of that water users’ association offtakes;
- (aa) “Irrigation Department” means Irrigation Department of the Uttar Pradesh Government;
- (ab) “Irrigation System” means an irrigation project for harnessing water for irrigation and other allied uses which includes reservoir-fed and/ or river diversion system of canals, open head channels, lift irrigation schemes, tanks and the like including the field drains to discharge waste or surplus water from the fields in a canal command to the nearest drain;
- (ac) “Land-holder” means owner as per khatouni or register-bandobast or a tenant or sub-tenant or a mortgagee in possession or licensee or tenure holder or lessee or otherwise, and includes person who is to be benefited by irrigation;
- (ad) “Lift Irrigation” means the irrigation in which water needs to be lifted from its source and supplied to the lands situated on higher level;
- (ae) “Lift Irrigation Scheme” means the irrigation scheme in which water is lifted from its source and is supplied to a canal system;
- (af) “Lower Level Water Users’ Associations” in relation to a water users’ association means all the water users’ associations at lower level, in the delineated area of operation of that particular water users’ association;
- (ag) “Managing Committee” means a committee of members elected or nominated or designated as such in such manner as may be prescribed;
- (ah) “Minor” means a canal designated as such by the irrigation department or canal with all works whose designed head discharge is not more than 20 cusec;
- (ai) “Normal Year” in relation to a diversion system or a reservoir based canal system means a calendar year in which the water available at the head works (including the water that is allowed to be discharged from the reservoir and losses therefrom) is as envisaged in the Irrigation Project Report or as revised subsequently by the State Government;
- (aj) “Office Bearer” means the Chairperson, the Secretary or the Treasurer of a water users’ association;

- (ak) “Outlet or Kulaba” means a structure along with its appurtenant works fixed or constructed on minor, distributary or branch canal or main canal or pucca water course to receive water from canal and to deliver it to fields through water course;
- (al) “Participatory Irrigation Management” means participation of stakeholders at all levels of irrigation system and in all aspects of irrigation management;
- (am) “Previous Dues” in relation to assessment and recovery of water charges means amount mentioned in a bill or in a notice sent to landholders or water users’ associations but not paid by them;
- (an) “Registrar” means an officer of irrigation department authorized by the State Government to perform the functions of registration etc. in respect of water users’ associations;
- (ao) “Reserve Fund” means a fund under Section 31;
- (ap) “Tail Gul” will carry similar meaning as outlet or kulaba defined in Para (ak). Wherever outlet or kulaba is referred it would automatically include “Tail Gul”;
- (aq) “Upper Level Water Users’ Associations” means all the higher level water users’ associations to of that water users’ association in the delineated area of operation of the irrigation system;
- (ar) “Wastage of water” means wasteful running of water through escape channel (except for canal safety) or otherwise instead of using it as per irrigation plan and other legitimate purposes;
- (as) “Water Charges” means such sum of money payable by a water users’ association/a landholder to the Irrigation Department/higher level water users’ association/lower level water users’ association as the case may be for the supply, of water to it at such rates as may be notified from time to time by the State” Government;
- (at) “Water Rate” means price chargeable at point of supply per unit area/quantity of water;
- (au) “Water Course” or “Field Channel” or “Gul” means a channel with all subsidiary works which receives water through an outlet and distributes it to the fields;
- (av) “Water user” means an individual or body corporate or an association or a group, using water in a command area;
- (aw) “Water Users’ Association” means a body of water users at a particular level of a canal system for flow as well as lift irrigation;
- (ax) “Water Users’ Association at Project Level” means a water users’ association constituted at project level to be known as Pariyojna Samiti;

- (ay) “Water Users’ Association at Branch Level” means a water users’ association constituted at branch level to be known as Shakha Samiti;
- (az) “Water Users’ Association at Distributary Level” means a water users’ association constituted at distributary level to be known as Rajwaha Samiti;
- (aaa) “Water Users’ Association at Minor Level” means a water users’ association constituted at minor level to be known as Alpika Samiti;
- (abb) “Water Users’ Association at Outlet Level” means a water users’ association constituted at outlet level whether of the minor or the distributary or the branch or the main canal to be known as Kulaba Samiti;
- (acc) “Lands under Participatory Irrigation Management Act” means the lands under cultivable command of an irrigation system.

(2) Words and expressions not defined shall have the meanings assigned to them in the Northern India Canal and Drainage Act, 1873.

CHAPTER II

WATER USERS’ ASSOCIATIONS, THEIR CONSTITUTION, POWERS AND FUNCTIONS

3. Water users’ association to be body corporate.—Every Water Users’ Association (WUA) constituted and registered under this Act by the Registrar shall be a body corporate and shall besides the powers of a body corporate have the power to manage and maintain the irrigation system given in its charge, and to do all things necessary, proper or expedient for the safety and security of the Government property under its control and management provided that no water users’ association shall have the power to alienate in any manner any property handed over to it by the Government.

4. Objectives of water users’ association.—The main objective of water users’ association is to bring about water users’ participation in water management and also to create among the water users’ a sense of ownership of irrigation system in their area. More specifically, a water users’ association shall:—

- (i) promote and secure equitable, efficient and timely water distribution;
- (ii) motivate water users for adopting practices of scientific and economic use of water;
- (iii) encourage conjunctive use of surface and ground water;
- (iv) encourage intensified and diversified agricultural production system; and
- (v) protect environment and ecology.

5. Powers and functions of water users’ association.—(1) A water users’ association shall have powers:—

- (i) to enter on any land, remove obstructions, close any channel, and do other things necessary for carrying out its functions;
- (ii) to cut down or/and clear away any part of any standing crop, fence or bush if it is necessary to carry out its functions;
- (iii) to enter into any building or water-course for the purpose of inspecting or regulating the use of canal water, or for measuring the lands irrigated thereby and chargeable with a water rate and to do all things necessary for the proper regulation and management of such, canals.
- (iv) to enter in case of any accident happening or being apprehended to a canal, water users' association upon any lands adjacent to such canal, and may execute all work which may be necessary for the purpose of preventing such accident:

Provided that if a water users' association proposes to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with canal water, it shall previously give the occupier of such building, court or garden at least seven day's notice in writing of its intention to do so :

Provided further that every case of entry under this section, the water users' association shall at the time of such entry, tender compensation for any lawful claim of damage which may be occasioned by any proceeding under this section: and in case of dispute as to the sufficiency of the amount so tendered, it shall forthwith refer the same to the competent canal officer for decision. The decision of competent canal officer shall be final;

(2)(a) A water users' association at kulaba, minor or distributary level shall perform the following functions in the area of its operation:-

- (i) to inform members regarding canal statistics and water use status and invite suggestions, if any, for efficient management of the available water in the general body meeting;
- (ii) to prepare crop plan as per water budget and soil condition;
- (iii) to prepare water indent and submit it to immediate upper level water users' association or competent canal officer, as the case may be;
- (iv) to receive water from immediate upper level water users' association or competent canal officer, as the case may be, on volumetric basis and to supply it to its immediate lower level water users' associations or landholders in an equitable and transparent manner;
- (v) to design, implement, regulate and monitor its own water sharing arrangement, in the manner prescribed;
- (vi) to prepare water budget and maintain water account in such manner as may be prescribed;
- (vii) to prevent unauthorized irrigation and wastage of water, to ensure timely reporting of offences under Section 33 to immediate upper level water

users' association/competent canal officer, as the case may be, and to cooperate with the investigating agencies;

- (viii) to prepare and submit crop seasonwise or annual reports including water audit to general body and to upper level water users' association or the competent canal officer as the case may be;
 - (ix) to plan, design and implement activities relating to command area development in its area of operation;
 - (x) to assist and participate in such manner as may be prescribed in the process of recording of irrigation and assessment and recovery of water charges;
 - (xi) to prepare inventory of assets in its charge and maintain it with other records in such manner as may be prescribed;
 - (xii) to resolve dispute or difference among its members or lower level water users' associations;
 - (xiii) to undertake any other activities required for accomplishing the objectives of this Act.
- (b) A water users' association at kulaba level shall perform the following additional functions in the area of its operation:—
- (i) to construct and maintain water courses and field drains;
 - (ii) to distribute available water among landholders.
- (c) A water users' association at minor or distributary level shall perform the following additional functions in the area of its operation:—
- (i) to carry out annual maintenance and repairs of the irrigation system in its charge before commencement of each irrigation season;
 - (ii) to implement special maintenance and repairs of the irrigation system in its charge;
 - (iii) to monitor and coordinate the activities of the lower level water users'-associations.
- (d) A shakha samiti shall perform the following functions in the area of its operation:
- (i) to give advice to the lower level water users' associations or the competent canal officer, as the case may be, regarding annual maintenance and recovery of previous and current water charges etc.;
 - (ii) to prepare and issue a public notice of water budget and preliminary irrigation program for the branch before commencement of each irrigation season considering number of rotations and irrigation interval in consultation with the competent canal officer;

(iii) to prepare canal operation schedules in consultation with lower level water users' associations and the competent canal officer;

(iv) to monitor and coordinate the activities of the lower level water users' associations.

(e) The pariyojana samiti shall give advice to competent canal officer and apex committee on problems and issues related to water management within the project area.

(3) Where there is no water users' associations at kulaba level the powers and function thereof shall vest in the water users' association at minor level and where there is no water users' association at minor level also the powers and functions of water users' association at kulaba level shall vest in the competent canal officer.

(4) Where there is no water users' associations at minor level the powers and function thereof shall vest in the water users' association at distributary level and where there is no water users' association at distributary level also the powers and functions of water users' association at minor level shall vest in the competent canal officer.

(5) Where there is no water users' association at distributary level, branch level and project level the powers and function thereof shall vest in the competent canal officer.

6. Delineation of area of operation of water users' association.—(1) The competent canal officer may, by notification in the Official Gazette, delineate or modify on hydraulic and/or administrative basis/the command area of an irrigation project or part thereof to be an area for which water users' association of appropriate level shall be constituted in such manner as may be prescribed:

Provided that no such notification regarding modification of a delineated area shall be issued unless a reasonable opportunity is provided to the water users' associations and landholders likely to be affected.

(2) The notification under sub-section (1),—

(a) shall consist of a certified copy of updated shajra map of area of operation and other documents as may be prescribed.

(b) shall be widely displayed in and in the vicinity of the area of operation of the water users' association.

(c) on demand by any interested landholder, the copies shall be made available to him on such payment as may be prescribed.

(3) Any person aggrieved by the notification or part thereof may within thirty days from the date of notification, file an appeal before the appellate officer.

(4) The appellate shall within three months of receipt of the appeal pass such order as he thinks fit and thereupon the notification shall from the date specified in such order stand modified. Provided that no such order shall be made without giving the person concerned an opportunity of being heard.

7. Constitution of water users' association at outlet level (Kulaba samiti).—

(1) For the area delineated as an area of operation of an outlet, water users' association shall be constituted.

(2) All the water users of the outlet shall constitute the general body of the kulaba samiti and only the adult members with prescribed eligibility shall have the right to vote. In case of non-adult members, their natural guardians may represent them in the general body and shall also have the right to vote. If the natural guardian is already a member of the general body then he/she shall have the right to exercise his/her vote only once.

(3) No person who is not eligible to be elected to an office of the Gram Panchayat, shall be eligible to stand for election to the managing committee of a kulaba samiti.

8. Managing committee of water users' association at outlet level (Kulaba samiti) and election of its members and office bearers.—(1) The command of an outlet shall be divided into such number of sub-commands as may be prescribed. Each sub-command shall have almost equal number of landholders.

(2) There shall be a managing committee for every kulaba samiti headed by a Chairperson. The committee shall have one representative each from every sub-command. If there is no representation of person belonging to Scheduled Castes or Scheduled Tribes or of women or panchayats in the managing committee, one person against each unrepresented category and chairman of jal prabandhan samiti of gram panchayat shall be co-opted by the managing committee from amongst members of the general body. Such managing committee shall be responsible to discharge the functions of the kulaba samiti.

(3) The representative of sub-command shall be directly elected from amongst the landholders of the sub-command for such period and in such manner as may be prescribed/The Chairperson and other office bearers of the managing committee shall be elected by itself from amongst the representatives of the sub-commands in the first meeting of kulaba samiti. The first meeting of such kulaba samiti shall be presided over by the competent canal officer. The tenure of the Chairperson and other office bearers shall be such as may be prescribed:

Provided that no member of the general body shall hold more than one post of office bearer in the managing committee:

Provided further that no member of the general body who is an office bearer in the managing committee of a kulaba samiti shall be an office bearer in the managing committee of any other water users' association at any level. In case an office bearer of a kulaba samiti is elected as office bearer of an upper level water user association, he shall cease to be an office bearer of the kulaba samiti.

(4) If any member of managing committee fails to discharge the duties under this Act, he may be recalled in such manner as may be prescribed.

(5) If a member of the managing committee has been elected to upper level water users' association, has been recalled or is dead, the position thus falling vacant shall be filled within prescribed time.

(6) If an outlet directly offtakes from distributary or branch then the competent canal officer shall move for constitution of a water users' association comprising of specified number of kulaba samitis of direct offtakes and its affiliation with water users' association at distributary or the branch as the case may be. The status of such water users' association shall be that of a water users' association at minor level. Further, the managing committee of such water users' association shall form the general body of water users' association at distributary or branch level as the case may be for purpose of representation and other functions.

(7) If the constitution of water users' association as aforesaid in sub-section (6) is not feasible, then the level of affiliation of kulaba samitis concerned shall be determined after consultation as prescribed with each such kulaba samiti and affiliating water users' association. The managing committee of the kulaba samiti in such case shall form the general body of the affiliating water users' association for purpose of representation and other functions. In case, affiliation is not feasible, the competent canal officer shall discharge all functions and powers of immediate upper level water users' association for such kulaba samiti(s) till such affiliation.

Explanation.—For the purpose of constitution and federation of cluster of direct offtaking kulaba samitis, the principle of contiguity and common hydrological flow shall be prime consideration. In case of exceptional situation of inability to constitute and affiliate as in sub-sections (6) and (7), competent canal officer shall discharge all functions and powers of immediate water users' associations for such kulaba samiti.

(8) If kulaba directly offtakes from main canal, the competent canal officer shall discharge all functions and powers of immediate upper level water users' association for such kulaba samiti(s).

9. Constitution of water users' associations at alpika, rajbaha and shakha levels.— (1) For the area delineated as area of operation of a minor, distributary and branch level water users' association, water users' associations shall be constituted which shall be known as alpika samiti, rajbaha samiti and shakha samiti respectively.

(2) All the members of the managing committee of immediate lower level water users' associations in its area of operation shall constitute the general body of alpika samiti, rajbaha samiti or shakha samiti as the case may be.

(3) In the case of minors off-taking from branch canal, a water users' association comprising of specified number of water users' associations at minor level may be constituted and affiliated with water users' association at branch level. The status of such water user association shall be that of a water user association at distributary level. Further the managing committee of such water users' association shall form the general body of water users' association at branch level for the purpose of representation and other functions.

(4) If the constitution of water users' association as aforesaid in sub-section (3) is not feasible, then the level of affiliation of alpika samitis concerned shall be determined after consultation as prescribed with each such alpika samiti and affiliating water users' association. The managing committee of the water users' association at minor level in such case shall form the general body of the affiliating water users' association for purpose of representation and other functions.

(5) If a minor directly offtakes from main canal, the competent canal officer shall discharge all functions and powers of a distributary level water users' association for such alpika samiti(s) till such affiliation.

10. Managing Committee of alpika samiti, rajbaha samiti and shakha samiti.—(1) There shall be a managing committee for each water users' association at minor, distributary or branch level. The committee will be comprised of a Chairperson, a Secretary, a Treasurer and such number of other members as may be prescribed. If there is no representation of persons belonging to the Scheduled Castes or Scheduled Tribes or of women or panchayats of appropriate level situated at the tail end of canal, in the managing committee, then one person against each unrepresented category shall be coopted by the managing committee from amongst members of the general body or panchayats of appropriate level situated at the tail end of canal, as the case may be. Such managing committee shall be responsible to discharge the functions of the water users' association in its area of operation.

(2) The members of the managing committee of the water users' association at minor, distributary and branch level shall be elected for such period and in such manner as may be prescribed.

(3) If any member of the managing committee fails to discharge the duties under this Act, he may be recalled in such manner as may be prescribed.

(4) The office bearers of the managing committee shall be elected by the committee itself from amongst its elected members.

11. Constitution of water users' associations at project level (Pariyojna samiti).— (1) All Chairpersons of branch committee shall constitute the pariyojna samiti.

(2) The members of pariyojna samiti shall select a Chairperson from amongst themselves by consensus in such manner as may be prescribed.

12. Acceptance of resignation.—(1) Resignation of a member of the managing committee of a water users' association, at any level may be accepted by the managing committee of the water users' association concerned.

(2) Resignation of the Chairperson of a water users' association may be accepted by the managing committee of immediate upper level water users' association or competent canal officer as the case may be.

13. Act to apply to existing water users' associations.—Any existing water users' associations in a delineated area constituted in accordance with Government Order No. 2188/27-4-67W/96, dated 1-5-2006 prior to the date of commencement of this Act, shall continue to function if the provisions of the agreement entered into between the competent canal officer and the water users' association is not inconsistent with the provisions of this Act and the rules made thereunder.

14. Authentication of orders and documents of water users' association.— All permissions, orders, decisions, notices and other documents, of the general body or managing committee of a water users' association shall be authenticated by the signature of the secretary of water users' association.

15. Act not to be invalidated by infirmity or vacancy etc.—No actions or proceedings of the general body or the managing committee of a water users' association shall be invalid by reason only of the existence of any vacancy or defect in the constitution of such water users' association, if minimum quorum as prescribed and the chairperson are present, in such meeting.

16. Transfer of management of irrigation system to water users' associations.—(1) After notification of constitution of a water users' association under sub-section (1) of Section 7 or sub-section (1) of Section 9 management of the part of irrigation system falling in its area of operation shall be handed over by the Irrigation Department in the forthcoming crop season (rabi or kharif as the case may be) to outlet/minor or distributary level water users' association as the case may be. If such crop season falls within one month then such handing over shall be given effect on coming of next following season.

(2) Civil works such as rehabilitation of minors planned and funded by the State Government shall be implemented by water users' association after transfer of management under sub-section (1) of Section 16 where any water users' association is unable to implement the plan, the irrigation department may carry out these works as a special case on behalf of water users' association to the satisfaction of the water users' association.

17. Ownership of irrigation system to rest with State Government.—The ownership of the irrigation system, whose management has been transferred to the water users' association for fulfilling the objective of this Act, shall remain with the State Government.

18. Agreement between the Government and water users' association and between water users' associations.—(1) For the purpose of supply of bulk water to the water users' associations and related issues, the distributary level water users' association shall enter into an agreement with the Irrigation Department in such manner as may be prescribed. Every other lower level water users' association shall enter into similar agreement with its immediate upper level water users' association.

(2) In the absence of a written agreement, or non-renewal of any existing agreement, every supply of canal water shall be deemed to be given at the rates and subject to the conditions laid down by the State Government or the competent authority so designated for the purpose.

(3) No right to the use of the water from a canal shall be, or be deemed to have been acquired, nor shall the Irrigation Department/water users' association, as the case may be, be bound to supply to any water users' association/landholder with available water except in accordance with the terms and conditions of the agreement.

(4) The competent canal officer or the water users' association, as the case may be, shall not stop the supply of water to a lower level water users' association or a landholder except in the following cases:—

- (i) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered and sanctioned by the competent canal officer,

(ii) whenever and so long as a canal or water course is not maintained in such proper shape and repair is necessary to prevent wasteful escape of water therefrom;

(iii) within such period as may be fixed from time to time by the competent canal officer;

(5)(i) No water users' association shall sell or sublet or otherwise affect its function of water distribution.

(ii) No water users' association shall be entitled to sell or sublet or otherwise affect the right to use any work, building or land allotment to any canal.

(iii) if it is found that the managing committee of a water users' association is unable to perform its functions, then the competent canal officer shall assist it and try to strengthen it to enable it to perform its functions. If the managing committee fails to perform even after such assistance the competent canal officer may initiate its dissolution and constitution of a new managing committee in such manner as may be prescribed.

19. Water budgeting.—Every water users' association shall prepare its crop plan according to its water budget taking into account conjunctive use of surface and ground water well before the crop season and accordingly plan a preliminary irrigation programme, in consultation with the competent canal officer. Such cropping pattern and irrigation programme shall be consistent with the State Government's agriculture and irrigation policies.

20. Installation of measuring device.—The competent canal officer shall provide and maintain a measuring device for volumetric measurement of water at the point of supply to water users' associations as prescribed and also determine the water carrying capacity every year for every season considering practical situation and directives issued by State Government.

21. Modes and rates for supply of water to water users' association.—Water shall be supplied by the Irrigation Department to the distributary level water users' associations measured volumetrically at supply point. The competent canal officer and the water users' association shall jointly check the discharge at the beginning of each crop season. Such joint measurements of discharges may also be made at other points of time if so required for correct assessment of water delivery to water users' association during the fasal period. Water charge shall be impressed at the end of each crop season fasalwise.

22. Recovery of dues as arrears of land revenue.—Without prejudice to any other mode of recovery, which is being taken or may be taken under this Act or any other law for the time being in force, any sum lawfully due under this Act and certified by the managing committee of a water users' association which remains unpaid by the landowner/water users/ water users' associations shall be recovered by the Collector as if it were an arrears of land revenue.

23. Claims to compensation and remission in case of failure or stoppage of water supply.—No claim shall be made against the State Government or the water users' association for compensation in respect of loss caused by the failure or

stoppage of the water in a canal, by reason of any cause beyond the control of the State Government or water users' association, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein or for maintaining the established course of the irrigation which the competent canal officer considers necessary; but the landholder suffering such loss as prescribed may claim such remission of the ordinary water charges payable for the use of the water as is authorised by the State Government on the recommendations of water users' association or competent canal officer as the case may be.

24. Apex committee (Sheersh samiti).—(1) The State Government may constitute a State level committee to be called the Sheersh Samiti with a Chairperson and such number of members not exceeding 20 of which half members shall be Government official having such qualifications as may be prescribed and the rest shall be the chairpersons of water users' associations as may be prescribed.

(2) The committee shall be responsible for monitoring, evaluation and research on the participatory irrigation management process in the State and shall provide necessary feedback to the State Government and advise it on policy matters.

(3) The committee shall exercise such powers and functions as may be prescribed.

25. Appointment of Registrar, Election Officer, Competent Canal Officer and Appellate Officer.—(1) The State Government may by notification in the Gazette appoint such officers of the State Government as the Registrar, Election Officer, Competent Canal Officer and Appellate Officer.

(2) The powers and functions of officers appointed under sub-section (1) shall be such as may be prescribed.

26. Deputation of Government employees to water users' association.—(1) The State Government may, on request, depute its employees to a water users' association in such manner as may be prescribed.

(2) The water users' association may hire/appoint any person to carry out day-to-day work related to office/field at wages as approved in the form of pay and/or foodgrains.

(3) The remuneration and allowances and other service conditions of office bearers as well as of regular employees of water users' associations shall be such as may be prescribed.

CHAPTER III SOURCES OF FUNDS

27. Sources of funds of water users' association.—(1) The main source of funds of a water users' association shall be its share as determined by the State Government in the water charges recovered in respect of water supplied by it.

(2) A water users' association may also raise funds through the following sources:

- (i) income from the properties and the assets in the area of operation of the irrigation system with approval of competent canal officer.
- (ii) penalty and compounding of fees.
- (iii) contributions from landholders.
- (iv) donations.
- (v) interest on deposits.
- (vi) borrowings.
- (vii) fees for services.
- (viii) grants from State or Central Government.
- (ix) income from such other source, as may be prescribed.

28. Utilization of funds.—The funds of the water users' association shall be utilized towards fulfilment of its objectives and the performance of its functions.

29. Budget.—The managing committee of a water users' association shall prepare an annual budget for the next financial year showing the estimated receipts and expenditure, which shall be placed before the general body for approval in the prescribed manner.

30. Deposit and administration of the funds.—A water users' association shall keep its funds in the accounts opened in its name in either a scheduled bank or a post office.

31. Reserve fund.—Every water users' association shall maintain a reserve fund in a separate account which shall be utilized in such manner as may be prescribed.

32. Audit.—Every water users' association shall get its annual accounts audited by such auditor as may be prescribed.

CHAPTER IV OFFENCES AND PENALTIES

33. Offences and penalties.—(1) Whoever, without any lawful authority does any of the following acts within the delineated area of operation of an irrigation system, that is to say:—

- (i) damages, alters, enlarges or obstructs any canal work or field drain;
- (ii) interferes with, increases or diminishes the supply of water in or the flow of water from, through, over or under, any canal or field drain;
- (iii) uses without authorization of competent authority, water outside the area of operation of a water users' association;

- (iv) neglects to take the proper precautions for the prevention of waste of water or interferes with the authorized distribution of water or uses such water in an unauthorized manner;
- (v) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;
- (vi) destroys or moves any level mark made, water-gauge or any apparatus fixed by the authority of a public servant or water users' association;
- (vii) passes, or causes any animals or vehicles to pass on or across any of the works, banks or channel of a canal or field drain contrary to rules except for cattle ghat wherever provided and roads designated for such use;
- (viii) obstructs the implementation of scheduled irrigation;
- (ix) encroaches upon the canal or field drain or damages the canal assets or Government property;
- (x) contravenes the provisions of this Act and rules made thereunder:

shall be punishable with imprisonment which may extend to six months or fine which shall not be less than one thousand rupees but which may extend to the cost of damage or both:

Provided that an additional fine not less than one thousand rupees may be imposed for a subsequent conviction of the same person for a like offence.

(2) Whenever the offence under sub-section (1) is committed by a company or a society every person who, at the time the offence is committed was in charge of, and was responsible to the company/society for performing its functions and having powers to perform such functions, as well as the company/society, shall be liable to be proceeded against and punished for such offence.

(3) Whenever any person is fined for an offence committed under this Act, the appropriate court may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

34. Investigation of the offences.—(1) The alpika samiti or the other upper level water users association shall act as the competent investigating agency for investigating the offences under sub-section (1) of Section 33. The immediate upper level water users' association or the competent canal officer, as the case may be, shall investigate the offences committed in the jurisdiction of a lower level water users' association.

(2) The Chairperson of a water users' association, in whose jurisdiction the offence is committed, shall be bound to inform promptly to the competent investigating agency regarding the offence as soon as he has the knowledge of such offence and upon request made by the competent investigating agency, he shall assist it in the investigations.

(3) It shall be the duty of police officers, employees of the State Government and members of water users' association, in whose knowledge any offence,

punishable under this Act is committed or attempted to be committed, to give immediate information to the competent investigating agency of such commission or, attempt and to assist the competent investigating agency in the exercise of its authority under this Act.

(4) A competent investigating agency shall start to investigate as soon as possible an offence punishable under Section 33 committed within the area of the jurisdiction thereof.

(5) The competent investigating agency may exercise the same powers in respect of such investigation as an officer-in-charge of a police station may exercise in a cognizable offence under the provisions of the Code of Criminal Procedure, 1973 as amended from time to time.

(6) If the Chairperson of a water users' association is not performing in accordance with the provisions laid down in the sub-section (2) he may be treated as one of the accomplice in the offence by the competent investigating agency and be punished accordingly.

35. Institution of proceedings.—No court shall take cognizance of an offence under Section 34 except on complaint in writing made by the competent investigating agency as the case may be.

36. Compounding of offences.—(1) On the application of a person, company or society accused of an offence under this Act, the immediate upper level water users' association or the competent canal officer as the case may be, may at any stage compound such offence by levying a composition fee not exceeding the fine which could be imposed for such offence:

Provided that no compounding of offences shall be done in case of such a person, company or society, who had committed an offence under this Act twice before or whose land had been benefited twice before by such wrongful acts.

(2) If the amount of the composition fee levied under sub-section (1) remains unpaid, the immediate upper level water users' association or the competent canal officer, as the case may be, shall cause it to be recovered as arrears of land revenue.

37. Appeal.—Any person aggrieved by the judgment or order under Section 33 may prefer an appeal in the competent court in accordance with the provisions of the Code of Criminal Procedure, 1973 as amended from time to time.

38. Liability when person using water unauthorized cannot be identified.—If water supplied through a canal or a water course is used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person on whose land such water has flowed if such land has derived benefit therefrom, or if such person cannot be identified or if such land has not derived benefit therefrom and the owner of such land has not informed timely about such unauthorized flow of water to the competent authority, all the persons chargeable in respect of the water supplied, shall be liable, or jointly liable, as the case may be, to the charges made for such use.

39. Liability when water runs to waste.—If water supplied through a canal or a water course be suffered to run to waste, and if, after inquiry by water users' association, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the users chargeable in respect of the water supplied through such canal or water course shall be jointly liable for the charges made in respect of the water so wasted.

40. Charges recoverable in addition to penalties and decision of questions under Sections 38 and 39.—(1) All charges for the unauthorized use or waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

(2) All decisions under Sections 38 and 39 shall be made by the water users' association subject to an appeal to the appellate officer.

41. Punishment under any other law not barred.—Nothing in this Act shall prevent any person from being prosecuted and punished under any other law for the time being in force for any act of omission or commission punishable by or under this Act.

42. Penal charges.—Unauthorized irrigation should be charged not less than 10 times the normal authorized use rate. If such unauthorized use is repeated by such users, the charge shall be at the rate equal to the amount of 20 times of the normal authorised rate for such repeat offences.

CHAPTER V RESOLUTION OF CONFLICT

43. Settlement of disputes.—(1) The dispute or difference relating to constitution, management, powers and functions of a water users' association shall be resolved as follows:

- (i) Any dispute or difference arising between its members shall be resolved by the managing committee of the water users' association.
- (ii) Any dispute or difference arising between a member of water users' association and a members of its managing committee shall be resolved by the immediate upper level water users' association or the competent canal officer, as the case may be.
- (iii) Any dispute or difference arising between water users' associations shall be resolved by the immediate upper level water users' association or the competent canal officer, as the case may be;

(2) Every dispute or difference under sub-section (1) shall be disposed of within thirty days from the date of reference of the dispute in such manner as may be prescribed.

44. Appeals.—(1) Any party aggrieved by the decision made or orders passed by a water users' association may prefer an appeal to the immediate upper level water users' association or the corresponding competent canal officer, if such upper level water users' association does not exist.

(2) Appeal under sub-section (1) shall be made within thirty days from the date of the decision or the orders.

(3) Every appeal under sub-section (1) shall be disposed of within thirty days from the date of filing thereof.

(4) Any party aggrieved by the decision or order of the competent canal officer may appeal to appellate officer within 30 days from the date of such decision or order. The decision taken by the appellate authority shall be final and binding.

CHAPTER VI MISCELLANEOUS PROVISIONS

45. Protection of things done in good faith.—No suit, prosecution or other legal proceedings shall be maintained against any employee, office bearer and member of managing committee of a water users' association at any level and Government employees in respect of anything done in good faith or purporting to be done under the provisions of this Act and the rules made thereunder.

46. Power of the State Government to issue directions.—The State Government may issue such orders and directions of general nature not inconsistent with the provisions of this Act and as it considered to be necessary in furtherance of the objects of setting up water users' associations.

47. Inquiry.—The State Government if satisfied that any action of the water users' association involves violation of any provision of this Act or any irregularity it may, by order, direct the competent canal officer or any other officer to make inquiry or to hold like appropriate proceedings under this Act, and the competent canal officer or any other officer shall report to the State Government, the result of the inquiry or the proceedings within such period as may be specified in the order.

48. Power to summon and examine witnesses.—Any officer conducting any inquiry under this Act shall have power to exercise all such powers connected with the summoning and examining of witnesses as are conferred on a civil court under the provision of the Code of Civil Procedure, 1908, and every such inquiry shall be deemed to be a judicial proceeding.

49. Jurisdiction of civil courts.—Except the claim for supply of water or specifically provided under this Act all claims against the State Government or the water users' associations in respect of anything done or any action taken under this Act may be tried by the civil court.

50. Training.—The State Government shall initially make arrangements for the capacity building of water users' associations for discharging their functions under this Act and may also facilitate subsequent training on the basis of full or partial payment.

51. Power to make rules.—The State Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

52. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, for removing such

difficulty, by order published in the Gazette direct that the provision of this Act shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission, as it may deem to be necessary and expedient

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the date of commencement of this Act.

53. Overriding effect of this Act.—The provisions of this Act shall apply notwithstanding anything to the contrary contained in the Northern India Canal and Drainage Act, 1873, the Uttar Pradesh Area Development Act, 1976 and the Uttar Pradesh Panchayat Raj (Jal Prabandh Samiti) Rules, 1989 or in any other law for the time being in force.

54. Repeal and saving.—(1) The Uttar Pradesh Participatory Irrigation Management Ordinance, 2008 (U.P. Ordinance No. 8 of 2008) is hereby repealed.

(2) Notwithstanding such repeal, anything-done or any action taken under the Ordinance referred to in sub-section (1) shall be deemed to have been done or taken under this Act as if the provisions of this Act were in force at all material times.

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