UNIVERSAL
LIBRARY
OU_168478
UNIVERSAL
LIBRARY

OUP—67—11-1-68—5,000.

OSMANIA UNIVERSITY

Call No. 630 2651 Accession No.

Author India Ministry of Food &

Title Agricultural Legislation in

This book should be returned on or before the date last mar

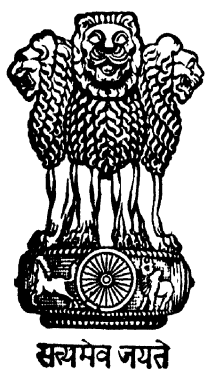
AGRICULTURAL LEGISLATION IN INDIA

Vol. III—AGRICULTURAL PRODUCTION & DEVELOPMENT

DIRECTORATE OF ECONOMICS AND STATISTICS
MINISTRY OF FOOD AND AGRICULTURE, GOVERNMENT OF INDIA

AGRICULTURAL LEGISLATION IN INDIA

Vol. III—AGRICULTURAL PRODUCTION & DEVELOPMENT



ISSUED BY THE
ECONOMIC AND STATISTICAL ADVISER
MINISTRY OF FOOD AND AGRICULTURE

PRINTED IN INDIA BY THE MANAGER, GOVT. OF INDIA PRESS,
NASIK ROAD, PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI
1952

PREFACE

There has been, of late, considerable legislative activity in the field of agricultural production and development. This brochure seeks to bring together the more important of these Acts passed by the Central and State Governments, bearing on agricultural improvement like land reclamation, land utilisation, cultivation of fallow lands, supply of seeds and manure, construction of irrigation works, soil preservation, crop regulation, crop protection and the formulation and execution of land development schemes. Various Acts in force as in January 1951 on each of these subjects have been arranged together to facilitate easy reference. It is hoped that in view of the paramount importance of increasing agricultural production, a comparative study of these legislative measures would prove useful and suggest lines on which further reforms need to be undertaken.

The detailed work in the preparation of this brochure has been done in the Land Economics Branch of the Directorate by Shri Y. N. Trehan under the supervision of Shri M. S. Menon. Any views expressed in the Introduction should not be taken as the views of the Government of India.

S. R. SEN,
Economic and Statistical Adviser,
Ministry of Food and Agriculture.

CONTENTS

Page

I. INTRODUCTION . . . . . i—xxii

II. EXTENSION OF CULTIVATION.

A. *Fallow Lands.*

1. The Central Provinces and Berar Cultivation of Fallow Land Act, 1948 . . 3
2. The Mysore Cultivation of Fallow Lands Act, 1951 . . 8

B. *Land Utilization.*

1. The U. P. Land Utilization Act, 1947 12
2. The U. P. Land Utilization Act, 1947, as extended to
   (i) Ajmer-Merwara 15
   (ii) Delhi 17
   (iii) Bhopal 19
3. The East Punjab Utilization of Lands Act, 1949 . . 20
4. The Madhya Bharat Land Utilization Act, 1950 23

C. *Land Reclamation.*—

1. The Bihar Waste Lands (Reclamation, Cultivation and Improvement) Act, 1946 28
2. The Central Provinces and Berar Reclamation of Lands (Eradication of Kans) Act, 1948 . 33
3. The Kumaon Nayabad and Waste Lands Act, 1948 . 36
4. The East Punjab Reclamation of Land Act, 1949 42
5. The Madhya Bharat Kans Eradication Act, 1948 44
6. The Bhopal Reclamation and Development of Lands (Eradication of Kans) Ordinance, 1949 47

III. IMPROVEMENT IN AGRICULTURAL PRACTICES.

A. *Improved seeds.*

1. The East Punjab Improved Seeds and Seedlings Act, 1949 52

B. *Manures.*

1. The East Punjab Conservation of Manure Act, 1949 54
2. The Madhya Bharat Municipal Refuse (Conversion into Manure) Act, 1950 . 59
3. The Madhya Bharat Village Refuse (Conversion into Manure) Ordinance, 1951 61

C. *Tractor Cultivation.*

1. The East Punjab Tractor Cultivation (Recovery of Charges) Act, 1949 . . 63
2. The Madhya Bharat Tractor Cultivation (Recovery of Charges) Act, 1950 . 65

IV. PERMANENT IMPROVEMENTS IN LANDS.

A. *Soil Preservation.*

1. The Punjab Land Preservation (Chos) Act, 1900 67
2. The Bombay Land Improvement Schemes Act, 1942 78
3. The Jammu and Kashmir Land Preservation Act, 1943 . . . 89
4. The Bombay Khar Lands Act, 1948 96
5. The Madras Land Improvements Scheme (Contour Bunding and Contour Trenching) Act, 1949 108

B. *Irrigation.*

1. The Bombay Irrigation Act, 1879 115
2. The Travancore Irrigation Act, 1897 143
3. The Bihar Private Irrigation Works Act, 1922 . . 152
4. The C. P. Irrigation Act, 1931 181
5. The Mysore Irrigation Act, 1932 215
6. The Cochin Irrigation Regulation, 1935 231
7. The Madras Irrigation Works (Repairs, Improvement and Construction) Act, 1943 241
8. The Bihar Public Irrigation and Drainage Works Act, 1946 . . . 246
9. The Malabar Irrigation Works (Construction and Levy of Cess) Act, 1947 . 259
10. The Madhya Bharat Irrigation Act, 1950 266
11. The Mysore Minor Tank Restoration Act, 1916 288
12. The Bengal Tanks Improvement Act, 1939 290
13. The Cochin Preservation of Eries Act, 1945 310
14. The Madras Irrigation Tanks (Improvement) Act, 1949 . . . 312
15. The Assam Embankment and Drainage Act, 1941 . . 315
16. The Assam Land (Requisition and Acquisition) Act, 1948 323
17. The West Bengal Land (Requisition and Acquisition) Act, 1948 . . 329

V. Protection from Pests and Diseases.

1. The Destructive Insects and Pests Act, 1914 334
2. The Madras Agricultural Pests and Diseases Act, 1919 337
3. The Travancore Plant Pests & Plant Diseases Regulation, 1919 . . . 343
4. The Coorg Agricultural Pests & Diseases Act, 1933 346
5. The Patiala Destructive Insects and Pests Act, 1943 . . 351
6. The Bombay Agricultural Pests and Diseases Act, 1947 . 354
7. The Rewa State Agricultural Pests and Diseases Act, 1947 360
8. The East Punjab Agricultural Pests, Diseases and Noxious Weeds Act, 1949 . 366
9. The East Punjab Agricultural Pests, Diseases and Noxious Weeds Act, 1949, as extended to Himachal Pradesh 371
10. The Assam Agricultural Pests and Diseases Act, 1950 . 372

VI. Crop Regulation.

1. The Essential Supplies (Temporary Powers) Act, 1946 378
2. The Cochin Proclamation of 1942 386
3. The Bombay Growth of Foodcrops Act, 1944 . . 387
4. The Saurashtra Growth of Foodcrops Ordinance, 1948 . . 393
5. The Hyderabad Restriction of Cash Crops Cultivation Regulation, 1944 . 398

VII. General Development.

1. The West Bengal Land Development and Planning Act, 1948 . . . 401
2. The U. P. Rural Development (Requisitioning of Land) Act, 1948 . . 406
3. The Orissa Development of Industries, Irrigation, Agriculture, Capital Construction and Resettlement of Displaced Persons (Land Acquisition) Act, 1948 412
4. The Delhi and Ajmer-Merwara Land Development Act, 1949 . . 417
5. The Travancore-Cochin Land Development Act, 1950 . . . 428
6. The Madhya Bharat Requisitioning of Land (Rural Development) Bill, 1950. . 436

Index 441

AGRICULTURAL PRODUCTION AND DEVELOPMENT

INTRODUCTION

Agricultural Development in the early years of British Rule.—Until recently, there has hardly been any legislative attempt to control and regulate agricultural production in this country. Such action as was taken was mostly confined to administrative measures like the setting up of Central and Provincial Departments of Agriculture, organization of research and agricultural education, and measures designed to meet the recurrence of famine. The early British administrators were concerned with land chiefly as a source of revenue, and the efforts at land improvement which were attempted by measures like expansion of irrigation, etc., were undertaken mostly with a view to increasing the revenue-paying capacity of the land. This is apparent from one of the despatches of Lord Mayo, which said that "there is perhaps no country in the world in which the State has so immediate and direct an interest in agriculture. The Government of India is not only a Government, but the chief landlord. The land revenue is derived from that portion of the rent which belongs to the State, and not to individual proprietors. Throughout the greater part of India, every measure for the improvement of the land enhances the value of the property of the State."* Moreover, farming was largely of the self-sufficing type, while the prevalence of payments in kind combined with the difficulties and high cost of transport restricted the markets for agricultural produce to local areas. The village communities had not fully lost their vitality, and the caste and joint family system prescribed the limits of economic competition and determined production according to well-defined methods of routine. Each village produced its own requirements of food and fibre; there was little of specialization, and the usual complement of artisans and handicraftsmen, who were as much part of the village as the land itself, did all the processing that was necessary for the satisfaction of the modest wants of the community.

The Industrial Revolution in England, which also created the necessary conditions for the great improvements in British agriculture in the latter half of the 18th and the early 19th centuries, hit the agricultural economy of India in two ways. Political domination, which in the previous period had jealously kept the Indian goods off the foreign markets, now sedulously encouraged, under the cloak of a convenient doctrine of economic liberalism, the free inflow of large masses of consumable goods. The products of indigenous handicrafts were gradually ousted from the markets of the country, and the Indian artisans, bereft of their calling, crowded back on the land as the only means of sustenance. This, helped also by other circumstances, resulted, on the one hand, in the rapid emergence of the problem of landless proletariat, so long alien to the Indian agricultural economy, and on the other, in the increasing pressure on land, which eventually led to its sub-division into small holdings and fragmented cultivation. The 1931 census revealed that 64 per cent of the rural artisans had forsaken their ancestral occupations and taken to agriculture as the only means of livelihood. The effect of this on the systems of land use and the standard of cultivation will be noticed later in the context of the different legislative measures which have been adopted for effecting improvements in production.

---

* Sir W. W. Hunter's *Life of Lord Mayo*, Vol. II, p. 322.

The second significant manner in which the Industrial Revolution affected Indian agriculture was the change in the pattern of crop production which followed the demand for raw materials by Britain's manufacturing industries. Agricultural production, till the middle of the 18th century, was diversified; the farm and the family had knit together production and consumption into a self-sufficing economy. For the first time, however, the Government of India began to take a more lively interest in the cultivation of commercial crops like cotton, largely owing to the insistent pressure of British manufacturing interests like the Manchester Cotton Supply Association. The special cotton tracts of the Deccan were developed in this manner, while the setting up of the jute mills of Dundee which received an impetus from the use made of jute sacking by the Dutch Government for their East India Coffee trade round about 1838, resulted in the specialization of large areas in Bengal in the growing of jute.*

In spite, however, of the establishment of peace and order in the country, the definition of landed rights, and the improvements effected in communications and irrigation, the outbreak of famines continued to be a recurring feature during the latter half of the 19th century also. Between 1800 and 1900 no fewer than 31 famines devastated different parts of the country taking a heavy toll of life estimated at 32.4 millions. The series of Commissions which reviewed the position at the close of each such outbreak laid emphasis on the paramount need to set up a strong Department of Agriculture for dealing with agricultural problems and to organize research for conducting scientific investigation into cultural requirements and practices.

Food and Population.—The famines of those days were, however, the result of local and temporary factors, like the failure of rains, weakness of the administrative machinery, which was as yet inexperienced in standing up to the sudden strain and the undeveloped systems of transport and communication, which failed to prevent local shortage from deteriorating into famine. The large exports of cereals from the country, which continued unabated even during the periods of famine, support the assumption that despite regional scarcities, the overall food position of the country was reasonably satisfactory. In 1901-2, the value of the exports of rice and wheat from India amounted to about 11 1/2 millions sterling. The Famine Commission of 1880 estimated that the country had a normal surplus of 5 million tons of foodgrains, after satisfying internal needs calculated on the basis of a ration of 1 1/2 lbs. per diem for an ordinary adult working male. Gradually, an elaborate mechanism of famine control and relief was built up, roads and railways broke the barriers of the land-locked village and brought Indian agriculture within the orbit of world economy. Under the stimulus of settled conditions of life and peaceful trade, well defined landed rights and the rising trend of internal and foreign demand, the prices of agricultural produce like rice, wheat, raw cotton and jute registered considerable increase in the course of a decade, from 1910 to 1920. It looked as if the stage was well set for an era of agricultural prosperity.

A number of things, however, happened which had the opposite effect on agriculture. Firstly, in the absence of organized institutions of farmers and owing to the system of land holding which prevailed and the apathy of the State, very little of the benefit of this rise in prices was passed on to the actual cultivator, and by far the largest share went into the hands of the hordes of middlemen, like landlords, merchants and money-lenders, which the system created. There was thus little improvement in the actual technique of production, the standard of cultivation or even in the economic position of the agriculturist. Secondly, the change in demand brought about a corresponding change in the pattern of crop production. On the whole, the cultivator of commercial crops fared better than the cultivator

* *Economic Conditions in India* by Dr. P. P. Pillai, p. 22.

of food crops, and this resulted in a gradual shift of emphasis from the production of food crops to non-food crops. While, therefore, the area under food crops increased in the course of 40 years from 1899 by only about 12 per cent. in the territories which formerly comprised British India, the area under non-food crops went up by about 60 per cent. Whatever be the advantages that might have accrued to the country as a result of this diversion, it certainly made the food position of the country one of increasing vulnerability. The completion of the canal projects in the Punjab and Sind and the development of the Irrawaddy delta during the early years of the 20th century, no doubt, enabled the country to avoid full scale famines; but from being an exporter of foodgrains, the country gradually became a net importer, the annual export of about half a million tons of wheat from Punjab and Sind in the years preceding World War II being counterbalanced by imports of about a million and a half tons of rice from Burma. Thirdly, the settlement of land and the numerous gradation of rights on the soil which gradually grew up, produced a host of problems. The upper layers lost organic touch with actual production and contented themselves with collecting their share of the produce without performing corresponding services, while the actual tillers, mulcted of an increasingly larger share of the results of their labour, lost the will and the capacity to improve the land. Fourthly, the commercialization of agriculture brought one more element of uncertainty into the economic condition of the farmer, *viz.*, uncertainty of income arising from instability of prices. The depression of the thirties brought ruin to many of the agriculturists. Between 1928-29 and 1933-34, the value of the principal crops in British India declined by about 53.6 per cent. The fall in the prices of primary goods was steeper than that of manufactured goods and, as Sir George Schuster remarked, "India felt the severity of the fall in the case of what she had to sell, but did not obtain a corresponding advantage of the fall in prices of what she had to buy". While the prices of exported goods, which were mainly agricultural, recorded a fall of about 45.9 per cent. between 1929 and 1934, the fall in the prices of imports, which were mainly manufactured, was only 28.2 per cent. This disparity in the fall of prices further aggravated the economic distress of the agriculturists. Finally, the drift from the old moorings following the break-up of the old self-regulated institutions of the village and the joint family, the removal of some of the positive checks like war and famine, and the increasing poverty of the masses which reduced incentives to restrain the size of the families, took away checks on growth of population which like a released spring spurted upward with alarming rapidity. The results were seen in the rapid diminution of *per capita* sown and cultivable area, fall in consumption standards and increasing malnutrition, the fragmentation and sub-division of agricultural holdings, the lowering of the yield of land and the progressive rise of a landless proletariat. The population of the Indian Union (excluding Jammu and Kashmir and the tribal areas of Assam and Sikkim) increased in the course of 30 years from 1921 to 1951 by 43.8 per cent.

Dim forebodings of population outstripping the means of subsistence and eventually proving a menace not merely to prosperity, but even to existence, were contained in the reports of the Famine Commissions even as far back as 1880. The Commission in that year, although they solaced themselves on the then availability of a normal surplus of 5 million tons of foodgrains, could not altogether banish the fear from their minds that the increase of population at the rate it was proceeding might eat up all the estimated yearly surplus, unless production was stepped up to keep pace with the increase. Two members of the Commission, who appended a note of dissent to the report, took even a more gloomy view of the future. By 1930, the situation had become more grave. Writing in 1932, Sir John Megaw, the Director-General of Health Services, observed that "taking India as a whole the dispensary doctors regard 39% of the population as being well nourished, 41% as being poorly nourished and 20% as being very badly nourished". He concluded that "the growth of population has already begun to outrun the increase in the production of the necessities of life, so that even the existing low

standard of economic life must inevitably become still lower unless radical change is brought about. The outlook for the future is gloomy to a degree not only for the masses of the people, who must face an intensified struggle for bare subsistence, but also for the upper classes whose income depends upon production of a surplus of crops and other commodities".

During all this period when the economic position of the agriculturist was steadily deteriorating, and production was being clogged in several directions by the severity of the depression, the population was multiplying with unabated vigour. Between 1921 and 1941 we had added to ourselves by another 66.6 millions, or by about 26 per cent. While total production remained more or less stationary, the *per capita* sown area, which affords an index of the pressure of population on resources, underwent a reduction during the course of 20 years, from 1921 to 1941, by 20 per cent. The necessary consequences of this prolific increase also worked themselves out on the land economy with relentless pressure. Land became increasingly chopped up into smaller and smaller fragments; the yield declined still further and the class of landless labourers swelled in number.

The war and the post-war years have been years of further travail. The initial years after the outbreak of the war brought some prosperity to the agriculturist; but this was shortlived and the rise in costs of cultivation soon caught up with the rise in agricultural prices. The standards of cultivation declined owing to a combination of causes. Some of the good cultivators were drawn away to war occupations; draught animals of good quality became more scarce and the material requisites of production came to be in short supply. With the clamping down of controls, the margins between cost and returns became narrower, while restrictions on alienations of land, regulation of money-lending and the enforcement of other debt relief measures caused increasing tension in the credit market.

No sooner was the war over than the country was overtaken by a fresh and more serious crisis. The partition of the country, followed by the movement to and fro of large masses of population on a scale unprecedented in the history of the world, brought problems, which it will take the united efforts of the whole nation for a number of years to completely overcome. The Indian Union got 82 per cent. of the population of undivided India, but only 77 per cent. of the area. About 7 to 8 lakh tons of foodgrains which used to be supplied by the areas now in Pakistan were lost. This came on the top of the effects of war, during which period stocks had almost been completely denuded and imports could be obtained only with great difficulty. Agricultural production in the rest of the world was also very slow in reviving, and the fact that Europe became increasingly dependent on supplies from America, made India's chances of getting wheat from that country more difficult. The South East Asian region, the rice bowl of the world, already prostrated by the devastation caused by the war, became increasingly embroiled in internal troubles and ceased for a time to be a dependable source of supply. In the mean time, the necessity to keep the home industries alive and earn foreign exchange for the purchase of capital requirements and essential supplies from abroad, made it necessary for the country to step up the production of cotton and jute besides that of foodgrains. At this grave juncture, when the resources of the country were being already subject to very heavy strain, came the Korean War which made supply and stocks position more difficult and gave a further thrust upward to costs and prices.

The population during all this period of stress and strain had gone on expanding at the rate of more than 1 per cent. per annum and now stands in the neighbourhood of 360 millions. The density of population has continued to increase considerably during the last half a century, representing a rise of 65.4 per cent. as compared with that of 1901. The Indian Union has an average population density of 296 persons per sq. mile, which is more than twice that of China, nearly six times that

of U.S.A., more than three times as high as in Siam and Burma and about 50 per cent. more than in France. This increasing pressure has further dwindled the *per capita* sown area to less than 0·7 acres, touching as low as 0·27 acres in the State of Travancore-Cochin.

The Grow More Food Campaign.—It was in this context of growing scarcities and growing demand and the difficulty and expenditure involved in getting supplies from abroad, that the policy of making the country self-sufficient in her major requirements gradually took shape. The policy had its origin in the difficult period immediately after the outbreak of the last great war, when the closure of the foreign markets for Indian cotton, followed closely by the stoppage of food supplies from abroad, forced on the Government the necessity of regulating for the first time agricultural production in national interests. Vigorous efforts were made to increase the area under foodgrains by diverting the acreage under commercial crops, like cotton and jute, to food. The methods adopted to achieve this objective consisted of propaganda and persuasion, fixation of minimum prices for foodstuff at a comparatively higher level and legislative action. By an amendment of the Defence of India Act then in force, the Government took over statutory powers to control and regulate agriculture. Rule 88B was issued under that Act in January 1944, empowering the Central and Provincial Governments to regulate crop areas and to prohibit the growing of particular crops. Some Provinces and States like Madras, Bombay, Hyderabad and Baroda took legislative action by compulsory restriction of acreage under cotton.

In the mean while, a Conference of the representatives of the Central Government, Provinces (now Part A States) and Indian States (now Part B States) which met in April 1942, framed a number of resolutions which formed the basis of what has come to be called the Grow More Food Campaign. The Campaign was designed mainly to maximise the food supplies of the country in the shortest possible time within the limits permitted by available resources. The measures taken under the Grow More Food Campaign fall under the following heads :—

(i) Attempts to increase the area under food and fodder crops by (*a*) bringing new land; including fallow land, under cultivation; (*b*) double cropping; and (*c*) diverting land from non-food crops to food crops;

(ii) Increase in the supplies of water for irrigation by the improvement and extension of existing irrigation canals, the construction of additional wells, etc;

(iii) The extended use of manures and fertilisers;

(iv) An increase in the supply of improved seeds; and

(v) Supply of agricultural machinery and implements.

The campaign has proceeded through different stages of change dictated by circumstances and experience. Until 1947, there was no definite plan or target, schemes were formulated on *ad hoc* basis by the States, and the Central Government confined itself to granting subsidies and loans to such schemes as were approved by it. In 1947, a five-year target was drawn up by the Central Government and accepted by the States. Meanwhile, the partition of the country accentuated the deficit in foodgrains; imports were increasing, causing a heavy drain on India's foreign exchange resources. By 1949, it came to be felt that the food self-sufficiency programme had to be placed on an emergency footing. The intention of the Emergency Plan was to increase the country's production to the extent necessary to make it self-sufficient in foodgrains by the end of March 1952. Imports thereafter were to be confined to quantities necessary for (*a*) creating a reserve, (*b*) meeting losses in production due to unexpected natural calamities, and (*c*) making good the losses in foodgrains likely to be caused by the planned diversion of area from foodgrains to cotton and jute. The Grow More Food Campaign has now

been assimilated into an integrated production programme which embraces foodgrains, cotton, jute, oilseeds and sugarcane. It has been recognized that while increased production of foodgrains is necessary primarily for meeting the consumption requirements of the country, that of cotton and jute is essential for the supply of raw materials for national industries and for avoiding unemployment and loss of foreign exchange. The Campaign is now concentrated in selected zones likely to show the best results, preference being given to schemes of permanent improvement, like tubewells, etc., rather than to schemes of a recurring character.

The Grow More Food Campaign has served to high-light the weak spots in the country's agricultural economy and bring up forcefully before the public the need to reorganize agriculture on a more rational and productive basis. This is evidenced by the great burst of legislative activity witnessed in recent years in spheres of agricultural production in which the State had not so long interfered. These comprise measures designed to bring more area under cultivation and measures intended to stimulate production in areas already under cultivation.

Extensive Cultivation.—From the statistical tables relating to land utilization it would appear that large areas are potentially cultivable although for various reasons they remain at present uncultivated.

Classification of Area—India

Particulars	Average 1936-37 to 1938-39	(Thousand acres) 1948-49
1. Area according to village papers	546,228	581,436
2. Area under Forest	81,505	83,425
3. Area not available for cultivation	91,038	96,735
4. Other uncultivated land excluding current fallows	86,984	93,229
5. Fallow land	48,665	62,439
6. Net area sown	237,961	244,274
7. Area sown more than once	30,147	33,530
8. Gross area sown	268,108	279,473

In the conventional estimates, therefore, an area of about 93 million acres appear as cultivable waste. Much of this land, however, is practically uncultivable; some are covered by scrub jungles or infested by weeds; some are cut up into ravines by soil erosion and some are highly malarial, water-logged or saline. From information furnished by the State Governments, an area of only about 10 to 11 million acres is definitely known so far to be cultivable under existing conditions and the reclamation of even these would need heavy capital expenditure and time.* Besides these cultivable waste lands, an area comprising about 62 million acres is classified as fallow land. There has been a noticeable increase in the area of fallow land since the pre-war period, due perhaps in some measure at first to restrictions on the cultivation of commercial crops and the difficulty of immediately switching over to food crops and later to the dislocation in normal production caused by large scale movement of refugees after partition, unsettled conditions of tenure following the several reforms which are in different stages of implementation, shortage of credit and supplies, adverse *seasonal* conditions, etc.,

The result has been a rapid reduction in the *per capita* sown area revealing the growing intensity of the pressure of population on the soil. In the pre-war triennium, the population was 306.8 million; in 1950 it had risen to 357·4† million. On the other hand, the area under cereals has only increased by 3·5 million acres. The *per capita* area under cereals has, therefore, declined by 12·7%.

* K. M. Munshi's *Food and People*, No. 2, p. 37.

† Excluding Sikkim. Figures supplied by the Census Commissioner.

This pressing need to augment food resources and the no less imperative necessity to increase side by side the production of cotton and jute to meet internal demand, have made the Central as well as State Governments to consider seriously all possibilities of extending the margin of cultivation to lands which have remained unused or gone out of cultivation. The steps taken in this direction include measures for the reclamation of kans infested areas, cultivation of fallow and uncultivated land, the proper preservation and protection of land from soil erosion, the undertaking of development schemes for the improvement of land in specified areas, crop regulation and planning and the provision, wherever possible, of facilities for mechanical cultivation. Necessary legislation has been passed in many of the States enabling the Government to require the cultivation of all cultivable land either by the proprietor or tenant himself or, if he was unwilling, through any other agency that Government may designate. Acts have been passed for securing the other objectives also.

Intensive Cultivation.—A more fruitful source of securing increased production is by the more efficient cultivation of land which is already under the plough. The schemes for this purpose include (*a*) work schemes, such as construction of wells, tanks, channels, small dams, contour bunding, etc., and (*b*) supply schemes such as the distribution of chemical fertilisers, manures, compost and improved seeds and schemes for plant protection.

Low yield and its causes.—The most outstanding feature of Indian agriculture is the consistently low yield per acre of most of the principal crops grown. The yield in India is one of the lowest compared with the other countries of the world.

Countries	Yield per Acre in pounds*	
	Rice	Wheat
1. Canada	..	1,032
2. Mexico	1,940	732
3. U.S.A.	2,066	1,032
4. Denmark	..	2,964
5. France	2,655	1,470
6. Italy	4,050	1,218
7. Spain	3,627	888
8. U. K.	..	2,136
9. U.S.S.R. (1935-39)	1,904	714
10. China	2,201	936
11. Siam	1,391	..
12. Japan	3,281	870
13. Egypt	3,155	1,560
14. Argentine	2,187	894
15. Australia	3,906	534
16. New Zealand	..	2,286
17. India & Pakistan	1,094	576

Some explanation of the comparatively low yield may be found in the climatic and ecological factors which affect production and in the different methods of computation in India and in other countries. There is an absence of adequate data on yields of the major food crops in relation to wide ranges in climatic

* *Source.*—United States Department of Agriculture, Agricultural Statistics, 1949.

and soil types prevailing in India. The raising of more than one crop in an area and more than one cropping in a year also make comparison of yields difficult. Even after making allowance for all these factors, however, it must be conceded that the yield of crops in India is exceedingly low as compared with other countries.

A more disconcerting feature of the situation is the gradual fall in the yields of the principal food crops. The yield per acre of rice has fallen from 866 lbs. in 1929 to 699 lbs. in 1948 and of wheat from 741 lbs. to 573 lbs. per acre during the same period. Dr. Panse has computed, from information available in *Ain-i Akbari*, that the average yield on medium type of *poolej* (annually cultivated) land during the reign of Akbar, was 2,240 lbs. on an acre of wheat land (equal to the present average yield in Western Europe), 2,333 lbs. on rice land (equal to that in China) and 1,940 lbs. on jowar land.* The downward trend of yields may be due partly to new marginal lands of lower level of fertility having been brought under cultivation as a result of the relentless pressure of population on the soil, and partly to other reasons. The more important of the latter are (1) poor water supply, (2) inadequacy of manures and fertilisers, (3) inferior quality of seed, (4) unscientific cultural practices and ill-planned distribution of crops, and (5) absence of measures for crop protection. Defective farm organization, resulting from the uneconomic size of the production unit, lack of capital for operational and improvement purposes, low quality of cattle, mechanical and human power employed on land and failure to connect research with application, is another important contributory cause which will be dealt with in more detail in other volumes.

Water Supply.—The most important factor for improving per acre yields is adequate and timely water supply. Out of about 243 million acres of net area sown in India, the total irrigated area amounts only to about 51 million acres or 21 per cent. About 4/5th of the cultivated area is thus dependent purely on the monsoon. Even in irrigated areas, the supply is often defective with the result that delayed plantings cause much avoidable loss amounting to 20 to 30 per cent. of normal yields. In regions of heavy rainfall, absence of proper drainage facilities depresses yields and throws land out of cultivation by yearly erosion of soil. It is estimated that about 2 per cent. of surface soil is lost every year through erosion.† In areas of low rainfall, yields are kept down for want of sufficient nutrients in the soil. or if manures and fertilisers are applied, they do more harm than good in the absence of adequate water supply. The high average yields of rice in Japan, Italy and Spain are due to its cultivation under irrigation and heavy manuring. In Japan about 95 per cent of the area under rice is irrigated, while in India not more than 25 per cent of the rice area is under irrigation. The construction of large dams and irrigation projects can be done by Government, but it may be possible for minor irrigation works like tanks, wells and small canals to be constructed and maintained by the cultivators themselves, if necessary with assistance from the Government, either individually or co-operatively. In the interests of efficient cultivation, the repairs, improvements and construction of small irrigation and drainage works and embankments even on private lands have come to be recognized as a public responsibility, and Governments have armed themselves with necessary legislative sanction for enforcing or carrying out works of this kind.

Manures and fertilisers.—Due to continuous cropping and indifferent manuring, the soils in most of the areas in India have become stabilized at a very low level of fertility. The soil is the main source of food material to the crops

* Paper read by V. G. Panse before the Meeting of the Crops and Soils Wing of the Indian Council of the Agricultural Research, March 1950.

† Paper read by Captain V. M. Chavan before the Meeting of the Crops and Soils Wing of the Indian Council of the Agricultural Research, March 1950.

and should be capable of supplying the requirements of the plants in respect of their main ingredients in a balanced proportion year after year. In tropical and subtropical regions, the humus in the soil is burnt away by the scorching heat of the sun. The organic bye-products of most crops, such as stalks, leaves, etc., are utilised as cattle feed or thatching material and are not returned to the soil except in small proportions. Of the cattle dung produced, equivalent to about 200 million tons of Farm Yard Manure, it is estimated that about 40 per cent. is used as fuel, 20 per cent. is lost and only about 40 per cent finds its way to the soil. Green manuring has gone down in practice owing to the difficulty of getting water and the encroachment of cultivation under pressure of population. The conversion of vegetation and refuse into compost has not been resorted to on any wide scale until recently. Poudrette is not used on account of religious and social prejudices. Thus the humus status of the soils has been steadily going down. The best results are secured when both organic and inorganic materials are used in suitable combination for manuring, the latter in small quantities as top dressing at planting time or soon after. In China and Japan, it is reported that as much as 67 per cent. of the nitrogen applied to crops is in the form of compost. Together with the increased use of artificial manures and fertilisers, therefore, every effort has to be made to prepare and conserve Farm Yard Manure and compost out of villages and town sweepings and garbage.

Varieties.—A minimum of 10 per cent improvement in yields by the use of improved varieties can, it has been established, be easily secured. However, in spite of years of extension services, it has been estimated that only 20 per cent. of the area is under such improved varieties. To achieve the rapid spread of such varieties, considerable improvements in the existing organization for multiplication and distribution of seeds will have to be effected and measures for encouraging the use of these seeds taken.

Cultural practices.—India has a long tradition of sound cultural practice. But there has been a gradual deterioration due to lack of encouragement, proper technical help and the migration of more efficient agricultural labourers to industrial cities. In several directions the existing practices require improvement. It is roughly estimated that in nearly 30 per cent. of the cultivated area, cultural operations are often delayed due to lack of proper facilities. The advantages of tansplanting of rice crop instead of broadcasting in areas of assured water supply, thin sowing of rice in nursery areas, early ploughing, weeding, etc., will have to be brought home to the agriculturists. In any scheme of long range planning, the aspect of proper distribution of crops in relation to ecological adaptability will have to be taken into account.

Study of recent legislation.—There has thus been in recent years a greater appreciation of the dangers to crop production which result from negligence or ignorance of the factors mentioned above. This has found expression in legislative enactments which seek to enforce better standards of cultivation in the general interests of the community.

The war and the partition of the country and the resultant scarcity in food and industrial raw materials tended to change radically the attitude of the Government to agricultural improvement. The immediate necessity for legislative action in the sphere of agricultural production was no doubt the need to bridge the gap, within as short a time as possible, between requirements and resources. But underlying these was also a change in the basic conception of Government's responsibility for evolving better standards of production and for improving the living conditions of the rural community. Agricultural improvement thus ceased to be solely the problem of the administrator and the research worker, but also a social responsibility, on which the community felt increasingly compelled to give its opinion and to lay down directives of action. This change in attitude is reflected in the extraordinary legislative activity witnessed in recent years in the sphere of

agricultural production. The legislative steps taken in this direction cover broadly the measures designed to secure extension and improvement of agriculture and rural development.

The important Acts passed by the different States for these purposes may be broadly classified under the following heads :—

(i) Extension of cultivation.
(ii) Crop planning and crop regulation.
(iii) Improvements in Agricultural practices.
(iv) Permanent improvements in land.
(v) Preservation of crops and cattle.
(vi) Rural development.

EXTENSION OF CULTIVATION

Fallow and Waste Lands.—In most of the States, large areas of culturable lands which are included in holdings or survey numbers are lying fallow for various reasons. In some cases, rents are paid for these lands, but the owners do not think it worth their while to bring the land under cultivation; in others, no rent is paid for the lands but the lands are still left uncultivated mostly because of lack of incentives to bring them under cultivation. Some of these lands are also not cultivated because of the fear that if the lands are let out to tenants, they may come to acquire permanent rights in the land. The legislations passed in regard to the cultivation of fallow lands have, therefore, as their main objective, the compulsion of the owners of such lands to bring these lands under cultivation either themselves or through lessees. The Central Provinces and Berar Cultivation of Fallow Lands Act, 1948 (as amended subsequently) requires that every holder shall cultivate each year so much area of occupied land as was under cultivation in the immediately preceding year. He shall, however, be liable to bring fallow lands under cultivation according to a sliding scale for different groups of land-holders based on the area of occupied land held by them. Non-observance of this provision makes them liable to a fine, which may extend to Rs. 25 per acre of area required to be cultivated under this Act. Certain lands, which are used for fodder crops or for grazing cattles are exempted from these provisions on application from the occupants. In cases, where the right holder is unable to make arrangements for cultivation, he may apply to the village committee and thereafter the Tehsildar will lease out such land to a tenant for cultivation or to a suitable lessee for a period not less than 5 years and not more than 7 years on the bare assessment or on such terms as can be secured. It is also provided that legal disability consequent on the habitual sub-letting of land or the leasing of *khud kasht* land will not apply to the fallow land so leased out. The Act, therefore, safeguards the rights of the original holders of the land.

The U.P. Land Utilisation Act, 1947 (extended to Delhi, Bhopal and Ajmer), and the Punjab Land Utilisation Act, 1949, also require the owners to take steps to get the land cultivated if it is remaining uncultivated for a specified period (one season in the case of U.P. and six harvests in the case of Punjab). If the landlord fails to cultivate the land as directed, the Collector is empowered to get such land cultivated on behalf of the Government by a tenant for such period as he thinks necessary. Under the Punjab Act, the period for which the land is let out is not less than 8 years. The land is to be leased by auction, but it is proposed to give preference to co-operative farming societies. In order to enable landlords to undertake cultivation, the Punjab Government are advancing loans for sinking of surface percolation wells and purchase of tractors and for installation of tube-wells, pumping sets, etc. Besides these facilities, Government tractors maintained by the Agriculture Department, are given on hire to landlords. The period of lease of the lands so taken over is generally not less than 7 years and not more than 20

years. Notice is given only in regard to such lands as can be usefully broken and are not required for essential purposes other than growing more food, *e.g.*, grazing, fuel, plantation, etc. The leased lands are included in the scheme only if they are not required for a common purpose. The lessee is not authorised to assign, transfer, mortgage or sub-let the land leased or premises thereon or any part thereof, neither can they use the land for any purpose other than that of sowing food and fodder crops.

The Madhya Bharat Land Utilisation Act, Samvat 2007 (Act No. 38 of 1950), also contains similar provisions relating to fallow lands. Under the Act, the State may fix the ratio between the cultivated and fallow land and enforce it even in the backward tracts by offering incentives in the shape of reduction of rents if the ratio is observed. If the percentage of fallow land in the holding of a tenant is higher than what may be fixed by the Government for the area, the Tehsildar may call upon the tenant to bring the excess fallow land under cultivation by himself or through a sub-lessee from the succeeding agricultural year. If it is shown that the land is not capable of being cultivated, or that it is already being cultivated, the Tehsildar is empowered to cancel the notice given. If the tenant refuses to comply with the orders, the Tehsildar is empowered to sub-let the land for a period not exceeding five years and the tenant shall be entitled to receive the rent from the sub-lessee. The Act provides a penalty of Rs. 500 for contravention of the provision.

Mysore has also brought forward a similar Bill, *viz.*, the Cultivation of Fallow Lands Act, 1951, under which the holder of occupied land in excess of 10 acres of wet land or 15 acres of dry land may be required to cultivate himself or through a lessee, such additional area of fallow lands as the Amildar may specify. Lands required for grazing can be exempted from these provisions. A penalty, which may be equal to one year's assessment, can be imposed on the holder for not carrying out the directions of Amildar. The Amildar is also empowered to lease out such lands for 5 years to a suitable lessee if the owner expresses his inability to carry out the orders.

For reclamation of waste lands, Acts have been passed in the States of Bihar, Punjab, Ajmer, Delhi and Bhopal, empowering the State Governments to declare any area as "Reclamation Area" and to acquire it for the purpose of reclamation and improvement. Several Land Utilisation Acts already referred to, also contain provisions for bringing both waste and fallow lands under cultivation. Similarly, for the purpose of eradication of kans, the State Governments in Bhopal, Madhya Pradesh and Madhya Bharat can undertake the necessary operations. The Governments are also empowered to appoint Kans Eradication Committees to assist them in carrying out such work. Where the State takes up the land for reclamation and cultivation, the cost incurred can be recovered from the landlords in one lump sum or in a number of annual instalments. In Bhopal, the payments to government may be in cash or kind. The Bihar measure, which is very comprehensive in scope, provides for a maximum period of possession, *i.e.*, ten years, repayment of charges due to the Government in not more than ten instalments and 3 per cent. interest on payments thus due. To facilitate mechanical operations, the Reclamation officers in Bhopal are empowered to reshape the holdings, provided the aggregate area of any holding does not, as far as possible, increase or decrease as a result of re-shaping. The reclaimed land will, after the operations are completed, be restored to the owners. The Delhi and Ajmer-Merwara Land Development Act, 1948, also provides for the constitution of Land Development Boards, which may draw up schemes for the reclamation of lands lying waste due to water-logging, accumulation of sand, growth of jungle, soil erosion or any other causes. The execution of such schemes may be entrusted to any person, or the owner himself can do it if he so wishes, or it may be got done by the Land Development Commission. Under the Land Reclamation Acts, reclamation is generally done by the Government and the cost recovered from the landlord. Under the Land Utilisation Acts, which apply also to waste lands, the owner is

directed to reclaim the lands in the first instance and it is only on his failing to do so that the Government arranges for its cultivation. The Travancore-Cochin Land Development Act, 1950, similarly provides for the Constitution of Land Development Boards for carrying out improvements in land and for reclamation of water-logged or otherwise waste land.

Encouragement for bringing uncultivated lands under cultivation is also sought to be given by the provision of definite incentives. The Kumaun Nayabad and Waste Lands Act, 1948, gives every person cultivating land in Kumaun District a right to extend his cultivation over adjoining un-measured land. The person so extending cultivation shall possess the same rights over such areas as he has in his original cultivated area. Villages, in which 75% or more of the total culturable area has already been brought under cultivation, or where the Deputy Commissioner of the Division has prohibited such extensions without his permission are, however, exempted from the operation of the Act. In Assam and Madhya Pradesh, the assessment on revenue-free lands has been increased to full level so that the owners may be induced to put such lands under the plough in order to raise enough to cover the land revenue. The Madhya Bharat Land Utilisation Act gives exemption from the payment of rents in respect of lands, which are brought under cultivation in economically backward and under-developed areas. The Act also enjoins the landholders and tenants to bring at least half the area under cultivation within one year, three-fourth within two years and at least nine-tenth of the area within three years. Indirect incentives in the shape of ultimate ownership are also given to the landlords, who otherwise would lose these lands under the Zamindari Abolition Acts in Madhya Pradesh and Madhya Bharat and under the Talukdari Abolition Act, 1949, in Bombay, if the landlords bring under cultivation such waste lands in their possession before the date of vesting.

IMPROVEMENTS IN AGRICULTURAL PRACTICES

Improved Seed.—The use of improved varieties of seeds has been encouraged in various places by the distribution of better yielding strains at reasonable or subsidized prices. Though arrangements for distribution of improved seeds, sometimes treated with sulphur to prevent misuse, have been made in some States, yet only in Punjab has an act been passed by the Government assuming responsibility for supplying improved seeds to the cultivators through authorized agents. The Punjab Improved Seeds and Seedlings Act, 1950, makes it incumbent on the cultivators in any notified area to use only the improved varieties stored by authorized agents on behalf of the Department of Agriculture. Such authorized agents are required to stock only improved varieties of seeds and seedlings and are prohibited from withholding supplies of such seed. The officers of the Agriculture Department are empowered to enter any field for the purpose of ascertaining whether improved varieties are being grown or not. Any offence against the provisions is punishable with a fine which may extend to Rs. 100. Under the Delhi and Ajmer-Merwara Land Development Act, 1948, the Government can draw up a scheme for introducing improved varieties of seed.

Manures.—The farmers' main sources of manures are cattle dung, green manure, oil cakes and, to a limited extent, artificial fertilizers. In order to see that full use is made of the potential manure available in the town and village refuse, the State Governments have directed the Municipalities and Village Committees to prepare compost from such refuse. The Bombay Municipal Boroughs (Amendment) Act, 1949, and Madhya Pradesh Municipalities (Third Amendment) Act, 1949, have been passed to include "disposing of night soil and rubbish and if so required by the Provincial Government preparation of compost manure from such night soil and rubbish", among the functions of the Municipalities. In the Punjab the Small Towns Committees Act, 1921, and the Municipal Act, 1911, have been amended to require such Committees to convert dung into compost manure in the prescribed manner. The

Committees, if they require land for making pits and trenches, can acquire it on payment of compensation. Similar legislation has been passed in some other States, for example, Madhya Bharat and Hyderabad. The East Punjab Conservation of Manure Act, 1949 (as amended in 1950), provides for the setting up of Manure Conservation Committees. The State Government is empowered to declare any area situated within the limits of any one tehsil to be a notified area, and the occupier of any building in such area is required to conserve manure, or arrange for its conservation, in the prescribed manner and to the prescribed extent. The Manure Conservation Committees are vested with funds to be utilized for meeting charges in connection with their duties under the Act. The Committees are authorized to depute officers or members to enter upon any land and to ascertain whether manure is being conserved in the prescribed manner. The penalty for disobedience is Rs. 25 for the first offence, with a further fine, which may extend to Rs. 4 for every day after the first, during which the offence continues. The work of the Committees may also be supervised by the Deputy Commissioner. The Madhya Bharat Refuse (Conversion into Manure) Ordinance, Samvat 2006, also embodies the same principle and requires every head of the family to conserve manure. The Hyderabad Requisitioning of Land Ordinance of 1951 F. provides for the appointment of a "competent authority" to arrange for the composting of village refuse or preparing any other form of manure. The State Government, for the purposes of this Act, may acquire any land which may be required by the competent authority.* The Delhi and Ajmer Land Development Acts provide for the supply of manure through the Boards set up under the Act.

The movement and sale of important manures and fertilizers, like oil cakes, etc., have been controlled in many States under the various Acts passed for the control of essential supplies. In Madras, an order under the Essential Supplies (Temporary Powers) Act requires licensing of manure dealers.

Tractor Cultivation.—Tractor cultivation is being carried on in some States for reclamation of culturable waste lands. In the Punjab, the Government have extended to all cultivators the facilities to get their lands cultivated by Government tractors on payment of necessary charges. The East Punjab Tractor Cultivation (Recovery of Charges) Act, 1949, requires that persons desirous of availing this facility should deposit the necessary charges along with their applications. *Bona fide* refugees are exempted from this advance deposit. The exact fees for each type of operations, like ploughing, discing, seed drilling and sohaga (Harrow), are prescribed under the rules for different kinds of soil.

It is also provided in the rules that at least a minimum area of 40 acres, whether owned singly or jointly by a number of landlords, should be offered at one time. The Madhya Bharat Government have also passed an Act, the Madhya Bharat Tractor Cultivation (Recovery of Charges) Act, samvat 2007, Act No. 83 of 1950 on the same lines as the Punjab Act. Some of the State Governments are also giving taccavi loans to the cultivators for the purchase of tractors.

PERMANENT IMPROVEMENTS IN LAND

Soil Preservation.—In order to prevent the soil from deterioration and to recover the losses due to erosion, the Governments have enacted legislation which permits them to maintain the fertility of the soil by taking anti-soil erosion measures. The Punjab Land Preservation Act, originally passed in 1900, has been amended in 1950, and aims at controlling and checking the draining away of soil. A similar Act passed in Jammu and Kashmir provides for better preservation and protection of certain portion of the State situated adjacent to the mountainous range liable to be affected by the action of water. The Government may call upon the owners of the land within the notified area to take the indicated steps within a definite

* This Ordinance has not been enforced, as its provisions have already been covered by the Hyderabad Municipal Act.

period in order to (i) regulate the flow of water of the *khud* or *nalla*, (ii) prevent the widening or extension of bed of such *nallas*, and (iii) reclaim and protect any site situated within the limits of such beds. In case of default, the Government may eject the tenant and take the necessary measure. In 1946, the Government of Bombay appointed a Land Improvement Committee, which, *inter alia*, suggested various methods for soil conservation and land improvement. The Bombay Land Improvement Schemes Act authorises the Government to take steps for preservation and improvement of soil, prevention of soil erosion, control and maintenance of tree growth, and prohibition and control of grazing. Every district in Bombay will have a Board with representatives of the public, besides officials, for the preparation of improvement schemes. In Bengal and Madras, this task will be entrusted to the Board of Revenue and the prescribed authority respectively, whereas in Travancore-Cochin, Delhi and Ajmer, the State Government will set up Land Development Boards for the same purpose. Officers will be appointed to draw up draft schemes for notified areas including therein the objectives, of the measure, the boundaries of their operation, the approximate area of land and the works to be executed. The Madras Land Improvement Schemes (Contour Bunding and Contour Trenching) Act, 1949, also provides for preparing schemes for land improvement, including contour bunding and contour trenching and their execution in the same way as the Bombay and Ajmer Acts. The schemes may be passed, rejected or modified by the Boards in the light of the criticism by those affected, or on its own consideration. In Bombay and Bengal, the schemes are to be finally approved by the State Governments. In other States, the authority of the Board is final. Again, in Bombay, if the number of affected landholders who oppose the scheme is more than 33% of the whole area, or if the area held by them is more than 33% of the aggregate area, then the scheme may be dropped. In Bombay, Madras, Delhi and Ajmer, the landholders might execute this scheme, but in case of unsatisfactory progress, the execution may, in Bombay and Madras, be taken up and finalized by the authorities at the owner's cost.

The Government may call upon the beneficiaries to pay the whole or part of the cost incurred. This amount and other dues are to be recovered as if they are arrears of land revenue. In Bombay, if a certain minimum improvement of land is desirable, the Reclamation Officer may take up the execution of the schemes without caring for the contemplated schemes of the landholder. The landholder is required to repair and maintain the work on his land. Rents might be enhanced as a result of the improvement affected. If famine or scarcity conditions prevail or are apprehended, the Government may direct the preparation of improvement schemes for threatened areas.

The Bombay Khar Land Act, 1948, provides for the protection of khar land and reclamation of tidal land by construction and maintenance of embankments. The State Government are required to appoint a Khar Land Development Board to prepare and carry out schemes for the purposes of this Act. The Board may make a preliminary survey of all the khar and tidal lands in the State and prepare a scheme for each unit with a detailed estimate of the cost of the scheme. The scheme will thereafter be published for eliciting criticism and will be confirmed by the State Government with such modification as may be necessary. After the scheme has come into force, the Board shall execute it in accordance with the rules prescribed in that behalf. The cost of the scheme will be met by a contribution by the Government, the landlords and the tenants in the proportion of 40 : 40 : 20 per cent. respectively.

IRRIGATION

The greatest single factor limiting agricultural production in the Indian Union is the lack in most parts of the country of an adequate well-distributed supply of water. Construction of multi-purpose and large irrigation projects forms part of a long-term scheme for land improvement. In any short-term programme, on

the other hand, much can be achieved by improving the existing facilities, *e.g.*, by de-silting tanks, minimising seepage and by the extension of available irrigation facilities. Such improvements are necessary, as they assure an adequate and regular supply of water, which not only increases the productivity and yield of land, but also helps to eliminate the dependence of about 4/5th of the total cultivated area on the vagaries of monsoons. Thus, legislative measures have been taken by the States like Assam, Bihar, Bombay, Madhya Pradesh, Madras, Cochin, Orissa and Madhya Bharat, to improve the existing irrigation facilities. The enactment in these States empower the respective Governments to requisition and acquire land for the construction of new and extension or improvement of existing irrigation works. The legislation in these directions cover the improvement of water courses and construction of channels, and the repair and construction of tanks and the maintenance of embankments and drainage works. The older enactments on irrigation cover a wide range of subjects, like the definition of rights in water, payment of compensation, construction and maintenance of canals, water-courses and private irrigation works, conscription of labour for effecting repairs to irrigation works which are necessary to prevent imminent danger to property, constitution of Irrigation Panchayat and powers to requisition any privately owned tanks, canal or water-courses for purposes of providing irrigation facilities to surrounding lands.

Water-courses and canals.—The Bombay Irrigation Act, 1879 (as amended subsequently), provides for the construction, maintenance and regulation of canals, for the supply of water therefrom and for the levy of water rates. The Act empowers canal officers appointed under the Act to enter any land for regulating water supply, repairing water courses and for taking measures for the prevention of accidents and removal of obstructions to drainage. Any person desiring to construct a new water-course may apply to the canal officer concerned to construct the same on his behalf. The owners of water-courses are bound to maintain such water-courses in proper repair and allow their use to those permitted by the canal-officer and the Collector. If the owner fails to execute work or repair water-course the canal officer may execute the same and recover the cost from the owner. The Act also empowers the canal officer to conscript labour for works or repairs urgently needed in case the labourers required for the purpose cannot be obtained in the ordinary manner.

The Travancore Irrigation Act of 1897 and the Cochin Irrigation Regulation of 1935 classify irrigation works into Major, Minor and Petty Irrigation Works. Major Irrigation Works are those which irrigate an area of land exceeding 200 acres. Petty Irrigation Works under the Travancore Act include all works irrigating an area not exceeding 5 acres and under the Cochin Regulation an area not exceeding 10 acres. Minor Irrigation Works include all irrigation works other than Major and Petty. The construction, repair and maintenance of Major Works devolve on the Government and of Petty Irrigation Works on the proprietors of the lands benefited by such works. In Travancore the Government may determine by Rules the terms of construction and repair of Minor Irrigation Works, while in Cochin the Regulation makes the Government directly responsible for the construction, repair and maintenance of Minor Irrigation Works also. In case the proprietors of lands benefited by the Petty Irrigation Works are unable to carry out the repairs, they may apply to the Government through the Division Peishkar (Government Officer) in Travancore and the Panchayat in Cochin, who may carry out the work with the consent of the Government. If the proprietors fail or refuse to execute the work satisfactorily, the Registrar of Village Panchayats may cause the work to be carried out at Government cost, which will be recovered, *pro rata*, as arrears of public revenue. In the case of Major Irrigation Works, the Cochin Regulation allows the Government to levy a cess on acreage basis in a manner which will ensure the Government a return of 3 per cent. on the capital outlay after making allowance for depreciation and maintenance.

The Mysore Irrigation Act of 1932 (as subsequently amended) also makes provision for the appointment of Irrigation Officers with powers to enter upon any land for purposes of inspection or regulation of the use of water and management of any irrigation work. Powers are also given to impress labour for urgent works of repair and to cause necessary works of repair to be carried out by the owner or occupier of land in which a water course is situated, or to carry it out himself and recover the cost from the defaulter. The Deputy Commissioner is empowered to constitute Irrigation Panchayats whenever he is satisfied that a demand exists for the same.

The Bihar Public Irrigation and Drainage Works Act, 1946, which supersedes the Bihar Public Irrigation Works Act, 1939, and incorporates some new provisions, is designed to meet the needs of increased demand for irrigation works. Under this Act, the Government, either of their own accord or on report from any person, may draw up a scheme and after hearing the necessary objections, execute it. The lands required for this purpose will be acquired under Land Acquisition Act, 1894. For recovering the costs from the beneficiaries, a register shall be prepared which will contain the list of rates that will have to be paid by the beneficiaries on account of costs and interest charges. If necessary, a cess to cover the costs of maintenance charges will also be levied in addition to the above rates. Bihar has also passed a Private Irrigation Works Act, 1922 (with subsequent amendments), empowering the Collector to issue an order requiring the repair, extension or alteration of any private irrigation work or in cases of emergency to undertake the work himself and recover the cost in the manner prescribed under the Act. The Collector after due enquiry may vest the responsibility for the maintenance of the work on panchayats specially constituted for the purpose, or on the village co-operative society or the village panchayat, in case the person or persons responsible for its maintenance is or are not likely to do so properly.

The West Bengal and Assam Acts for Land Requisition and Acquisition and the Delhi and Ajmer-Merwara Land Development Act, 1948, also enable the Government to acquire land for providing facilities for embankments, irrigation and drainage.

The Madras Irrigation Works (Repairs, Improvement and Construction) Act, 1943, empowers the Government to repair or improve private irrigation works, to construct new irrigation works on private lands and to supply water from Government irrigation works to private irrigation works. The landholders of such estates are entitled to increase their rents from the ryots and the latter are not allowed to refuse a supply of water from such improved irrigation works. Similarly, the Irrigation Works (Construction and Levy of Cess) Act, 1947, passed for Malabar District in Madras empowers the Government to acquire lands in accordance with the provisions of Land Acquisition Act, 1894, for constructing irrigation works of any kind and for utilising the water in any water-course for the purpose of irrigation, even though this may infringe rights of any persons to utilise their water for irrigation. No person will be permitted to interfere with the flow of water in any water channel constructed by the Government. Provision has been made to constitute a special Court for determining compensation to persons whose rights are affected under this Act. In order to regulate the use of water from the new constructions, the Government will issue permits to the cultivators. The latter can appeal to the District Collector if they think it is disadvantageous to them to use water on such terms. The Government will levy water cess according to the prescribed rules. The amendments to C.P. Irrigation Act, 1931, also provide for construction of water courses for irrigation purposes. The Irrigation Panchayats functioning in this State will be responsible for the proper maintenance of such water-courses. Due to poor demand of water for irrigation purposes in certain areas, the Act has provided for a compulsory assessment of water rate for land commanded by State Irrigation Works.

Provisions for the appointment of canal officers, construction and maintenance of works, levy of water-rates, requisitioning of labour, etc., are contained in the

Madhya Bharat Irrigation Act, 1950. Water rates are charged on both the occupier as well as the owner. If there are areas where ample prospects of increased cultivation through the resources of irrigation exist, but are not being made full use of, the Government may declare such area as irrigation area and impose a compulsory irrigation cess on such area in order to promote interest of the local public in irrigation.

Tanks.—For the improvement of tanks the Governments of Mysore, Madras, West Bengal, Madhya Pradesh and Cochin have passed special legislation.

The Mysore Act, entitled the Minor Tank Restoration Act, passed in 1916 (and subsequently amended), empowers the Government to take up the restoration of any existing minor tank after due notice. One-fourth of the actual cost of the restoration or one-fourth of the estimated cost is recoverable as contribution from all the raiyats holding lands under the tank in the proportion of the assessment payable on such lands.

The Madras Irrigation Tanks (Improvement) Act, 1949, empowers the Government to raise the full tank level or take measures for raising its capacity or efficiency in all areas whether zamindari, ryotwari or inamdari. Under the West Bengal Act, the Government will first order the owners to carry out the necessary operation to improve a tank that has fallen into disrepair or disuse. In case they fail to do so, or state their inability, the Government will declare the tank to be a derelict irrigation work and may carry out the operations themselves, or authorise a local authority, co-operative society or any other person to do so preference being given to a coparcener. Such an authority, society or person will enjoy the benefits from the tank for a period up to 25 years. The Government can further acquire any adjoining land if it is found necessary. During the period of occupation, the authorised person will have to pay rent and compensation to the owner. Provision has also been made to extend the benefits of increased water facilities to cultivators on payment of a cess. This Act, however does not provide for the construction of any new tanks. The Government pay a subsidy ranging from 33 2/3 per cent. to 75 per cent. to meet the increased cost of labour wages. Water rate charges are not to exceed Rs. 3 per acre per annum. The Madhya Pradesh Government are also empowered to requisition any private tank, canal or water-course under Act XIX of 1948 when they think it necessary for the purpose of providing better facilities for irrigation. The management of such irrigation works vest with the Government who administer it as other irrigation works in the State. The Bombay Government can also execute schemes for improvement of tanks under the Land Improvement Act, 1942. An Act, called the Preservation of *Eries* Act (XXIII of 1120) in Cochin requires the owners and persons in possession of *Eries*, *i.e.*, tanks, canals and other reservoirs used for storing water, etc., to furnish their particulars to the Government within a specified period. They are further prohibited from converting them into wet lands or parambas. The penalty for disobedience of these provisions is Rs. 200 and this can be recovered as arrear of land revenue. If these *Eries* are not maintained in good order, the *Peishkar* may require the owners to repair or restore them, failing which the Government will carry out the necessary improvements and recover the expenses incurred on this.

Embankments and drainage.—Proper embankments and drainage facilities are necessary to improve the land and to prevent floods and soil erosion by overflow in rainy season. The State Governments in a number of States, *e.g.*, Bihar, Ajmer, Delhi, Assam, Madras, etc., have assumed necessary powers to construct embankments and drains whenever they consider it necessary. The Assam Embankment and Drainage Act, 1941, empowers the Embankment Officers to enter and survey any lands, to bore, level or do other works which help them to find out whether any improvement is needed. The Embankment Officer is authorised to construct, remove or alter any embankment or drain if it is necessary for the safety of any town or village or for preventing any loss to property. Such schemes will

have to be approved by the Deputy Commissioner who will cause it to be published for eliciting public opinion. In cases of grave and imminent danger to life or property, the Embankment Officer may forthwith commence the necessary operations before giving the routine notice. If the interests of any person are adversely affected by the above operations he is entitled to compensation for the damage done to his property. If any person wants to construct any bridge, culvert or syphon in the existing 'public' drain, he may apply to the Deputy Commissioner, who will proceed to examine it after consultation with appropriate authorities. The scheme if accepted will be implemented. The owners and occupiers of all lands who benefit from such schemes will pay rates to meet the costs, which will be recovered as arrears of land revenue. The Act further imposes penalties for grazing cattle, cutting out roots or grass, taking any vehicles or the doing of any other act which may damage the public embankments. The Bihar Public Irrigation and Drainage Works Act 1946 has similar provisions for construction and repair of any drainage work or a scheme for flood control. These works will be maintained by the Government.

PROTECTION OF CROPS FROM PESTS AND DISEASES

The insects, pests and diseases of plants take a very heavy toll of crops annually in almost every State. Several measures have been taken for the control of plant diseases and fungi by propaganda and persuation through co-operative and other rural development agencies. Owing, however, to the general apathy and ignorance of some of the cultivators and alsc in the absence of co-ordinated effort on the part of all cultivators in the affected area, it has not been found easy to eradicate these pests and diseases effectively. It is necessary that all the landowners should co-operate, if the measures are to be effectively carried out. It has, therefore, been found necessary for the Government to take powers to coerce the recalcitrant minority to fall in line with the majority in the execution of particular schemes. Accordingly, the Centre as well as some of the State Governments have enacted legislation to acquire powers in notified areas, from where the removal of particular plants and trees can be prohibited in order to localise any fungus or disease. Under the provisions of the Destructive Insects and Pests Act, 1914, the Central Government is empowered to prevent the introduction and transport from one State to another in India of any insect, fungus or other pest which is or may be destructive to crops. The Custom Officers are empowered to execute the provisions of this Act in case of their import. The State Governments have also been empowered to make rules for detention, inspection, disinfection or destruction of any insect etc. which may be harmful for the crops. According to the various State legislations every landholder in the notified area is required to undertake measures as directed by the authorities. Inspectors appointed for the purpose of these Acts may enter the premises within the notified areas to examine the measures taken. In case of non-compliance, they can execute the requisite measures and recover the cost from the owners as if they are arrears of land revenue. The owners will be given compensation for the crops and the trees that are destroyed under the Act. It is further laid down that it is the duty of the Village Officers (Patwaris, Chaukidars and Lamberdars) to report to the Collectors, whenever there is any appearance of insects, pests, plant diseases, etc., in the village. The Acts also provide for fine for non-compliance of the orders given by the Inspectors. The Punjab Act has recently been amended to include 'locusts' in the definition of pests and to have powers to call upon every male persons above 14 years of age to render all possible assistance in carrying out preventive remedial measures for the destruction of locusts. The Punjab Act also empowers the Government to ban for a definite period the growth of specified crops within the notified areas. In this State, the Village Panchayats have also been made responsible for the eradication of weeds from the village common.

CROP REGULATION

Induced at first by the peculiar difficulties created by war and later by the urgent need to increase food production, a number of States took measures, by legislative enactments or administrative orders, to control the production of commercial crops and increase the areas under food crops. The action taken in this direction may be broadly classified under two heads :

(i) measures taken to regulate crop production on all cultivated lands in an area;

(ii) measures taken to regulate the growth of crops in areas which are being newly brought under cultivation.

These measures have generally taken three forms: (*a*) regulations imposed by legislation or ordinances, (*b*) administrative orders under the provisions at first of the Defence of India Act and later of the Essential Supplies (Temporary Powers) Act, etc., and (*c*) indirect incentives, like subsidies, price adjustments, etc.

Under the Essential Supplies (Temporary Powers) Act, 1946, the Central Government may issue any order which may provide for bringing under cultivation any waste or arable land, whether appurtenant to a building or not, for the growing thereon of food crops generally or of specified food crops, and for either maintaining or increasing the cultivation of food crops generally, or of specified food crops.

The most important legislative measure taken by the States for the purpose is the Bombay Growth of Food Crops Act, which was passed in 1944 and which expired and was re-enacted in 1948. The Act has been extended to Kutch and also adopted in Suarashtra by an Ordinance called the Saurashtra Growth of Food Crops Ordinance in 1948. Under the Bombay Act, the Government can order (i) that in any specified area, the proportion of scheduled food crops to other crops grown by a cultivator in his holding shall not be less than the existing proportion, (ii) prescribe the maximum proportion of non-food crops and minimum proportion of food crops, to be grown, and (iii) prohibit the growing of non-food crops in successive years. The Government are also empowered to give incentive to cultivators for raising food crops by fixing or guaranteeing prices of foodgrains and by reducing any part of land revenue, irrigation dues, etc., in respect of lands where crops are grown on the order of the Government. Similar concessions in rent can also be extended to the tenants on their application to the Mamlatdar. As a result of this measure, it is claimed, that the area under cotton considerably decreased (by about 60%), a very large part of which was diverted to food crops and some part possibly to groundnut. With the relaxation of restrictions in 1949-50, however, the area under cotton has again increased. Another instance of a similar measure is the Madhya Bharat Crop Control Order, 1949, issued under the powers conferred by sections 4 and 5 of the Essential Supplies (Temporary Powers) Act, whereby the Government may, by a notification in the Gazette, declare from time to time (*a*) "the proportion in which the food crops and the crops other than food crops shall be grown by a cultivator in his *Khata*, and (*b*) the proportion in which food crops shall be grown in the land allotted for crops other than food crops". Under both these measures, penalties are provided for non-compliance and the offences are made cognizable.

The Hyderabad Restriction of Cash Crop Regulation, 1353 F., also tries to encourage growing of food crops by levying a tax for commercial crops in addition to the land revenue at such rates as the President in Council may prescribe. Besides this, the President-in-Council may also impose a commercial tax on the sales or the processing in respect of such crops. The sums realised in this way will be credited to a separate fund which will be utilised for inducing the growing of food crops. The cultivator who grows approved mixed crops in the required

proportions will, however, be exempted from the above taxes on commercial crops. He shall also have the right to sell food crops grown by him to Government at the price fixed by Government from time to time.

More specific measures for the encouragement of a particular crop or verieties of a crop have also been taken in some of the States. Section 7 of the Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1949 (XXIX of 1949), for instance, empowered the Government to control agriculture by—

(i) prohibiting, restricting, or otherwise controlling the cultivation of specified crops, and

(ii) bringing under cultivation any waste or arable land, whether appurtenant to a building or not, and for the growing therein of specified crops.

In Cochin, similarly, under Proclamation III of 1123, "the doing of any act which is liable to reduce the output of paddy is prohibited". In pursuance of this Regulation, the growing of groundnut has been prohibited in some districts in the States. Steps were taken to divert land from cotton to other crops, but these restrictions have now been withdrawn in most cases. The Cotton Control Acts which were in force in Bombay (1947), Madras (1932), Madhya Pradesh, Mysore (1942), etc., provided for the growth of only particular varieties of cotton in any tract. In Madras, for instance, growth of "pulichai" cotton was prohibited for three years in 4 districts in 1947.

The objectives are also sought to be achieved by the provision of indirect incentives. Some of the State Governments have attempted to encourage the cultivation of food crops by making it compulsory on the recipients of subsidies to grow only food crops for a specified number of years. In Madras, for instance, the grantees of subsidies, under the new well subsidies scheme, are required to undertake to raise only food crops for the next six years in the *ayacuts* of subsidised wells. The definition of food crops has been laid down to include cereals and subsidiary crops like potatoes, sweet potatoes and plantains. In Mysore, likewise, certain concessions have been given under various administrative orders to the cultivators who are growing irrigated ragi, paddy and coconuts. In Cochin, by Proclamation XIII of 1117 (1942) the tenants who have been given leases in pursuance of the Scheme for Food Production are not entitled to recover the value of any improvements effected by them during the period of the lease.

In some States like the Punjab, Madras and the Madhya Pradesh, these restrictions have been applied only to the areas which are newly reclaimed or were previously left fallow. Thus, under the East Punjab Utilization of Lands Act, 1949 (as amended subsequently), the Government can take over lands which are left uncultivated for two seasons or more and lease the same to a tenant for a period not exceeding eight years for growing food and fodder crops. If the tenant does not grow these crops he will be liable to be fined, which may be upto twice the rent that he is required to pay for the lease. In Mysore, the holder of occupied lands is required to raise an approved crop on the fallow land which he is compelled to bring under cultivation in accordance with the Mysore Cultivation of Fallow Land Act, 1951.* The approved crops have been defined to be ragi paddy or jola crop and includes such other crops as the State Government may declare by notification in the Gazette. The State Government have further issued directives that all persons whose lands are tractor-ploughed, under the scheme for the establishment of machine tractors, should grow food crops in at least 3/5th of the total ploughed land in a period of five years after ploughing.

The Madras Land Utilization Order, 1950, like the Madhya Bharat Order, is issued under the Essential Supplies (Temporary) Act, 1946. This order empowers

* A similar provision which existed in the C. P. & Berar Cultivation of Fallow Lands Act, 1948, as amended in 1949, has since been repealed.

the Collector to direct any holder of unoccupied waste arable land which has not been cultivated in the previous season to cultivate it with food crops personally or through a lessee. Failure to comply with it will make their right to cultivate liable to be sold for a period of three years.

The Madhya Bharat Land Utilisation Act, Samvat 2007, similarly makes it incumbent on the cultivators to bring under foodgrains at least 40% and 70% of the fallow land brought under cultivation by them in accordance with this Act during the first and second years respectively.

GENERAL DEVELOPMENT MEASURES

In addition to some of the specific measures mentioned above, legislation has been enacted in some of the States for initiating general development schemes in rural areas and schemes for improvement in the living standards of the rural community. The U.P. Rural Development (Requisition of Land) Act, 1948, as amended in 1949, and the Madhya Bharat Requisitioning of Land (Rural Development) Act, 1950, are measures in this direction. Under these Acts, the Government can requisition lands for public 'purposes', which may *inter alia* include making, deepening or enlarging of tanks, composting of refuse, planting nurseries, maintenance of pasturage and construction of drainage channels and water-courses. Under the Madhya Bharat Act, any Officer employed for the purpose by the Government may enter and inspect any land for the purpose of determining whether the land is needed, or is likely to be needed, for a public purpose. The Co-operative Societies or Village Panchayats (Gaon Sabhas) are also entitled to apply for requisition of land for the above purpose. They can further be entrusted with the management of such lands when it is requisitioned by the Government. The owners will be given compensation under Land Acquisition Acts or, as in U. P., according to the mode of calculation provided in the Act. The scope of the West Bengal Land Development and Planning Act, 1948, covers (i) the settlement of refugees, (ii) establishment of model villages, towns and agricultural colonies, (iii) the creation of better living conditions in urban and rural areas, and (iv) improvement and development of agriculture, forestry, fisheries and industries. The Government may direct the prescribed authorities to prepare a development scheme and cause it to be executed. The Government can acquire lands for public purposes and let it on hire, lease, sell or otherwise dispose of it, preference for taking a lease or purchase being given first to the persons from whom such lands have been taken. This Act differs from the Acts in U.P. and Madhya Bharat in one other important respect in that the execution of schemes may be given to a company or local authority, instead of the co-operative societies or village panchayats, as provided in the latter case. The Assam Government have similarly assumed powers for these purposes under the Assam Land (Requisition and Acquisition) Act, 1948. To some extent, the main objects of rural development are covered in the Bombay Land Improvement Schemes Act and the Delhi and Ajmer-Merwara Land Development Act, mentioned previously.

Village Commons.—In order to prevent encroachments on roads, pathways and easements and also for providing necessary land for common purposes like grazing, threshing, etc., the State Governments are authorised to set apart any area for these purposes. This has been incorporated in the Zamindari Abolition Legislation of U.P., Madhya Pradesh and Bombay. Under the Land Improvement Schemes Act in Bombay, and the Land Development Act, Delhi and Ajmer, the Government can draw up schemes for the control of grazing and firing of grasses. The Tenancy Amendment Act, 1946, in Orissa similarly permits the Government to set apart any area for these purposes when they consider it necessary. Under the Acts passed for the cultivation of fallow and waste lands, the area under common purposes is excluded from the scope of the acts. In some other States, these lands have been vested in the village community who will manage them in the best interests of all.

CONCLUSION

It will thus be seen from the foregoing review of the legislation affecting agricultural production in recent years that great efforts are being made for the rehabilitation and the improvement of the entire agricultural economy of the country. Much of the legislation covering agricultural production in recent years is born out of the stern necessity of improving the quantity and quality of agricultural produce in the face of the rapidly mounting requirements needed to keep the growing population in a state of reasonable comfort. The Acts already passed in some of the States have been alluded to. In others, legislation is still under consideration. In many States, where no legislation appears to have been passed on any particular subject, the ends of policy are sought to be realised by administrative orders and by a judicious mixture of concessions in direct financial inducements and a certain degree of compulsion. The full significance of these measures will be known only after a few years. It is, as yet, too early to assess the achievements and record failures or success. In a vast country like India, where conditions vary so much from place to place and where in the past agriculture had received scant attention from the Government, it is not surprising that there should be such a vast number and variety of enactments. It is also to be expected that there will be variations in the methods of approach to the specific problems affecting agriculture in each State, but within these limitations, and subject to these technical difficulties, the broad policy of improving agriculture is fairly clear from the various enactments that have been passed and enforced in different States in the country. It is apparent from these that better farming cannot be secured unless certain norms are set for the farming community framed in the context of the experiences of different regions, and certain sanctions are created for enforcing improvement in the desired directions. There is at present a keener perception of the fact that better farming has to precede better business and better living and that the achievement of better living standards by the rural community is indissolubly bound up with better methods of production.

Acts on Agricultural Production and Development

THE CENTRAL PROVINCES AND BERAR CULTIVATION OF FALLOW LAND ACT, 1948 (AS AMENDED UPTO 1951)

Act XVIII of 1948

An Act to extend the cultivation of fallow land

WHEREAS it is expedient to extend the cultivation of fallow land ; Preamble.

It is hereby enacted as follows :—

1. (1) This Act may be cited as the Central Provinces and Berar Cultivation of Fallow Land Act, 1948. Short title and extent.

(2) It extends to the whole of the [1][Madhya Pradesh].

[2][(3) It shall be in force up to the 31st day of March 1952, but the [1][State] Government may, by notification, direct that it shall cease to have operation in the whole or part of the [1][State] from such earlier date as may be appointed by it in this behalf:

Provided that notwithstanding the expiry of the Act or the cessation of its operation in any part of the Province, the provisions contained in section 5 shall apply in respect of a lease granted by the Tehsildar under that section as they apply to such lease during the continuance of the Act.]

2. In this Act unless there is anything repugnant in the subject or context,— Definitions.

(*a*) expressions used in this Act and not defined herein shall have the meanings assigned to them in the Central Provinces Land Revenue Act, 1917, the Berar Land Revenue Code, 1928, or the Central Provinces Tenancy Act, 1920, as the case may be ;

II of 1917.
I of 1920.

[3][* * * * *]

[4][(*b*) 'cultivate' means to till land and raise a crop thereon in a husbandmanlike manner; and the expressions 'cultivate', 'cultivation' and 'uncultivated' shall be construed accordingly ;

(*c*) 'fallow land' with respect to any particular year means land lying uncultivated in that year but which was cultivated at some time within six years immediately preceding that year; but does not include land recorded as *potkharab* or a tank or embankment or a *nalah* or a grove or land used as a threshing floor.]

---

[1] Substituted by the Adaptation of Laws Order, 1950.

[2] Inserted by sec. 2 of the C. P. & Berar Act XXII of 1949.

[3] Omitted by sec. 2 of the Madhya Pradesh Act XXI of 1950.

[4] Substituted by *ibid.*

(*d*) "land" means land which is let or occupied for agricultural purposes or for purposes subservient thereto and includes the sites of buildings, appurtenant to such land ;

(*e*) "occupied land" in relation to the [1][Madhya Pradesh] means land held—

(i) by a proprietor as sir, khudkasht or malik-makbuza [2][or land held by him as fallow land],

(ii) by an absolute-occupancy or occupancy tenant,

(iii) as a village service holding, or

(iv) by a sub-tenant;

and in relation to Berar means—

(*a*) land held by an occupant within the meaning of section 54 of the Berar Land Revenue Code, 1928, or any other person holding from him ;

(*b*) by an inam holder, a jagirdar, izardar, superior holder or his tenant;

(*f*) "occupier" means a person who is for the time being in possession of occupied land and is entitled to cultivate it ;

[3][(*g*) "Tehsildar" includes any officer authorised by the State Government to exercise the powers conferred on the tehsildar under this Act ;

(*h*) "Village Committee" in respect of any area within the jurisdiction of a Gram Panchayat means such Gram Panchayat in respect of any area not comprised within the jurisdiction of Gram Panchayat means a committee constituted under section 5-B.]

Cultivation of fallow land.

3. [4][(1) Every holder of occupied land shall cultivate in each year so much area of the occupied land as was under cultivation in the year immediately preceding that year.

(2) Subject to the provisions contained in sub-section (3) every holder of occupied land holding an area of such land as is stated in column (1) of the table below shall further be liable to cultivate in each year either himself or through a lessee such area of the fallow land recorded in his name in the annual papers of the year immediately preceding, as is specified in the corresponding entry in column (2) of the said table :—

---

[1] Substituted by the Adaptation of Laws Order, 1950.

[2] Added by sec. 2 of the Madhya Pradesh Act XVI of 1950.

[3] *Ibid.*

[4] Substituted by sec. 3 of *ibid.*

TABLE

Area of occupied land held	*Area of fallow land liable to be cultivated.*
(1)	(2)
(1) Five acres or more but not more than twenty acres.	Five acres or half of the fallow land whichever is greater.
(2) More than twenty acres, but not more than fifty acres.	Ten acres or half of the fallow land whichever in greater.
(3) More than fifty acres.	Twenty-five acres or half of the fallow land whichever is greater.

(3) In determining the area of fallow land in possession of a holder, the following deductions shall be made :—

(*a*) area equal to one-eighth of the occupied land for the ordinary grazing requirements of the holder ,

(*b*) area infested with *kans* or other weeds which cannot be eradicated by ordinary ploughing with bullocks ;

(*c*) area which is left uncultivated according to the usual agricultural practice or the area which contains poor soil requiring recuperation or rest ;

(*d*) area which is not otherwise fit for being brought under cultivation.

(3A) In making calculation for the purposes of this section any fraction of less than half an acre shall be ignored.

(4) Any holder of land who contravenes the provisions of sub-section (1) or (2) and in the case of any lease the lessee or lessees shall be liable on the order of any Revenue Officer authorised in this behalf by the State Government to a fine not exceeding rupees twenty-five per acre of the area required to be cultivated or brought under cultivation under sub-section (1) or (2) unless the holder has obtained a certificate of exemption under section 5 or has made an application as required by section 5A or proves that he exercised due diligence to prevent such contravention.

(5) In every inquiry under this section the Revenue Officer shall, as far as may be, follow the procedure laid down in the Central Provinces Land Revenue Act, 1917, or the Berar Land Revenue Code, 1928, as the case may be, and any order passed by the Revenue Officer shall be appealable to such authority and within such time as may be prescribed by the [1][State] Government.

(6) Any sum recoverable under sub-section (4) shall be recovered as arrears of land revenue.

[2][* * * * * *]

[3][**5.** (1) Any holder or occupier may, before such date as the State Government may by notification, specify, apply in the prescribed form for exemption from the **Grant of certificate of exemption.**

1 Snbstituted by the Adaptation of Laws Order, 1950.

2 Omitted by section 4 of the C. P. & Berer Act XXII of 1947.

3 Substituted by the Madhya Pradesh Act XVI of 1957.

provisions of sub-sections (1) and (2) of section 3 on any of the following grounds, namely :—

(*a*) that he has been using any area of his occupied land for raising a fodder crop and intends to raise a fodder crop thereon in that particular year, or

(*b*) the area which he intends to leave uncultivated in any particular year is necessary for the purpose of grazing of cattle of the village.

(2) An application for exemption under clause (*a*) of sub-section (1) shall at the option of the applicant be made either to the village committee, or to the Tehsildar within whose jurisdiction the area in which the fodder crop is to be raised is situated and the application for exemption under clause (*b*) of the said sub-section shall be made to the Tehsildar within whose jurisdiction the area to be left uncultivated is situated.

(3) On receipt of such application, the village committee or the Tehsildar, as the case may be, after making such enquiry as it or he deems fit and before such date as may be specified by the State Government by general or special order for any local area, may either refuse to grant a certificate of exemption or grant such certificate in respect of the whole or part of the area required to be cultivated under section 3 as it or he considers appropriate.

Grant of lease of uncultivated land.

5A. (1) Any holder or occupier of land, who finds himself unable to cultivate the land required to be cultivated by him under section 3, may, before such date as may be specified by general or special order for any local area by the State Government, apply to the village committee for the area where the land lies, and if no village committee has been constituted, to the Tehsildar within whose jurisdiction the area is situated for letting out for cultivation the whole or part of such land to any suitable lessee for a period of not less than five years and not more than seven years on the bare assessment or on such terms as can be secured.

(2) Every lease granted under sub-section (1) shall be executed by the Tehsildar or such other officer as may be authorized by the State Government on behalf of the holder or occupier, as the case may be, and the lessee shall be liable to pay the lease-money to the person on whose behalf the lease is executed at the time and in the manner provided for in the lease.

(3) Every such lease shall be valid and take effect according to its terms, any rule of law, statute or enactment for the time being in force to the contrary notwithstanding.

I of 1920. (4) The provisions of sections 40 and 41 of the Central Provinces Tenancy Act, 1920, shall not apply in respect of any land held under a lease granted for the purpose of complying with the provisions of this Act ; and if any such lease relates to khudkasht land or grass land such lease shall not have the effect of conferring upon the lessee any right of an occupancy tenant in respect of such land.

Compulsory grant of lease for uncultivated land.

[1][**5AA.** (1) If in any year any person being liable to cultivate fallow land under section 3 contravenes the provisions of the said section and is fined under sub-section (4) thereof, the Tehsildar may call upon him to show cause why the land in respect of which such contravention took place should not be leased out.

(2) If, after giving opportunity to (1) person concerned to show cause and adduce evidence, if any, in that behalf, the Tehsildar is not satisfied that such person intends to and is capable of bringing under cultivation the whole or any part of the fallow land and of the area which he has since become liable to cultivate under sub-section (2) of section 3, the Tehsildar shall pass an order declaring that the whole of such fallow land or the part, as the case may be, shall be leased out by the Tehsildar as if an application under section 5A had been made by the person concerned to the Tehsildar in that behalf.]

(3) The provision of section 5A shall, so far as may be, apply to a lease granted in pursuance of sub-section (2).

Constitution of village committee.

5B. (1) In any area which is not within the jurisdiction of any Gram Panchayat the State Government may, by notification, constitute a village committee for one or more villages and it shall be known by the name of the village or any of the villages for which it is constituted.

(2) Every such committee shall consist of ten members including the Chairman and Secretary, to be appointed by the Deputy Commissioner in such manner as may be prescribed by rules made by the State Government in this behalf.

(3) The term of the village committee, the qualifications of members to be appointed to a village committee and the procedure for the conduct of business of any such committee shall be such as may be prescribed by rules made by the State Government in this behalf.]

Rules.

6. The [2][State] Government may make rules for carrying out the purposes of this Act.

Repeal and saving.

VI of 1948 **7.** (1) The Central Provinces and Berar Cultivation of Fallow Land Ordinance, 1948, is hereby repealed.

(2) Any notification issued, authorization, enquiry or rule made, fine imposed, order passed, sum recoverable, lease or certificate of exemption granted or any action taken under the said Ordinance shall, if not inconsistent with the provisions of this Act, be deemed respectively to have been issued, made, imposed, passed, recoverable, granted or taken under this Act.

---

[1] Inserted by sec. 2 of M. P. 14 of 1951.

[2] Substituted by the Adaptation of Laws Order, 1950.

THE MYSORE CULTIVATION OF FALLOW LANDS ACT, 1951

An Act to make provision for bringing fallow lands under cultivation in the State of Mysore

Preamble. WHEREAS it is expedient to make provision for bringing fallow lands under cultivation in the State of Mysore;

It is hereby enacted as follows:—

Short title, extent, commencement and duration. **1.** (1) This Act may be called the Mysore Cultivation of Fallow Lands Act, 1951.

(2) It extends to the whole of the State of Mysore.

(3) This section shall come into force at once, and the State Government may, from time to time, by notification in the *Mysore Gazette*, apply the other provisions of this Act to the whole or any portion of the State from such date and for such period, if any, as may be specified in the notification and may cancel or modify any such notification.

(4) This Act shall remain in force for a period of five years and upon its expiry, the provisions of section 6 of the Mysore General Clauses Act, 1899, shall be applicable as if it had been repealed by a Mysore Act.

Definitions. **2.** In this Act, unless there is anything repugnant in the subject or context,—

(1) expressions not defined herein shall have the meanings assigned to them respectively in the Mysore Land Revenue Code, 1888 ;

(2) 'approved crop' means ragi, paddy or jola crop and includes such other crops as the State Government may, by notification in the *Mysore Gazette*, declare to be an approved crop in any area specified in such notification ;

(3) 'fallow land' means cultivable land left uncultivated or land recorded as fallow, new or old, in the village accounts, and includes land recorded as grass land in consequence of its ceasing to be under cultivation for a period exceeding three years but does not include land recorded as Phutkharab or a tank or embankment or a nalah or a grove or used as a threshing floor ;

(4) 'land' means land which is let or occupied for agricultural purposes or for purposes subservient thereto ;

(5) 'occupied land' means land held by—

(*i*) a proprietor as a holder or landholder or superior holder or occupant or registered occupant of *kadim* tenant, or

(*ii*) by a sub-tenant ;

(6) 'occupier' means a person who is for the time being in possession of occupied land and is entitled to cultivate it, either by himself, or by his servants or by hired labour

(7) 'prescribed' means prescribed by rules under this Act.

Cultivation of fallow lands.

3. (1) Subject to the provisions of sub-section (2) every holder of occupied land in excess of—

(*a*) ten acres in the case of wet lands, or

(*b*) fifteen acres in the case of dry lands,

in any revenue year shall, if so required by an order in writing of the Amildar, be liable to cultivate either himself or through a lessee, in addition to the area cultivated by him in the revenue year immediately preceding, such area as the Amildar may specify, of the fallow land recorded in his name in the village accounts of the said revenue year immediately preceding, and raise an approved crop thereon :

Provided that the State Government may, by notification in the *Mysore Gazette*, increase the acreage specified in clause (*a*) or (*b*) in respect of any area specified in such notification.

(2) For purposes of determining the area of fallow land to be cultivated under the provisions of sub-section (1),

(*a*) an area equal to one-tenth of the extent of the occupied land shall be deducted from the total area of the fallow land of the holder for ordinary grazing requirements of the holder ;

(*b*) any fraction of less than half an acre shall not be taken into account.

(3) No order shall be made under the provisions of sub-section (1) unless an enquiry has been held by the Amildar for the purpose. In every enquiry for the said purpose, the Amildar shall, as far as may be, follow the procedure laid down in the Mysore Land Revenue Code, 1888, for conducting summary enquiries.

(4) An appeal shall lie to the Sub-Division Officer concerned from an order of the Amildar under sub-section (1) within fifteen days from the date of communication of the order of the Amildar to the holder of occupied land and the decision of the Sub-Division Officer on such appeal shall be final.

Application for exemption.

4. Any holder of occupied land may, before the expiry of the prescribed period, apply to the Amildar for exemption from the provisions of section 3. If the Amildar on such enquiry as he deems fit is satisfied that the land—

(*a*) is needed by the holder for the purposes of grazing his own cattle ; or

(*b*) cannot be cultivated by the holder for want of lessees or labourers;

he may grant a certificate of exemption in writing in respect of the whole or part of the area of fallow land required to be cultivated under section 3.

Penalty

5. The holder of occupied land who does not carry out the directions contained in the order of the Amildar or of the Sub-Division Officer on appeal therefrom under section 3 shall be liable to pay such penalty not exceeding one year's assessment on the land in question as may be determined by the Amildar, unless the holder has obtained a certificate of exemption under the provisions of section 4 or has made an application as required by clause (*b*) of sub-section (1) of section 6 and the said sum shall be recoverable as an arrear of land revenue.

Power of Amildar to lease fallow lands.

6. (1) If any holder or occupier does not make suitable arrangements for the cultivation of the fallow land required to be cultivated under sub-section (1) of section 3,

(*a*) before the expiry of fifteen days from the date of order of the Amildar ; and if the Amildar does not grant a certificate of exemption under section 4 ; or

(*b*) before fifteen days from the date of the order of the Amildar, an application in writing is made by a holder or occupier requesting the Amildar to arrange for a suitable lessee for the fallow land required to be cultivated by him under section 3,

the Amildar may let out for cultivation the whole or part of the area of the fallow land of such holder or occupier required to be cultivated under section 3 to any suitable lessee for a period not exceeding five years on the condition that the lessee shall pay as rent one-third of the produce in the case of wet lands and one-fourth in the case of dry lands and in any case not being less than the bare assessment or on such other terms as can be secured.

(2) Every lease granted under the provisions of sub-section (1) shall be executed by the Amildar on behalf of the holder or the occupier, as the case may be, and the lessee shall be liable to pay the rent specified in sub-section (1) to the person on whose behalf the lease is executed at the time and in the manner provided for in the lease.

(3) Subject to the provisions of section 7 every such lease shall be valid and take effect according to its terms, notwithstanding anything to the contrary contained in any rule of law, statute or enactment for the time being in force.

Cancellation of the lease.

7. Where the person to whom a lease has been granted under section 6 fails for any reason to cultivate the land so leased to him or uses the land for a purpose other than the purpose for which it was leased out to him, the Amildar may cancel the lease and grant a fresh lease to any other person on such terms and conditions as he thinks fit and the person whose lease is cancelled under this section shall forfeit all rights under his lease and shall also be liable to pay such sum by way of damages as may be determined by the Amildar in each case. The sum so determined as damages shall be recoverable as an arrear of land revenue.

Service of notices.

8. Every notice under this Act shall be served in the manner provided in section 199 of the Mysore Land Revenue Code, 1888.

Persons acting under the Act to be deemed public servants.

9. All persons exercising any power under any of the provisions of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

Bar of jurisdiction

10. (1) No civil court shall have jurisdiction to deal with any question which is by or under this Act required to be dealt with by the Amildar.

(2) No order of the Amildar under this Act shall be questioned in any civil or criminal court.

Indemnity.

11. No suit, prosecution or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

Rules.

12. The State Government may make such rules as may be found necessary from time to time for carrying out the purposes of this Act and rules so made shall be published in the *Mysore Gazette* and upon such publication shall have effect as if enacted in this Act.

THE UNITED PROVINCES LAND UTILIZATION ACT, 1947

U. P. Act No V of 1948

An Act to provide for powers to utilize uncultivated land

Preamble. WHEREAS it is expedient to provide for powers to utilize uncultivated land with a view to increasing the production of food-stuffs :

It is hereby enacted as follows :

Short title, extent and comencement.

1. (1) This Act may be called the United Provinces Land Utilization Act, 1947.

(2) It extends to the whole of the [1][Uttar Pradesh].

(3) It shall come into force at once.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Collector" includes a Deputy Commissioner ;

(*b*) "Land" and "Tenant" have the meanings respectively assigned to them in the United Provinces Tenancy Act, 1939 ; U P. Act XVII of 1939.

(*c*) "Landlord" has the meaning assigned to it in the United Provinces Tenancy Act, 1939, and includes a *thekedar* as defined in the said Act ;

(*d*) "[1][State] Government" means the Government of the [1][Uttar Pradesh].

Utilization of uncultivated land.

3. (1) Notwithstanding anything contained in the United Provinces Tenancy Act, 1939, or in any other enactment for the time being in force, the Collector may, by notice in writing in the form specified in the Schedule, call upon the landlord of any land situated within his jurisdiction, which is not grove land or land let to or held by a tenant, and which has not been cultivated or, if previously cultivated, has not been cultivated during the Rabi and Kharif immediately preceding the commencement of this Act, to let out such land or pre-arrange for the cultivation thereof within fifteen days from the date of the service of such notice or within such further period as the Collector may extend : U. P. Act XVII of 1939.

Provided that no notice shall be issued under this sub-section in respect of any land which was recorded in 1353 *Fasli* as pasture land, or which is used as threshing floor, irrigation tank, or for the benefit generally of the inhabitants of the village or any portion thereof :

Provided further that where such land is in the possession of a *thekedar*, the Collector shall issue notice to both the *thekedar* and the landlord.

[1] Substituted by the Adaptation of Laws Order, 1950.

(2) The notice shall be served on the landlord by delivering or tendering to him a copy of such notice. But if the landlord is not readily traceable or refuses to accept the notice, the service shall be effected by affixing a copy of such notice to the *Chaupal* or some other public place in the village and thereupon the landlord shall be deemed to have been sufficiently served.

(3) If the landlord within one week from the date of the service of the notice shows to the satisfaction of the Collector that the land is not capable of being cultivated or that it is already being cultivated or has been let out for cultivation the Collector shall cancel the notice.

(4) If the notice is not complied with within the time allowed under sub-section (1) or is not cancelled under sub-section (3), the Collector may get such land cultivated on behalf of the [1][State] Government for such period as he thinks necessary or may let out such land to a tenant for cultivation.

(5) Where the land is let out by the landlord in pursuance of the notice under sub-section (1) or by the Collector under sub-section (4), the rent payable by such tenant and, the tenure and other conditions of his tenancy shall be determined as provided in section 126-A of the United Provinces Tenancy Act, 1939.

U. P. Act XVII of 1939.

(6) If the land is cultivated on behalf of the [1][State] Government under sub-section (4), the landlord shall be entitled to receive such rent as may be determined by the Assistant Collector, first class, having jurisdiction, and his decision shall be final.

Sale of grain to the [1][State] Government.

4. Where any land is brought under cultivation in accordance with the provisions of this Act, the landlord or the tenant cultivating such land shall, on demand by the Collector, sell to the [1][State] Government one-half of the grain produced over such land at such rates as may be fixed by the [1][State] Government from time to time.

Tenant to cultivate the land let out to him.

5. Where land is let out to any tenant by the landlord under sub-section (1) of section 3 or by the Collector under sub-section (4) of section 3, the tenant shall cultivate the land so let out.

Saving as to orders.

6. No order made in exercise of any power conferred by or under this Act or any rule made thereunder shall be called in question in any court.

Penalty.

7. If any person contravenes any provision of this Act or any rule made thereunder or any order passed in pursuance of this Act, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

Protection as to action taken.

8. (1) No suit, prosecution or other legal proceeding shall lie against the Collector or any other person acting under the order of the Collector for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder or any order issued under the provisions of this Act.

[1] Substituted by the Adaptation of Laws Order, 1950.

(2) No suit or other legal proceeding shall lie against the [1][State] Government for any damage caused or likely to be caused by anything in good faith done in pursuance of this Act or any rule made thereunder or any order issued in pursuance of the provisions of this Act.

9. (1) The United Provinces Land Utilization Ordinance, 1947, is hereby repealed.

(2) Any order made or notice issued under the said Ordinance and in force immediately before the commencement of the said Ordinance shall be deemed to be an order or notice made or issued under this Act.

Rule making power.

10. The [1][State] Government may, consistent with the provisions of this Act, make rules for carrying out the purposes of this Act.

SCHEDULE

Form of notice under section 3 of the United Provinces Land Utilization Act, 1947

IN THE COURT OF THE COLLECTOR,

....DISTRICT

To

(1) .....LANDLORD

AND (2).....THEKEDAR.

In exercise of the powers conferred by section 3 of the United Provinces Land Utilization Act, 1947, I, the Collector of ....District, hereby call upon you to let out the land specified below within fifteen days from the date of the service of this notice.

Details of the land

Name of tehsil or pargana	Name of village	Specification of land involved
Seal of the Court.		

Collector.

*NOTE.—The name of the *thekedar* shall be recorded, in the horizontal column (2) at the top, only where the land is held by a *thekedar*, otherwise a cross mark shall be made therein. In the former case, the notice shall go to both the landlord and the *thekedar*, but only one of them who is entitled to admit a tenant to the land in accordance with the terms and conditions of the *theka*, shall be entitled to let it out in compliance with the notice.

[1] Substituted by the Adaptation of Laws Order, 1950.

THE UNITED PROVINCES LAND UTILIZATION ACT, 1947 (AS EXTENDED TO AJMER-MERWARA)

U. P. Act No. V of 1948

An Act to provide for powers to utilize uncultivated land

WHEREAS it is expedient to provide for powers to utilize uncultivated land with a view to increasing the production of food-stuff ; Preamble.

It is hereby enacted as follows :—

1. (1) This Act may be called the United Provinces Land Utilization Act, 1947. Short title, extent and commencement.

(2) It extends to the [1][State] of Ajmer [2][ ].

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "Collector" includes a Deputy Commissioner ;

(*b*) "Land" and "Tenant" have the meanings respectively assigned to them in the Ajmer-Merwara Agrarian Relief Ordinance, 1949 ;

(*c*) "Landlord" means a person to whom the rent of a holding is, or but for a contract express or implied would be, payable ;

(*d*) "[1][State] Government" means the Chief Commissioner of Ajmer [2][ ].

3. (1) Notwithstanding anything contained in the Ajmer-Merwara Agrarian Relief Ordinance, 1949, or in any other enactment for the time being in force, the Collector may, by notice in writing in the form specified in the Schedule, call upon the landlord of any land situated within his jurisdiction, which is not grove land or land let to or held by a tenant, and which has not been cultivated during the *Rabi* and *Kharif* immediately preceding the commencement of this Act, to let out such land or pre-arrange for the cultivation thereof within fifteen days from the date of service of such notice or within such further period as the Collector may extend : Utilization of uncultivated land.

Provided that no notice shall be issued under this subsection in respect of any land which was immediately before the commencement of this Act recorded as pasture land, or which is used as threshing floor, irrigation tank, or for the benefit generally of the inhabitants of the village or any portion thereof.

(2) The notice shall be served on the landlord by delivering or tendering to him a copy of such notice. But if the landlord is not readily traceable or refuses to accept the notice, the service shall be effected by affixing a copy of such notice to the *chaupal* or some other public place in the village and thereupon the landlord shall be deemed to have been sufficiently served.

---

[1] Substituted by the Adaptation of Laws Order, 1950.

[2] Omitted by the *ibid.*

(3) If the landlord within one week from the date of the service of the notice shows to the satisfaction of the Collector that the land is not capable of being cultivated or that it is already being cultivated or has been let out for cultivation, the Collector shall cancel the notice.

(4) If the notice is not complied with within the time allowed under sub-section (1) or is not cancelled under sub-section (3), the Collector may get such land cultivated on behalf of the [1][State] Government for such period as he thinks necessary or may let out such land to a tenant for cultivation.

(5) Where the land is let out by the landlord in pursuance of the notice under sub-section (1) or by the Collector under sub-section (4), the rent payable by such tenant, and the tenure and other conditions of his tenancy shall be determined as prescribed by rules made under this Act.

(6) If the land is cultivated on behalf of the [1][State] Government under sub-section (4), the landlord shall be entitled to receive such rent as may be determined by the Collector and his decision shall be final.

Sale of grain to the [1][State] Government.

4. Where any land is brought under cultivation in accordance with the provisions of this Act, the landlord or the tenant cultivating such land shall, on demand by the Collector, sell to the [1][State] Government one-half of the grain produced over such land at such rates as may be fixed by the [1][State] Government from time to time.

Tenant to cultivate the land let out to him.

5. Where land is let out to any tenant by the landlord under sub-section (1) of section 3 or by the Collector under sub-section (4) of section 3, the tenant shall cultivate the land so let out.

Saving as to Orders.

6. No order made in exercise of any power conferred by or under this Act or any rule made thereunder shall be called in question in any court.

Penalty.

7. If any person contravenes any provision of this Act or any rule made thereunder or any order passed in pursuance of this Act, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

Protection as to action taken.

8. (1) No suit, prosecution or other legal proceeding shall lie against the Collector or any other person acting under the order of the Collector for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder or any order issued under the provisions of this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the [1][State] Government for any damage caused or likely to be caused by anything in good faith done in pursuance of this Act or any rules made thereunder or any order issued in pursuance of the provisions of this Act.

Rule-making power.

9. The [1][State] Government may, consistent with the provisions of this Act, make rules for carrying out the purposes of this Act.

---

[1] Substituted by *ibid.*

THE UNITED PROVINCES LAND UTILIZATION ACT, 1947 (AS APPLIED TO DELHI BY NOTIFICATION DATED SEPTEMBER 15, 1949)

U.P. Act No. V of 1948

An Act to provide for powers to utilize uncultivated land

Preamble.

WHEREAS it is expedient to provide for powers to utilize uncultivated land with a view to increasing the production of food-stuffs ;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the United Provinces Land Utilization Act, 1947.

(2) It extends to the whole of the [1][State] of Delhi.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Collector" includes a Deputy Commissioner;

(*b*) Land, landlord and tenant have the meanings respectively assigned to them in the Punjab Tenancy Act, 1887, as the case may be, the Agra Tenancy Act, 1901;

(*c*) "[1][State] Government" means the Chief Commissioner, Delhi.

Utilization of uncultivated land.

3. (1) Notwithstanding anything contained in the Punjab Tenancy Act, 1887, the Agra Tenancy Act, 1901, or in any other enactment for the time being in force, the Collector, may, by notice in writing in the form specified in the Schedule, call upon the landlord of any land situated within his jurisdiction, which is not grove land or land let to or held by a tenant, and which has not been cultivated or, if previously cultivated, has not been cultivated during the *Rabi* and *Kharif* immediately preceding the commencement of this Act, to let out such land or pre-arrange for the cultivation thereof within fifteen days from the date of the service of such notice or within such further period as the Collector may extend.

U.P. Act XVII of 1939.

(2) The notice shall be served on the landlord by delivering or tendering to him a copy of such notice. But if the landlord is not readily traceable or refuses to accept the notice, the service shall be effected by affixing a copy of such notice to the *chaupal* or some other public place in the Village and thereupon the landlord shall be deemed to have been sufficiently served.

---

[1] Substituted by *ibid.*

(3) If the landlord within one week from the date of the service of the notice shows to the satisfaction of the Collector that the land is not capable of being cultivated or that it is already being cultivated or has been let out for cultivation, the Collector shall cancel the notice.

(4) If the notice is not complied with within the time allowed under sub-section (1) or is not cancelled under sub-section (3) the Collector may get such land cultivated on behalf of the [1][State] Government for such period as he thinks necessary or may let out such land to a tenant for cultivation.

(5) Where the land is let out by the landlord in pursuance of the notice under sub-section (1) or by the Collector under sub-section (4), the rent payable by such tenant and the tenure and other conditions of his tenancy shall be determined as prescribed by rules made under this Act.

(6) If the land is cultivated on behalf of the [1][State] Government under sub-section (4), the landlord shall be entitled to receive such rent as may be determined by the Collector, having jurisdiction and his decision shall be final. U. P. Act, XVII of 1939.

Sale of grain to the [1][State] Government.

4. Where any land is brought under cultivation in accordance with the provisions of this Act, the landlord or the tenant cultivating such land shall, on demand by the Collector, sell to the [1][State] Government one-half of the grain produced over such land at such rates as may be fixed by the [1][State] Government from time to time.

Tenant to cultivate the land let out to him.

5. Where land is let out to any tenant by the landlord under sub-section (1) of section 3 or by the Collector under sub-section (4) of section 3, the tenant shall cultivate the land so let out.

Saving as to orders.

6. No order made in exercise of any power conferred by or under this Act or any rule made thereunder shall be called in question in any court.

Penalty.

7. If any person contravenes any provision of this Act or any rule made thereunder or any order passed in pursuance of this Act, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

Protection as to action taken.

8. (1) No suit, prosecution or other legal proceeding shall lie against the Collector or any other person acting under the order of the Collector for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder or any order issued under the provisions of this Act.

(2) No suit or other legal proceeding shall lie against and Central Government or the [1][State] Government for any damage caused or likely to be caused by anything in good faith done in pursuance of this Act or any rule made thereunder or any order issued in pursuance of the provisions of this Act.

Rule making power.

9. The [1][State] Government may, consistent with the provisions of this Act, make rules for carrying out the purposes of this Act.

---

[1] Substituted by *ibid.*

BHOPAL

[*The U. P. Land Utilization Act*, 1947, *is extended to Bhopal.*]

EAST PUNJAB UTILIZATION OF LANDS ACT, 1949 (AMENDED IN 1951)

East Punjab Act No. XXXVIII of 1949

An Act to provide for the utilization of lands in East Punjab

IT is hereby enacted as follows :—

Short title, extent and duration.

1. (1) This Act may be called the East Punjab Utilization of Lands Act, 1949.

(2) It extends to the whole of the [1][State] of [2][ ] Punjab.

[3][(3)* * * *].

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Allottee" has the meaning assigned to it under the East Punjab Displaced Persons (Land Resettlement) Act, 1949 ;

(*b*) "Collector" means Collector of the district where the land is situated ;

(*c*) "Custodian" has the meaning assigned to it in the Administration of Evacuee Property Ordinance, 1949 ;

(*d*) "Evacuee land" means land which has vested in the Custodian under the provisions of the Administration of Evacuee Property Ordinance, 1949 ;

(*e*) "Land" means land which is not urban land and is not occupied as the site of any building in a town or village, but does not include land which is leased by Government or Custodian under any law other than this Act ;

(*f*) "Owner" means a person having a proprietary right in the land and includes an allottee, a usufructuary mortgagee or a lessee ;

(*g*) "Prescribed" means prescribed by rules made under the Act ;

(*h*) "Tenant" means a person to whom land is leased by the Collector under the provisions of this Act ;

(*i*) "Urban land" means all land included within the limits of a Corporation, Municipal Committee, Notified Area Committee, Town Area, Small Town Committee, and Cantonment.

Power to take possession of any vacant land.

3. (1) Notwithstanding any law to the contrary, the Collector may at any time take possession of any land which has not been cultivated for the last [4]["six or more harvests" after serving on the owner a notice that, if he does not cultivate the land within such reasonable period as may be specified in the notice, the Collector may take possession of such land for the purposes of this Act"].

---

1 Substituted by the Adaptation of Laws Order, 1950.

2 Omitted by *ibid.*

3 Omitted by Act of 1950, sec. 2.

4 Substituted by Act of 1951.

(2) The notice required by sub-section (1) shall be deemed to be duly served if delivered at, or sent by post to, the usual or last known place of residence of the owner :

Provided that no notice shall be deemed to be invalid on the ground of any defect, vagueness or insufficiency.

4. [1][(1) Where any land is taken possession of under the preceding section, there shall be paid compensation the amount of which shall be assessed by the Collector so far as practicable in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894, as amended in its application to the State and the rules made thereunder.]

(2) The compensation awarded under this section shall be paid to such person as is in the opinion of the Collector entitled to receive it :

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this section to pay the same to the person lawfully entitled thereto.

Lease by Collector.

5. Where the Collector has taken possession of any land under section 3, he may lease it to any person on such terms and conditions as he may deem fit for the purpose of growing food and fodder crops .

[2]["Provided that the period of lease shall not be less than 7 years or more than 20 years."]

6. [3][* * * *].

Delivery of possession on termination of lease.

7. (1) Where any land taken possession of by the Collector under section 3 is on the expiry of the lease [3][ ] to be returned to the owner, the Collector may, after making such inquiry, if any, as he considers necessary, specify by order in writing the person to whom possession of the land shall be given.

(2) The delivery of possession of the land to the person specified in any order made under sub-section (1) shall be a full discharge of the Collector from all liability in respect of such delivery but shall not prejudice any rights in respect of the land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(3) Where the person to whom possession of any land is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the Collector shall cause a notice declaring that the land is released to be affixed on some conspicuous part of the land.

(4) On issue of the notice referred to in sub-section (3), the land specified in the notice shall be deemed to have been delivered to the person entitled to the possession thereof,

---

[1] Substituted by Act of 1951, sec. 4.

[2] Substituted *ibid.*, sec. 5.

[3] Omitted by *ibid.*, sec. 6.

and the Government or the Collector shall not be liable for any compensation or other claim in respect of the land for any period after the said date.

Penalty for failure of the tenant to grow food or fodder crops

8. Where the tenant fails to grow food or fodder crops on the land leased to him, he shall besides the payment of rent fixed under section 5 be also liable to pay a penalty not exceeding twice such rent.

Penalty for failure of the tenant to grow food or fodder crops.

9. [1][* * * * * * *]

Sums due recoverable as arrears of land revenue.

10. All sums due under this Act from the owner or tenant shall be recoverable as arrears of land revenue.

11. The Collector may take or cause to be taken such steps and use or cause to be used such force as may in his opinion be reasonably necessary for securing compliance with any order made by him under this Act.

Delegation of functions.

12. The Collector may delegate all or any of his powers and functions under this Act to any officer of the Revenue or Rehabilitation Department in his district either by name or designation.

Instrument of lease not necessary.

13. Notwithstanding anything contained in any law for the time being in force, no instrument in writing to give effect to a lease by the Collector under the Act shall require stamp, attestation or registration.

Orders not to be called in question.

14. (1) The decision by the Collector of any matter, which he is empowered by this Act to decide, shall be final and conclusive.

(2) Except as provided in this Act no order made or action taken in exercise of any power conferred by this Act shall be called into question in any court or before any officer or authority.

Debar to suits or legal proceeding.

15. (1) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceedings shall lie against the Crown for any damage caused by anything which is in good faith done or intended to be done under this Act.

Power of Government to make rules.

16. The [2][State] Government may by notification make rules for carrying out the provisions of this Act.

---

1 Omitted by Act 8 of 1951 sec. 8.

2 Substituted by the Adaptation of Laws Order, 1950.

THE MADHYA BHARAT LAND UTILIZATION ACT, 1950 (SAMVAT 2007)

Act No. XXXVIII of 1950 (Samvat 2007)

An Act to provide for the utilization of uncultivated land in Madhya Bharat.

WHEREAS due to shortage of food it is expedient to provide for powers to utilize uncultivated land with a view to increasing the production of food-stuffs, it is hereby enacted as follows :— Preamble.

1. (1) This Act may be called "The Madhya Bharat Land Utilization Act, Samvat 2007". Title, extent and commencement.

(2) It extends to the whole of Madhya Bharat.

(3) It shall come into force immediately on its publication in the *Madhya Bharat Government Gazette*.

2. In this Act unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "Land", "*Malguzar*", "*Pattedar* Tenant", "*Maurusi* Tenant", "Holding", "Assignee of proprietary rights", and "*Bona fide* Agriculturist" will have the meanings assigned to them in the *Qanoon Mal*, Gwalior, Samvat 1983, or in the United State of Gwalior, Indore and Malwa (Madhya Bharat) Ryotwari Land Revenue and Tenancy Ordinance, Samvat 2005, in force under the provisions of the United State of Gwalior, Indore and Malwa (Madhya Bharat) Revenue Administration and Ryotwari Land Revenue and Tenancy (Continuance) Act, Samvat 2006 (Act No. 53 of 1949);

Explanation.—"*Malguzar*" shall include *Thekedar* and also *Chakdar* and *Blockdar* holding Chaks, Blocks or *Murabbas* under *Kawaid Trashi va Attai chakuk Parti Kabal Kasht Gwalior, Samvat* 1980, in force for the time being ;

(*b*) "Agricultural land" means land which is used for agriculture or which is capable of being used for agriculture and includes fallow land ;

(*c*) "Government" means the Government of Madhya Bharat ;

(*d*) "Suba" means the Suba of the District or such other officer who may be authorised by the Government to exercise the powers of a Suba for the purposes of this Act ;

(*e*) "Prescribed" means prescribed by rules made under this Act.

Cultivation of unoccupied land in villages held by *Malguzar* or Assignees of proprietary rights.

3. (1) Notwithstanding anything contained in the "Qanoon Mal, Gwalior State, Samvat 1983", or in any other enactment for the time being in force, the Tehsildar may with the previous permission of the Suba of the District by notice in writing in the form specified in the Schedule, call upon any *Malguzar* or an assignee of proprietary rights, within his jurisdiction to let out or allot for cultivation any land lying unoccupied and uncultivated in a village or part of a village held by him within 30 days from the date of the service of such notice or within such further period as the Tehsildar may extend or to arrange for its cultivation himself from the agricultural year following next :

Provided that no notice shall be issued under this sub-section in respect of any land which is a grove land or which is considered necessary to be continued as pasture land (Charnoi), or which is, by force of any custom, used as threshing floor, road, path, *guha* or such other purposes.

(2) The decision of the Suba whether a particular land is required to be left for pasture (Charnoi) or other purposes as required under proviso to sub-section (1) shall be final.

(3) Where a land, in respect of which a notice is required to be issued under sub-section (1), is in possession of a *Thekedar*, the Tehsildar shall issue notice both to the *Thekedar* and the *Malguzar*.

(4) A notice under sub-section (1) shall be served in accordance with the procedure laid down in that behalf in the Code of Civil Procedure for the time being in force.

(5) If the *Malguzar*, or the assignee of proprietary rights shows to the satisfaction of the Suba within 30 days from the date of the service of the notice that the land is not capable of being cultivated or that it is already being cultivated or has already been let out or allotted for cultivation, the Suba shall cancel the notice.

(6) If the *Malguzar* or the assignee of proprietary rights desires to make arrangement for the cultivation of the land himself, he shall inform the Tehsildar accordingly in writing within 30 days from the date of the service of the notice or within such further period as the Tehsildar may extend.

(7) If the land is let out or allotted as required under sub-section (1), the *Malguzar* or Assignee of proprietary rights shall produce the *Qabuliyat* or *Patta* and get it verified by the tenant before the Tehsildar within 30 days from the date of the service of the notice or within such further period as the Tehsildar may extend.

(8) If neither the provisions of sub-section (6) or (7) are complied with, nor the notice issued under sub-section (1) is cancelled under sub-section (5), the Tehsildar may, subject to the rules made under this Act, let out or allot such land to a *bona fide* agriculturist or a co-operative farming society for cultivation.

(9) Where the land is let out or allotted by the Tehsildar under sub-section (8), the tenure shall be "*Maurusi*" or "*Pattedari*" as the case may be. The rent payable by such tenant for such land will be determined by the Tehsildar in accordance with the rate fixed for similar classes of soil in the villages concerned at the time of settlement :

Provided that if settlement has not been made or completed the rent will be determined by the Tehsildar keeping in view the general level of rents in that and adjoining villages :

Provided further that in special cases or in areas where owing to the undeveloped or economically backward condition of the tract, the Government is satisfied that land cannot reasonably be expected to be brought under cultivation without total or partial exemption from payment of rent, the Government may grant such concessions for a period not exceeding five years in such cases or areas.

(10) If the land is let out or allotted for cultivation by the Tehsildar under sub-section (8), the *Malguzar* or the Assignee of proprietary rights, as the case may be, shall be entitled to receive the rent fixed under sub-section (9) from the tenant.

Cultivation of excess fallow lands within holdings.

4. (1) If the percentage of fallow land in the holding of any tenant is larger than what may be fixed by the Government for a district, pargana or part of pargana in which the holding is situated, the Tehsildar may, notwithstanding anything contained in any enactment for the time being in force call upon the tenant, by notice in writing in the prescribed form, to bring the excess fallow land under cultivation by himself or through a sub-lessee from the Agricultural year next following.

(2) If the tenant shows to the satisfaction of the Tehsildar within 30 days from the service of the notice that the land is not capable of being cultivated or that it is already being cultivated, the Tehsildar shall cancel the notice.

(3) If the land is let out to a sub-tenant, the tenant shall produce the *Qabuliyat* or document affecting such sub-lease and shall get it verified by the sub-tenant before the Tehsildar within 30 days from the date of the service of the notice or within such further period as the Tehsildar may extend.

(4) If the tenant desires to bring the land under cultivation by himself, he shall inform the Tehsildar accordingly in writing within 30 days from the date of service of the notice or within such further period as the Tehsildar may extend.

(5) If neither the provisions of sub-section (3) or (4) are complied with, nor the notice issued under sub-section (1) is cancelled under sub-section (2), the Tehsildar may, subject to rules made under this Act, sub-let the land for a period not exceeding five years.

(6) The rent payable by the sub-tenant will be determined by the Tehsildar in accordance with the rate fixed for similar classes of soil in the village concerned at the time of settlement:

Provided that if settlement has not been made or completed the rent will be determined by the Tehsildar keeping in view the general level of rents in that and adjoining villages:

Provided further that in special cases or in areas where owing to the undeveloped or economically backward condition of the tract, the Government is satisfied that land cannot reasonably be expected to be brought under cultivation without total or partial exemption from payment of rent, the Government may grant concessions in such cases or areas.

(7) If the land is let out for cultivation by the Tehsildar under sub-section (5) the tenant shall be entitled to receive the rent as fixed under sub-section (6) from the sub-lessee.

(8) A sub-lease under sub-section (1) shall not be affected for a total period of more than five years and shall be made in the prescribed manner.

(9) Notwithstanding anything contained in any enactment for the time being in force a sub-lessee, who does not hand over possession of the land sub-let to him under this section to the lessor or to the tenant who was in possession of the land before the sub-lease was affected or to his legal heir in case of his (lessor's or tenant's) death after the expiry of the period of such lease, shall be deemed to be a trespasser and shall be liable to ejectment in accordance with the provisions of the United State of Gwalior, Indore and Malwa (Madhya Bharat) Land Revenue and Tenancy Ordinance, Samvat 2005.

(10) On the dispossession of a trespasser under sub-section (9) the tenant, or if he is dead, his legal heir shall under orders of the Tehsildar be placed in possession of the land and shall be called upon to cultivate it from the agricultural year following next.

(11) If the tenant or his legal heir, as the case may be, refuses or fails to cultivate the land as required under sub-section (10) or on receiving back the possession from the sub-lessee after the expiry of the period of sub-lease from the agricultural year following next, the land shall be deemed to have been abandoned.

Tenant to cultivate the land let out to him.

5. Where any land is let out or allotted to any tenant or sub-lessee or where a *Malguzar*, Assignee of proprietary rights or an owner or occupier of agricultural land agrees to bring any land under cultivation in accordance with the provisions of this Act, the *Malguzar*, Assignee of proprietary rights, tenant, sub-lessee or owner or occupier, as the case may be, shall bring at least half the area under cultivation within one year and at least 3/4th of the area within two years and at least 9/10th of the area within three years from the agricultural year the land is required to be brought under cultivation :

Provided that at least 40 p.c. of the area within the first year and at least 70 p.c. of the area within two years shall be brought under food grains which will include millets, wheat, paddy, gram and pulses of all kinds.

6. No order made in exercise of any power conferred by or under this Act or any rule made thereunder shall be called in question in any Civil or Criminal Court. Saving as to order.

7. (1) If any person contravenes the provisions of section 6 or 7 of this Act he shall be punishable with fine not exceeding rupees five hundred. Penalty.

(2) The offence under this Act shall be bailable, non-compoundable and triable by a Magistrate of the Second Class.

(3) No complaint for any offence under this Act shall be presented without the previous sanction of the Suba.

8. (1) No suit, prosecution or other legal proceedings shall lie against the Suba, Tehsildar or any other person acting under the order of the Suba or Tehsildar for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder or any order issued under the provisions of this Act. Prosecution as to action taken.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything in good faith done in pursuance of this Act or any rules made thereunder or any order issued in pursuance of the provisions of this Act.

9. The Government may make rules for carrying out the provisions of this Act. The rules may also provide for the punishment for any contravention of the provisions of such rules. Power to make rules

10. As soon as this Act comes into force the United State of Gwalior, Indore and Malwa (Madhya Bharat) Land Utilization Ordinance, Samvat 2006 (Ordinance No. 62 of 1949, Samvat 2006) shall stand repealed: Repeal

Provided that all orders passed and actions taken under the said Ordinance shall be deemed to have been passed or taken, as the case may be, under this Act.

THE BIHAR WASTE LANDS (RECLAMATION, CULTIVATION AND IMPROVEMENT) ACT, 1946

Bihar Act XVI of 1946

An Act to provide for the Reclamation, Cultivation and Improvement of waste and unproductive lands in the Province of Bihar.

WHEREAS it is expedient to provide for the reclamation, cultivation and improvement of waste and unproductive lands in the Province of Bihar;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Bihar Waste Lands (Reclamation, Cultivation and Improvement) Act, 1946.

(2) It shall extend to the whole of the Province of Bihar.

(3) It shall come into force in such area and on such date as the [1][State] Government may, by notification, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Collector" includes any officer whom the Provincial Government may, by notification, appoint to exercise and perform the powers and duties of a Collector under this Act;

(*b*) "date of possession" means the date on which the Collector enters upon and takes possession of land under section 3 ;

(*c*) "landlord" includes a proprietor, a tenure-holder and a usufructuary mortgagee of the proprietor or tenure-holder but does not include a village head man or a *raiyat* ;

(*d*) "notified area" means any area specified in a notification issued under sub-section (3) of section 1 ;

(*e*) "period of possession" means the period commencing from the date of possession and ending on the date on which the Collector on termination of possession under section 8 issues the declaration referred to in the said section ;

(*f*) "prescribed" means prescribed by rules made under this Act ;

(*g*) "tenant" includes a usufructuary mortgagee of the tenant; and

(*h*) "waste and unproductive land" means land lying fallow and recorded in the record-of-rights as *gair-mazrua khas* or *gair-mazrua malik* or *parti* or *parti qadim* or *parti jadid* or land which has been lying fallow

---

1 Substituted by the Adaptation of Laws Order, 1950.

for a continuous period of not less than five years preceding the date of possession, or land which owing to the action of a river or a natural calamity is lying fallow or which has so deteriorated owing to a deposit of sand or accumulation of water or growth of jungle or any other cause as to render its cultivation for the time being unprofitable.

Collector's notice before making possession for purposes of reclamation and improvement.

3. When the Collector is satisfied that it is necessary, in order to bring any waste or unproductive land in a notified area under cultivation without undue delay, that the [1][State] Government should take temporary possession of such land, he may serve a notice in the prescribed form and in the prescribed manner on the landlords and tenants and may within the prescribed period enter upon and take possession of the land on behalf of the [1][State] Government.

Incidents of possession of Collector in notified area.

4. (1) When the Collector takes possession of any land on behalf of the [1][State] Government under section 3, such possession may continue for such period not exceeding ten years, as the Collector, subject to any general or special orders of the [1][State] Government, may direct.

(2) During the period of possession the Collector may, subject to any general or special orders of the [1][State] Government, retain the land in his *khas* possession and arrange at the cost of Government for its reclamation, cultivation and improvement in the prescribed manner.

(3) During the period of possession the landlord or tenant shall not be entitled to recover anything in respect of the land taken possession of by the Collector save and except in accordance with the provisions of this Act or anything prescribed thereunder.

(4) The compensation payable for the period during which the land is held by the Collector under sub-section (1) shall be determined by the Collector according to the following principles, namely :—

(*a*) if at the date of possession a tenant was in, or was entitled to, immediate possession of the land, the compensation shall be payable to the landlord at a rate which shall not be less than one and not more than two annas per acre, and the tenant who was in, or was entitled to, immediate possession shall also receive compensation at the same rate ; and

(*b*) in any other case compensation shall be payable to the landlord alone at a rate which shall not be less than two and not more than four annas per acre.

1 Substituted by *ibid.*

Consequences of land taken possession of by Collector.

5. When the Collector takes possession of any land under section 3, the following consequences shall ensue, namely :—

(*a*) all claims of the landlord to any arrears of rent accrued due in respect of the land for the period prior to the date of possession shall be barred, and all proceedings then pending in any Court and the operation of all processes, executions and attachments then in force in respect of any such claim shall lapse ;

(*b*) no fresh proceedings, processes, executions or attachments shall be instituted in, or issued by, any Court in respect of any such claim.

Accounts.

6. The Collector shall keep an account in the prescribed form of all income and expenditure of the [1][State] Government relating to all lands of which possession is taken by him under section 3, and any landlord, tenant or other person having an interest in any such land may, on payment of a fee of eight annas, inspect such accounts.

Determination of the net expenditure on reclamation, cultivation and improvement and recovery thereof.

7. (1) The net expenditure incurred by the [1][State] Government on the reclamation, cultivation and improvement of any land under the provisions of this Act or such portion thereof as the [1][State] Government may, by general or special order, direct, may, with interest at such rate, not exceeding three *per centum per annum*, as the Collector may fix, be recovered as arrears of land revenue from the tenant or landlord who was in, or was entitled to, immediate possession of the land at the date of possession or from his heir or successor-in-interest or if, within the period specified in the first proviso to section 8, such tenant or landlord or his heir or successor-in-interest fails to take back the delivery of possession of the land, the said expenditure together with the interest shall be recovered from the new tenant with whom the land has been settled by the Collector under the said proviso, in such annual instalments not exceeding ten, as the [1][State] Government may, by notification, fix :

Provided that a landlord or tenant or his heir or successor-in-interest from whom the said expenditure is recoverable may, at any time, pay the entire amount then due from him instead of in instalments :

Provided further that if the income from the land exceeds the expenditure, the surplus shall be credited to the account of, and paid to, the landlord or tenant who was in, or was entitled to, immediate possession of the land at the date of possession.

Explanation.—For the purposes of this section, the expression "net expenditure" means the total expenditure incurred by the [1][State] Government on the reclamation, cultivation and improvement of the land after deducting therefrom the income, if any, accruing from the land during the period of possession.

1 Substituted by *ibid.*

(2) The amount of any expenditure to be recovered from any person under sub-section (1) shall, subject to any general or special order of the [1][State] Government, be determined by the Collector in the prescribed manner.

(3) An appeal against the decision of the Collector under sub-section (2) as to the amount of the net expenditure to be recovered from any person shall lie to the Commissioner within sixty days from the date of such decision and subject to the result of such appeal the decision of the Collector shall be final and shall not be questioned in any Court.

Termination of possession after completion of reclamation and improvement and matters to be decided before possession is terminated.

8. When the Collector is satisfied that the reclamation and improvement of any land or a portion thereof of which possession has been taken under section 3 is complete and that the continuance of the possession so taken is no longer necessary, the Collector may, after serving a notice in the prescribed form and in the prescribed manner on the landlords or tenants, terminate the possession so taken and declare that the tenant or the landlord who was in or was entitled to immediate possession of the land at the date of possession or his heir or successor-in-interest shall be restored to the possession of the land and put in possession of the same in the prescribed manner :

Provided that if such tenant or landlord or his heir or successor-in-interest fails to take back the delivery of possession of the land within one year from the date of such declaration, the Collector may, subject to any general or special order of the [1][State] Government, settle the land with a new tenant on such terms and conditions as he may fix and in the case of rent paying land at a rate of rent not lower than the rate of rent payable for the land on the date of possession :

Provided further that the Collector shall terminate the possession taken under section 3 before the expiration of the period of ten years specified in sub-section (1) of section 4.

Suspension of existing rights.

9. Save as otherwise provided in this Act, the taking of possession of any land under section 3, shall have the effect of suspending but not superseding or extinguishing any rights or devolution of any rights in respect of the land existing at the date of possession and the landlord shall remain liable for payment of land revenue and landlord's share of the cess during the period of possession.

Right of third party in or over land taken possession of by Collector.

10. (1) Any right of any third party in or over the land of which the Collector has taken possession under section 3 shall remain in abeyance during the period of possession.

(2) In the case referred to in sub-section (1) the Collector may—

(*a*) where it is possible to enter into an arrangement with the interested parties whereby the same right can for the time being be exercised over other land, make and give effect to such an arrangement ;

---

1 Substituted by *ibid.*

(*b*) where no such arrangement as described in clause (*a*) is possible, determine the compensation to be paid to the third party.

Explanation.—For the purposes of this section, "third party" means any person who is not a landlord or tenant of the land nor holds under or by transfer from a landlord or tenant, and includes the village community.

Conditions for questioning proceedings and orders of the Collector under the Act

11. No proceedings under this Act shall be called in question merely on the ground that there was an irregularity in the service of the prescribed notice nor shall any order of the Collector be set aside or modified except under the provisions of this Act.

Power to make rules.

12. (1) The [1][State] Government may, by notification, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the form of the notice referred to in section 3, the manner of serving the notice and the period within which the Collector shall enter upon and take possession of the land after service of such notice ;

(*b*) prescribe the manner in which the Collector shall under sub-section (2) of section 4 arrange for the reclamation, cultivation and improvement of the land during the period of possession ;

(*c*) prescribe the amounts which the landlord or tenant may recover under sub-section (3) of section 4;

(*d*) prescribe the form of accounts under section 6 ;

(*e*) prescribe the manner in which the Collector shall determine the expenditure to be recovered from any person under sub-section (1) of section 7; and

(*f*) prescribe the form of the notice referred to in section 8 and the manner of serving the said notice and of putting a person in possession of the land under the said section.

---

1 Substituted by *ibid.*

THE C.P. & BERAR RECLAMATION OF LANDS (ERADICATION OF KANS) ACT, 1948 (AS AMENDED UPTO 1950)

Central Provinces and Berar Act No. XVII of 1948

An Act to provide for reclamation of lands by eradication of kans weed in certain areas.

WHEREAS it is expedient to provide for reclamation of lands by eradication of kans weed in certain areas of the Central Provinces ; Preamble.

It is hereby enacted as follows :—

1. (1) This Act may be cited as the Central Provinces Reclamation of Lands (Eradication of Kans) Act, 1948. Short title and extent.

(2) It extends to the whole of the [1][Madhya Pradesh].

2. In this Act unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "eradicating operations" means such operations as are considered necessary by the Reclamation Officer to eradicate kans from a kans area ;

(*b*) "kans" means a kind of weed known as Saccharum Spontaneum (hereinafter referred to as kans);

(*c*) "kans area" means the area which the [1][State] Government may by notification declare under clause (*a*) of sub-section (1) of section 3 to be an area infested with kans ;

(*d*) "Reclamation Officer" means an officer appointed as such by the [1][State] Government and includes any other officer authorised by the Reclamation Officer to exercise all or any powers conferred upon him under this Act.

3. (1) If the [1][State] Government is of opinion that any area is infested with kans, it may, by notification— Declaration of kans area.

(*a*) declare such area, giving full particulars thereof, to be a kans area for the purposes of this Act; and

(*b*) authorise the Reclamation Officer to enter upon any land in such area and take possession thereof for such period as may be specified for the purpose of eradication of *kans* from such area.

(2) Such notification shall be a sufficient notice of the facts stated therein to all persons owning or having interest in the land comprised in such area.

(3) The Deputy Commissioner of the district comprising the kans area shall give publicity to the notification issued under sub-section (1) in such manner as he deems fit.

---

1 Substituted by the Adaptation of Laws Order, 1950.

Constitution of Reclamation Committee.

4. The [1][State] Government may for the purpose of assisting the Reclamation Officer appoint a Reclamation Committee consisting of such persons as it may think fit, and assign such duties to the Committee as it may deem fit.

Power to survey and carry on eradicating operations.

5. On the issue of a notification under sub-section (1) of section 3, the Reclamation Officer and his subordinates and workmen authorised by him in this behalf may—

(*a*) enter upon any land in the kans area for the purpose of survey and any other ancillary purpose ; and

(*b*) take possession of the whole or any part of the kans area and carry on eradicating operations therein.

Liability of owners, etc., for cost of eradicating operations

6. [2][(1) Every person owning or having interest in the land, in which eradicating operations have been carried on, shall be liable to pay for such operations costs at such rates and in accordance with such principles as may be prescribed.

(2) The Reclamation Officer shall, in consultation with the Reclamation Committee, fix the amount of cost payable by each owner or other person having interest in the land comprised in the kans area. The amount so fixed shall be a charge on the land to which it relates and shall not be called in question in any suit or other legal proceeding.

(3) The Reclamation Officer shall also determine whether the amount so apportioned shall be paid by the person owning or having interest in the land in one lump sum or by annual instalments, and where he directs annual instalments, he may fix the amount and number of such instalments.]

Recovery of costs.

7. (1) The Deputy Commissioner shall cause to be served on a person owning or having interest in the land in which eradicating operations have been carried on a notice of demand specifying the amount of cost of reclamation payable by him and the period within which it shall be paid.

(2) The said costs shall be recoverable as arrears of land revenue.

Compensation for damage.

8. (1) Any person may within thirty days from the date of restoration of the land to him, apply to the Reclamation Committee for payment of compensation for destruction of or damage to any plant or tree in his land as a result of the eradicating operations carried on under section 5.

(2) On receipt of such application the Reclamation Committee may make such enquiry as it deems fit and if in its opinion the payment of compensation is justified, it may grant such amount of compensation as it deems fit.

(3) The decision of the Reclamation Committee shall be final in all respects and shall not be called in question in any court of law.

---

1 Substituted by the Adaptation of Laws Order, 1950.

2 Substituted by section 2 of Madhya Pradesh Act VI of 1950.

Power of Deputy Commissioner to enforce compliance.

9. The Deputy Commissioner may take or cause to be taken such steps or use, or cause to be used such force as may in his opinion be reasonably necessary for securing compliance with the provisions of this Act.

Persons acting under the Act to be public servant.

10. All persons acting in pursuance of the provisions of this Act shall be deemed to be public servants within the meaning of that expression in the Indian Penal Code, 1860. XLV of 1860

Protection of persons acting in good faith.

11. (1) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

(2) No suit shall be instituted against the Crown and no prosecution or suit shall be instituted against any person for anything done or intended to be done under this Act.

Repeal and savings.

12. (1) The Central Provinces Reclamation of Lands (Eradication of Kans) Ordinance, 1948, is hereby repealed. III of 1948.

(2) Any notification issued, appointment, authorization or enquiry made, duty assigned, notice served or any action taken under the said Ordinance shall, if not inconsistent with the provisions of this Act, be deemed to have been issued, made, assigned, served or taken under this Act.

Power to make rules.

13. (1) The [1][State] Government may by notification make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for the assessment of damage to embankments and field boundaries and payment of compensation therefor.

---

1 Substituted by the Adaptation of Laws Order, 1950.

*

THE KUMAUN NAYABAD AND WASTE LANDS ACT, 1948

U.P. Act No. XXXII of 1948

An Act to regulate the Nayabad and Waste Land Grants in hill *pattis* of the Kumaun Division.

Preamble. WHEREAS it is expedient to amend the law relating to the cultivation and use of unmeasured lands in the hill *pattis* of the Kumaun Division;

It is hereby enacted as follows :

CHAPTER I

PRELIMINARY

Short title, extent and commencement. **1.** (1) This Act may be called "the Kumaun Nayabad and Waste Lands Act, 1948."

(2) It extends to the hill *pattis* of the Kumaun Division, except land situate within the limits of any municipality, notified area or town area.

(3) It shall come into force at once.

Repeal. **2.** The Kumaun Nayabad and Waste Land Rules published with Government notification No. 612/XIV-312(24), dated August 1, 1934, as subsequently amended, and the provisions of the Indian Forest Act, 1927, in so far as they are inconsistent with the provisions of this Act are hereby repealed. Act XVI of 1927.

Definitions. **3.** In this Act, unless there is anything repugnant in the subject or context,—

(1) "Board", "Assistant Collector in charge of a sub-division" and "Assistant Collector, first class" shall have the same meaning as in the Land Revenue Act, 1901, as modified for Kumaun and "Deputy Commissioner" and "Deputy Commissioner-in-charge, Kumaun Division" shall have the same meaning as "Collector" and "Commissioner," respectively, in that Act;

(2) "extension" means a contiguous addition to existing cultivation;

(3) "nayabad grant" or "grant" means a grant of unmeasured land made in accordance with the provisions of this Act;

(4) "old reserves", "class II forests" and "class I forests" mean forests constituted under Chapter II of the Indian Forest Act, 1927; Act XVI of 1927.

(5) "*panchayat* forest" means a forest constituted under the *Panchayat* Forest Rules applicable to Kumaun ;

(6) "prescribed" means prescribed by this Act or by rules made thereunder;

(7) "protected trees" means the trees the felling or looping of which is prohibited in accordance with the rules framed from time to time under the Indian Forest Act, 1927;

Act XVI of 1927.

(8) "public path" means a path which, though recorded or not in settlement papers, is recognized and is used as such by the inhabitants of the locality;

(9) "settlement path" means a path recorded as such in the records of the settlement, for the time being in force;

(10) "traditional boundary" means the boundary of a village defined at Mr. Trail's Settlement of 1923 (*Samvat* 1880) or as established in 1839 (*Samvat* 1896) subject to any subsequent certification by order of a Settlement or Record Officer or by a judicial decision;

(11) "unmeasured land" means land which has not been measured and on which no land revenue has been assessed at the last settlement but includes land known as Kaiser-i-Hind land.

CHAPTER II

Extensions and Nayabad Grants

4. The breaking up of waste land for cultivation can be—

(1) by extension, or

(2) by a nayabad grant.

5. Subject to the rules made under section 25 every person cultivating land in Kumaun has a right to extend his cultivation over adjoining unmeasured land and the person so extending his cultivation shall possess the same rights over such extension as he has in his original cultivation:

Provided that no extension shall be made in a village—

(i) in which 75 per cent. or more of the total culturable area has already been brought under cultivation; or

(ii) in respect of which the Deputy Commissioner-in-charge, Kumaun Division, has made a declaration prohibiting extensions without the written permission of the said officer.

6. Except in a village in which the making of grants has been prohibited by a declaration made by the Deputy Commissioner-in-charge, Kumaun Division, a nayabad grant for cultivation or for planting a garden or for the construction of buildings may, on application to the Assistant Collector in charge of the sub-division in which the grant is desired, be made by him in accordance with the rules made under section 25.

7. No extension or grant shall—

(i) encroach on—

(*a*) old reserves, class II, class I and *panchayat* forests;

(*b*) the traditional boundary of another village;

(*c*) land lawfully in the possession or cultivation of another person;

(*d*) any settlement or public path; or

(ii) otherwise interfere with the prescriptive or easement rights held by any person other than the person making the extension for obtaining the grant.

8. No grant or extension shall be made on the tops or steep sides of hills where erosion is likely to occur on account of the removal of forest growth, or on land on which *deodar*, cypress, walnut or other protected trees stand in such number as to make the grant or extension undesirable, nor shall grants ordinarily be made where the land to be granted or its immediate vicinity contains a large number of pine or oak trees.

9. No nayabad grant or any portion thereof shall be transferred by the grantee to any person save with the prior sanction of the Deputy Commissioner who may accord such sanction only after satisfying himself that the reasons for the transfer of the whole or portion, as the case may be, warrant such transfer.

Explanation.—For the purposes of this section grantee includes persons claiming through or under him.

10. Nayabad grants may be made for the purpose of planting a garden but notwithstanding anything contained in section 5 no extensions shall be made or allowed to be made by reason of the possession of any such grant.

CHAPTER III

SUITS

Suit to set aside orders sanctioning a grant.

11. Where a grant has been sanctioned, any person aggrieved by the grant may file a suit in the appropriate civil court to set it aside on one or more of the following grounds, namely :

(*a*) That he has proprietary rights in the land included in the grant.

(*b*) That the grant would materially affect his prescriptive or easement rights or his extension.

(*c*) That the grant lies within the traditional boundary of his village and not within that of the grantee.

(*d*) That the grantee is not entitled to a grant under the rules prescribed for the purpose:

Provided that no suit shall lie in the case of grant sanctioned for a public purpose or for the construction of a building other than a building intended for agricultural purposes.

Period of limitation for suits under Section 11.

12. Notwithstanding anything contained in the Indian Limitation Act, 1908, the period of limitation for a suit under section 11 shall be six months from the date on which the grant is sanctioned under section 6.

Suits relating to traditional boundary and easementary right.

13. A suit may be filed in a civil court for a declaration of injunction or for both—

(*a*) in respect of the traditional boundary of a village, or

(*b*) in respect of easement rights in unmeasured land.

CHAPTER IV

JURISDICTION AND PROCEDURE

Jurisdiction of Revenue and Civil courts.

14. Subject to the provisions contained in Chapter III, all proceedings under this Act and the rules made thereunder shall be heard and decided by Revenue courts and no court other than a Revenue court shall take cognizance of any such proceeding.

15. (1) (*a*) The Assistant Collector in charge of a sub-division may transfer any proceeding pending before him to the court of any Assistant Collector, first class, competent to try or dispose of the same.

(*b*) The Deputy Commissioner may, for sufficient reason, transfer any proceeding or class of proceedings from the court of the Assistant Collector in charge of the sub-division to the court of an Assistant Collector, first class, or from the court of any Assistant Collector, first class, to the court of any other Assistant Collector, first class, competent to try or dispose of the same :

Provided that no proceeding mentioned in this sub-section shall be transferred to a court that has its place of sitting outside the sub-division in which the proceeding was commenced.

(2) The Deputy Commissioner-in-charge, Kumaun Division, may, for sufficient reasons, transfer any appeal from the court of a Deputy Commissioner to the Court of another Deputy Commissioner.

Application of Code of Civil Procedure.

V of 1908.

16. The provisions of the Code of Civil Procedure, 1908, as modified in their application to the Kumaun Division, in so far as they are not inconsistent with the provisions of this Act shall apply to all suits and proceedings under this Act or the rules made thereunder.

CHAPTER V

APPEALS AND REVISIONS

Appeals.

17. No appeal shall lie from any order passed by any Revenue court under this Act except as provided in this Act.

First appeal.

18. An appeal shall lie to the Deputy Commissioner from all orders passed under any of the provisions of this Act by an Assistant Collector in charge of a sub-division or an Assistant Collector of the first class.

Second appeal.

19. A second appeal shall lie to the Deputy Commissioner-in-charge, Kumaun Division, from an appellate order of the Deputy Commissioner under section 18 on any of the grounds specified in section 100 of the Code of Civil Procedure, 1908.

Period of limitation of appeals.

20. (1) No appeal to the Deputy Commissioner shall be brought after the expiry of thirty days from the date of the order complained of.

(2) No second appeal to the Deputy Commissioner-in-charge, Kumaun Division, shall be brought after the expiry of sixty days from the date of the order appealed against.

Power of Board to call for records and revise orders.

21. The Board may, on the application of a party or of its own motion, call for the record of any proceeding decided by a subordinate Revenue court under this Act and if such court appears to have exercised a jurisdiction not vested in it by law, or to have failed to exercise a jurisdiction so vested or to have acted in the exercise of its jurisdiction illegally or with material irregularity the Board may pass such order in the case as it thinks fit.

CHAPTER VI

MISCELLANEOUS

Power to lease unmeasured land.

22. Nothing contained in this Act shall prevent the Deputy Commissioner from giving unmeasured land on lease subject to rules in that behalf made under section 25.

Penalty for illegal extensions and misuse of grants.

23. (1) When an extension has been made or a grant has been used contrary to the provisions of this Act or of the rules framed thereunder, the Assistant Collector in charge of the sub-division may, on the application of any party or of his own motion, proceed against persons liable for the contravention in any one or more of the following manners :

(*a*) Order evacuation of the extension or grant; or

(*b*) recover the cost of evacuation or removal of extension from the person concerned, if the evacuation of the persons or removal of extension has been made at the cost of Government, or

(*c*) forbid the use of the land in future by the person who has made the illegal extension or misused the grant; or

(*d*) levy the cost of any tree felled or produce extracted from the trees together with compensation not exceeding Rs. 100.

(2) If the Assistant Collector in charge of the sub-division orders evacuation or forbids the use of the land under clauses (*a*), (*b*) or (*c*) of sub-section (1) he shall forward the case to the Deputy Commissioner of the district for the cancellation of the grant.

(3) Any amount levied under clause (*d*) of sub-section (1) shall be recoverable as an arrear of land revenue.

Penalty for disobedience of orders passed under section 23.

24. Any person disobeying an order passed under clause (*a*) or (*c*) of sub-section (1) of section 23 shall be liable to prosecution and shall, on conviction, be punishable with a fine not exceeding five hundred rupees.

Power to make rules.

25. The [1][State] Government may, after previous publication, make rules consistent with this Act—

(1) prescribing the extent to and the circumstances in which and the restrictions subject to which extensions may be made;

(2) prescribing the manner in which the person to whom and the conditions subject to which, nayabad grants may be made;

(3) for the lease of unmeasured land for non-agricultural purposes; and

(4) for generally giving effect to the provisions of this Act.

Disposal of pending suits and proceedings.

26. A suit or proceeding under any of the provisions of the Kumaun Nayabad and Waste Land Rules which were in force immediately before the commencement of this Act shall be decided in accordance with the corresponding provisions of this Act and, if there is no corresponding provisions the suit shall be dismissed or the proceedings quashed.

[1] Substituted by the Adaptation of Laws Order, 1950.

*

THE EAST PUNJAB RECLAMATION OF LAND ACT, 1949

East Punjab Act No. XXII of 1949

An Act to provide for reclamation of lands in certain areas

It is hereby enacted as follows :—

Short title and extent.

1. (*i*) This Act may be called the East Punjab Reclamation of Land Act, 1949.

(*ii*) It extends to the whole of the [1][State] of [2][ ] Punjab.

2. In this Act unless there is anything repugnant in the subject or context,—

(*a*) "Reclamation" means such operations as are considered necessary by the Director of Agriculture to reclaim and cultivate any reclaimable area ;

(*b*) "Reclaimable area" means such waste lands and the intervening cultivated areas as the [1][State] Government may by notification declare under section 4 to be a reclaimable area ;

(*c*) "the Director" means the Head of the Department of Agriculture in [2][ ] Punjab ;

(*d*) "Preliminary survey" means operations undertaken to ascertain the quality of any land for the purpose of declaring it reclaimable area ;

(*e*) "Waste land" means land recorded as *Banjar* of any kind in revenue records and such *Ghairmumkin* lands as are reclaimable.

Authority to enter upon waste lands.

3. The Director may enter upon any waste land for the purpose of carrying out preliminary survey.

Declaration and notification of reclaimable area and powers of the Director with regard thereto.

4. (1) If the [1][State] Government is of opinion that any area is required for reclamation, it may by notification declare such area to be reclaimable area for the purpose of this Act and such notification shall be conclusive evidence of the matters stated therein, and shall not be liable to be called in question in any court.

(2) The Collector of the District in which the reclaimable area is situated shall give publicity to the notification issued under sub-section (1) in such manner as he may deem fit.

(3) Upon the issue of a notification under sub-section (1) the Collector may, notwithstanding any law to the contrary, authorise the Director to take possession of the whole or any part of the area specified therein.

(4) The Collector shall then proceed to acquire the land or procure its temporary occupation, as the case may be, and the provisions of the Land Acquisition Act, 1894, except sections 4 to 8 inclusive, as amended by the Land Acquisition (East Punjab Amendment) Act, 1948, shall be applicable as nearly as may be. I of 1894. East Punjab Act XV of 1948.

---

[1] Substituted by the Adaptation of Laws Order, 1950.
[2] Omitted by *ibid.*

Acquisition of land for approach roads.

5. (1) On getting a requisition from the Director the Collector of the district in which the reclaimable area is situated, shall acquire land for the purpose of constructing approach roads to such area.

(2) For the acquisition of land under sub-section (1) the provision of the Land Acquisition Act, 1894, as amended by East Punjab Act XV of 1948, shall be followed as nearly as may be.

Powers of Deputy Commissioner

6. The Deputy Commissioner may take or cause to be taken such steps or use or cause to be used such force, as may in his opinion be reasonably, necessary for securing compliance with the provisions of this Act.

Delegation of powers.

7. The Director may delegate all or any of his powers and functions under this Act to any officer of the Agriculture Department, [1][ ] Punjab, either by name or by designation.

Debar to suits or legal proceedings.

8. (1) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Crown for any damage caused by anything which is in good faith done or intended to be done under this Act.

Power of Government to make rules.

9. The [2][State] Government may by notification make rules for carrying out the purposes of this Act.

Repeal of East Punjab Ordinance No. XXI of 1949.

10. The East Punjab Reclamation of Land Ordinance, 1949, is hereby repealed but notwithstanding such repeal any orders made, any notification issued, anything done, any action taken or any proceedings commenced in exercise of the powers conferred by or under the said Ordinance shall be deemed to have been made, issued, done, taken or commenced in the exercise of powers conferred by or under this Act.

---

1 Omitted by *ibid.*

2 Substituted by *ibid.*

THE MADHYA BHARAT KANS ERADICATION ACT, 1948 (SAMVAT 2005)

Act No. XVII of 1948 (Samvat 2005)

An Act to provide for the eradication of kans weed in certain areas of the United State of Gwalior, Indore and Malwa (Madhya Bharat).

Preamble.

WHEREAS it is expedient to provide for the eradication of kans weed in certain areas of the United State of Gwalior, Indore and Malwa (Madhya Bharat) it is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called "The United State of Gwalior, Indore and Malwa (Madhya Bharat) Kans Eradication Act, Samvat 2005".

(2) It extends to the whole of the United State of Gwalior, Indore and Malwa (Madhya Bharat), and shall come into force immediately on its publication in the Government Gazette of the said United State.

efinitions.

2. For the purposes of this Act—

(*a*) "United State" means the United State of Gwalior, Indore and Malwa (Madhya Bharat);

(*b*) "Government" means the Government of the United State;

(*c*) "Eradication operations" means such operations as are considered necessary by the Kans Eradication Officers to eradicate kans from kans area;

(*d*) "Kans" means a kind of weed which grows spontaneously in the fields and which is usually known as kans;

(*e*) "Kans area" means the area which the Government may by notification declare under clause (*a*) of sub-section (1) of section 3 to be an area infested with kans;

(*f*) "Kans Eradication Officer" means an Officer appointed as such by the Government and includes any other Officer authorised by the Kans Eradication Officer to exercise all or any powers conferred upon him under this Act.

Declaration of kans area.

3. (1) If the Government is satisfied that any area is infested with kans, it may, by notification—

(*a*) declare such area, giving full particulars thereof, to be a kans area for the purposes of this Act; and

(*b*) authorise the Kans Eradication Officer to enter upon any land in such area and take possession thereof for such period as may be specified for the purpose of eradication of kans from such area.

(2) Such notification shall be a sufficient notice of the facts stated therein to all persons owning or having interest in the land comprised in such area.

(3) The Suba (Collector) of the District comprising the kans area shall give publicity to the notification issued under sub-section (1) in such manner as he deems fit.

Constitution of Kans Eradication Committee.

4. The Government may for the purposes of assisting the Kans Eradication Officer, appoint a Kans Eradication Committee consisting of such persons as it may think fit, and assign such duties to the Committee as it may deem proper.

Power to survey and carry on eradicating operations.

5. On the issue of notification under sub-section (1) of section 3, the Kans Eradication Officer and his subordinates and workmen authorised by him in this behalf may—

(*a*) enter upon any land in the kans area for the purpose of survey and any other ancillary purpose; and

(*b*) take possession of the whole or any part of the kans area and carry on eradicating operations therein.

Liability of owners, etc., for cost of eradicating operations.

6. (1) Out of the total expenditure incurred on eradicating operations in the kans area such portion thereof as the Government may determine shall be equitably apportioned by the Kans Eradication Committee between the several owners or persons having interest in the lands comprised in the kans area.

(2) Every person owning or having interest in the land in which eradication operations have been carried on shall be liable to pay the costs of such operations carried on in his land.

(3) The Kans Eradication Officer shall fix the amount of costs payable by each owner or other person having interest in the land comprised in the kans area. The amount so fixed shall be a charge on the land to which it related, and shall not be called in question in any suit or other legal proceeding.

(4) The Kans Eradication Officer in consultation with the Kans Eradication Committee shall also determine whether the amount so apportioned shall be paid by the person owning or having interest in the land in one lump sum or by annual or other instalments and where he directs annual or other instalments, he may fix the amount and number of such instalments.

Recovery of costs.

7. (1) The Suba (Collector) shall cause to be served on a person owning or having interest in the land in which eradicating operations have been carried on, a notice of demand specifying the amount of cost of eradication payable by him and the period within which it shall be paid.

(2) The said costs shall be recoverable as arrears of land revenue.

Compensation for damage.

8. (1) Any person may within thirty days from the date of restoration of the land to him, apply to the Kans Eradication Committee for payment of compensation for destruction of or damage to any plant or tree in his land as a result of the eradication operations carried on under section 5.

(2) On receipt of such application the Kans Eradication Committee may make such enquiry as it deems fit and if in its opinion the payment of compensation is justified, it may grant such amount of compensation as it deems fit.

(3) The decision of the Kans Eradication Committee shall be final in all respects and shall not be called in question in any court of law.

Power of Suba (Collector) to enforce compliance.

9. The Suba (Collector) may take or cause to be taken such steps or use or cause to be used such force as may in his opinion be reasonably necessary for securing compliance with the provisions of this Act.

Persons acting under the Act, to be public servants.

10. All persons acting in pursuance of the provisions of this Act, shall be deemed to be public servants within the meaning of that expression in the Penal Code in force in the area concerned of the United State.

Protection of persons acting in good faith.

11. (1) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

(2) No suit shall be instituted against the Government for anything done or intended to be done under this Act.

Power to make rules.

12. (1) The Government may by notification make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for the assessment of damage to embankment and field-boundaries and payment of compensation therefor.

Repeal

13. As soon as this Act comes into force, the United State of Gwalior, Indore and Malwa (Madhya Bharat) Kans Eradication Ordinance, Samvat 2005, shall stand repealed:

Provided that all orders made and actions taken under the said Ordinance shall be deemed to have been made or given, as the case may be, under this Act.

THE BHOPAL RECLAMATION AND DEVELOPMENT OF LANDS (ERADICATION OF KANS) ORDINANCE, 1949

Ordinance No. XXXVIII of 1949

An Ordinance to provide for the reclamation and development of lands by eradication of kans weed in certain areas of the Province of Bhopal.

Preamble.

WHEREAS it is expedient to provide for the reclamation and development of lands by eradication of kans weed in certain areas of the Province of Bhopal :

Now, therefore, the Chief Commissioner of Bhopal, in exercise of the power conferred upon him by section 12 of the Bhopal Legislative Council Act, 1922, read with clause 5 of the Bhopal (Administration) Order, 1949, is pleased to make and promulgate the following Ordinance :—

Short title and extent.

1. (1) This Ordinance may be cited as "the Bhopal Reclamation and Development of Lands (Eradication of Kans) Ordinance, 1949".

(2) It extends to the whole of the [1][State] of Bhopal.

Definitions.

2. In this Ordinance unless there is anything repugnant r the subject or context,—

(*a*) "eradicating operations" mean such operations as are considered necessary by the Reclamation Officer to eradicate kans from a kans area;

(*b*) "kans" means a kind of weed known as saccharum spontaneum (hereinafter referred to as kans);

(*c*) "kans area" mean the area which the Government may by notification declare under clause (*a*) of sub-section (1) of section 3 to be an area infested with kans;

(*d*) "Reclamation Officer" means an officer appointed as such by the Government and includes any other officer authorised by the Reclamation Officer to exercise all or any powers conferred upon him under this Ordinance;

(*e*) "holder" has the same meaning as assigned to it in the Bhopal Land Revenue Act, 1932, and for the purposes of this Ordinance includes a person in possession of a holding or any part of it ;

(*f*) "holding" has the same meaning as assigned to it in the Bhopal Land Revenue Act, 1932, and for the purpose of this Ordinance includes land held by a Jagirdar or a Muafidar.

Appointment of Reclamation Officer.

3. As soon as may be after the commencement of this Ordinance, the Government shall, by notification in the Official Gazette, appoint an officer to be called the Reclamation Officer.

[1] Substituted by *ibid.*

Declaration of kans area

4. (1) If the Government is of opinion that any area is infested with kans it may, by notification—

(*a*) declare such area, giving full particulars thereof, to be a kans area for the purpose of this Ordinance;

(*b*) authorise the Reclamation Officer to enter upon any land in such area and take possession thereof for such period as may from time to time be specified for the purpose of eradication of kans from such area, and carrying on other ancillary and subsidiary operations therein.

(2) Such notification shall be a sufficient notice of the facts stated therein to all persons holding or having interest in the land comprised in such area.

(3) The Reclamation Officer shall give publicity to the notification issued under sub-section (1) in such manner as he deems fit.

Constitution of Reclamation Board.

5. The Government may for the purpose of assisting the Reclamation Officer appoint a Reclamation Board consisting of such persons as it may think fit and assign such duties to the Board as it may deem fit.

Powers to survey and carry on eradicating operations.

6. (1) On issue of a notification under sub-section (1) of section 4, the Reclamation Officer and his subordinates and workmen authorised by him in this behalf may, notwithstanding the provisions of the Bhopal Land Revenue Act IV of 1932—

(*a*) enter upon any land in the kans area for the purpose of survey and any other ancillary purpose, and

(*b*) take possession of the whole or any part of the kans area and carry on eradicating and other ancillary and subsidiary operations therein.

(2) No person shall use the land so notified for any purpose till such date as the Reclamation Officer, after the completion of the Reclamation and Demarcation operations, may, by notification in the official Gazette, specify for the restoration of the same to the person who was on the date of taking over in lawful possession of the same or was entitled to such possession :

Provided that no revenue shall be charged from a person whose land has been taken over by the Reclamation Officer under this section in respect of the period during which the land has so remained in the possession of the said Officer.

(3) For the purposes of this section any reference to the person entitled to take possession of land notified above shall, if he is dead, be deemed to include a reference to his successors-in-interest.

(4) The notification mentioned in sub-section (2) shall be final and full discharge of the Government from all liability in respect of such delivery of possession and the possession of the land shall on the date specified in this behalf be deemed to have been delivered by the Government to the person entitled to it.

Liability of owners, etc., cost of eradicating operations.

7. (1) The total expenditure incurred or to be incurred by the Government on eradicating or other ancillary or subsidiary operations in the kans area shall be equitably apportioned by the Reclamation Board between the several holders of or persons having interest in the lands comprised in the kans area.

(2) Every person holding or having interest in the land in which eradicating or other ancillary or subsidiary operations have been carried out or intended to be carried on shall be liable to pay the costs of such operations on his land.

(3) The Reclamation Officer shall fix the amount of costs payable by each holder of or other person having interest in the land comprised in the kans area. The amount so fixed shall be a charge on the land to which it relates and shall not be called in question in any suit or other legal proceeding.

(4) The Reclamation Officer shall also determine whether the amount so apportioned shall be paid by the person holding or having interest in the land in one lump sum or by such annual instalments as he may fix for the amount.

(5) The payment mentioned in sub-section (4) may be made in cash or agricultural produce of such land or both.

(6) If the actual cost of the eradicating or other subsidiary or ancillary operations exceeds or falls short of the amount to be payable by a holder of or other person having interest in the land, the difference shall be returned to or recovered from the person concerned, as the case may be.

Recovery of costs.

8. (1) The Reclamation Officer shall cause to be served on a person holding or having interest in the land in which eradicating and other ancillary or subsidiary operations have been carried out or are intended to be carried on, a notice of demand specifying the amount of cost of reclamation payable by or apportionable to him and the period within which it shall be paid.

(2) The said costs shall be recoverable as arrears of land revenue.

Compensation for damage.

9. (1) Any person may, within thirty days from the date of the taking over of the land under section 6, apply to the Reclamation Board for payment of compensation for destruction of or damage to any plant, tree, building, hut or other structure, in his land as a result of the eradicating operations.

(2) On receipt of such application, the Reclamation Board may make such inquiry as it deems fit and if in its opinion the payment of compensation is justified, it may grant such compensation as it deems fit.

(3) The decision of the Reclamation Board shall be final in all respects and shall not be called in question in any court of law.

Termination of possession on completion of reclamation.

10. (1) If a person is unable or has no means to cultivate his holding or any part of it after the reclamation of the land, the Reclamation Officer may take possession of such holding or its part and get it cultivated on behalf of the Government, but before the expiry of 3 years from the date of taking possession, shall, after necessary inquiry, by order in writing—

(*a*) declare that possession of the land shall be restored on such date as may be specified in the order to the person who on the date of taking possession was in lawful possession of the land, or was entitled to such possession, or if he is dead, to his successor-in-interest;

(*b*) determine the person to whom possession is to be so restored:

Provided that no revenue shall be charged from a person whose land has been taken over by the Reclamation Officer under this section in respect of the period during which the land has so remained in the possession of the said officer.

(2) On the date specified in the said order, possession of the land shall be deemed to have been delivered by the Government to the person determined under clause (*b*) of sub-section (1).

(3) The delivery of possession of the land to the person determined under clause (*b*) of sub-section (1) shall be final and full discharge of the Government from all liability in respect of such delivery, but shall not prejudice any right in respect of the land to which any other person may be entitled, by due process of law, to enforce against the person to whom the possession of the land has been so delivered.

Acquisition of land.

11. (1) Notwithstanding the provisions of section 9, if after the expiry of three years, the person whose land has been taken over by the Reclamation Officer under the aforesaid section, is still unable or has no means to cultivate it, the Government may, on payment of compensation, acquire such land for cultivation.

(2) The provisions of the Land Acquisition Act, 1913, shall, in so far as they are not inconsistent with the provisions of this Ordinance, apply to such acquisition.

Reshaping of holding

12. In order that mechanical operations may be made possible, the Reclamation Officer may reshape the holdings :

Provided that the aggregate area of any holding shall not, as far as possible, be increased or decreased as a result of reshaping, and

Provided further that the assessment of land revenue in the case of an increase or decrease in the aggregate area of a holding shall also be proportionately increased or decreased as the case may be.

Power of the Reclamation Officer to enforce compliance.

13. The Reclamation Officer may take or cause to be taken such steps or use or cause to be used such force as may in his opinion be reasonably necessary for securing compliance with the provisions of this Ordinance.

Persons acting under the Ordinance to be public servants.

14. All persons acting in pursuance of the provisions of this Ordinance shall be deemed to be public servants within the meaning of that expression in the Bhopal Penal Code, 1912.

Reclamation Officer vested with Collector's and magisterial powers.

15. For the purpose of this Ordinance, the Reclamation Officer shall exercise the powers of a Collector as prescribed in the Bhopal Land Revenue Act, 1932, and such magisterial powers as may be conferred upon him by the Government.

16. No suit shall be instituted against the Government and no prosecution, suit or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Ordinance.

Power to make rules.

17. The Government may, by notification, make rules for carrying out the purposes of this Ordinance.

THE EAST PUNJAB IMPROVED SEEDS AND SEEDLINGS ACT, 1949 (AMENDED IN 1950)

East Punjab Act No. XIX of 1949

An Act to provide for the use of pure and certified seeds and seedlings of the improved varieties of crops recommended by the Department of Agriculture in the East Punjab.

IT is hereby enacted as follows :—

Short title, extent and date of commencement.

1. (1) This Act may be called the East Punjab Improved Seeds and Seedlings Act, 1949.

(2) It shall extend to the whole of the [1][State] of [2][ ] Punjab.

(3) It shall come into force on such date or dates and in such areas as the [1][State] Government may, by notification, appoint in this behalf, and different dates may be appointed for different areas.

Interpretation.

2. In this Act, unless there is anything repugnant in the subject or context,—

(i) "Improved Seed" means the seed approved by the Department of Agriculture;

(ii) "Seedlings" means the plants raised from improved seed;

(iii) "Occupier" means the person having for the time being the right of occupation of any land as defined in the Punjab Tenancy Act and includes any person in actual occupation of such land or his agent;

(iv) "Authorised Agent" means an agent authorised to sell improved seeds and seedlings only on behalf of the Department of Agriculture.

Power to declare seeds or seedlings of approved varieties of crops and to specify the area and period and restrict movement.

3. In such areas to which this Act is applied—

(*a*) improved seeds or seedlings only shall be used by each and every occupier ;

(*b*) the movement of improved seeds or seedlings from one area to another may be prohibited or restricted.

Provision of seeds and seedlings by Agricultural Department.

4. (1) For the purposes of this Act improved seeds and seedlings shall be made available for sale by the Department of Agriculture, through its authorised agents, who shall stock for sale only improved seeds or seedlings.

(2) An authorised agent shall not withhold from sale improved seeds or seedlings to any occupier.

---

[1] Substituted by the Adaptation of Laws Order, 1950.

[2] Omitted by *ibid.*

[1]["**5.** (1) Any officer of the Agriculture or of the Revenue Department, not below the rank of Agricultural Assistant or Naib-Tehsildar, as the case may be, may enter upon any land situated in the area to which this Act extends, for the purpose of ascertaining whether improved seeds or seedlings have been grown in the land or not. Powers of the Agriculture or Revenue Department Officers to enter, inquire or search.

(2) Any officer of the Agriculture or of the Revenue Department, not below the rank of Agricultural Assistant or Naib-Tehsildar, as the case may be, may enter upon any land or premises owned, or occupied by an authorised agent, to inspect the seed sold by him, or to inquire if he is withholding any seed from sale to any occupier, or to search, as far as may be necessary for that purpose, the aforesaid land or premises."]

6. (1) If any occupier of land within the area to which this Act applies is found growing a variety of any crop other than a variety approved by the Department of Agriculture, he shall be liable to punishment with a fine which may extend to Rs. 100. Penalties.

(2) If an authorised agent withholds from sale or wilfully refuses to sell improved seeds or seedlings he shall be punishable with fine which may extend to rupees five hundred.

(3) Any abetment of a breach of the provisions of this Act shall be punishable with fine which may extend to Rs. 100.

(4) No prosecution for any offence under this Act shall be instituted except on a complaint in writing made by [2][Deputy Commissioner within whose jurisdiction the land is situated] or by an officer specially authorised by him in this behalf.

7. No suit, prosecution or legal proceedings shall lie against any public servant in respect of anything in good faith done or intended to be done under this Act. Bar of suit or other legal proceedings.

8. The [3][State] Government may from time to time make rules for the purpose of carrying into effect the provisions of this Act. Power of Government to make rules.

9. The East Punjab Improved Seeds and Seedlings Ordinance, 1949, is hereby repealed, but it shall not affect the previous operation of the said Ordinance and any order made, action taken or thing done in the exercise of any powers conferred by or under the said Ordinance, shall, for all purposes, be deemed to have been made, taken or done in the exercise of powers conferred by this Act. Repeal of East Punjab Ordinance No. V of 1949.

[1] Substituted by Act XXIV of 1950, sec. 2.

[2] Substituted by *ibid.*, sec. 3.

[3] Substituted by the Adaptation of Laws Order 1950.

THE EAST PUNJAB CONSERVATION OF MANURE ACT, 1949 (AMENDED IN 1950)

East Punjab Act No. XV of 1949

An Act to provide for the conservation of manure in East Punjab

IT is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the East Punjab Conservation of Manure Act, 1949.

(2) It extends to the whole of the [1][State] of [2][ ] Punjab

(3) It shall come into force in such areas and on such dates as the [1][State] Government may by notification appoint in this behalf.

Interpretation

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Committee" means the Manure Conservation Committee set up or deemed to have been set up under the provisions of section 5 ;

(*b*) "complaint" has the same meaning as in section 4 of the Code of Criminal Procedure, 1898 ; V of 1898.

(*c*) "conservation of manure" means the collection of manure in a pit or pits of the prescribed dimensions and its subjection to the prescribed process for the purpose of enriching the soil by its use thereon ;

(*d*) "Deputy Commissioner" means the Deputy Commissioner of the District ;

(*e*) "family" means a collective body of persons living in one house under one head or management;

(*f*) "Government" means the [1][State] Government;

(*g*) "head of the family" means a person in charge of a family ;

(*h*) "manure" means and includes animal droppings, refuse, house-sweepings, ashes, uneaten fodder, residue, filth or rubbish of any kind, but does not include mineral fertilizers ;

(*i*) "notified area" means an area notified by Government under section 3 ;

(*j*) "panchayat" means a panchayat established under section [3][5] of the Punjab Village Panchayat Act, 1939 ; XI of 1939.

(*k*) "prescribed" means prescribed by rules made under this Act.

Power to notify certain areas.

3. The Government may by notification declare any area situated within the limits of any one Tehsil to be a notified area for the purpose of this Act, and may by notification alter the boundaries of any area so declared.

---

[1] Substituted by the Adaptation of Laws Order, 1950.

[2] Omitted by *ibid.*

[3] Substituted by the Punjab Act VIII of 1950, sec. 2.

Liability of occupier or head of a family in a notified area.

4. (1) The occupier of any building in a notified area, or, if more than one person occupy a building in such area, the head of the family residing in such building, shall conserve manure, or arrange for its conservation, in the prescribed manner and to the prescribed extent.

(2) If the occupier, or, as the case may be, the head of the family responsible for conservation of manure, is not in possession of land for such purpose, he shall within one month of the formation of a Committee for the area in which he resides submit a written application to the Committee to provide him in such area with land necessary for the aforesaid purpose.

Formation Committees.

5. (1) The Panchayat for any notified area shall be the Manure Conservation Committee for such area and its powers under this Act shall be in addition to its powers conferred under the Punjab Village Panchayat Act, 1939.

XI of 1939.

(2) If no Panchayat has been constituted for any notified area, the Deputy Commissioner shall establish for such area a Manure Conservation Committee appointing thereto such number of persons, not less than three, as he may from time to time fix in this behalf.

(3) A Committee shall, subject to such rules as may be prescribed, be competent to acquire, hold or transfer property movable or immovable, to enter into contracts and to do all other things necessary for the purpose of this Act.

Chairman Committe

6. (1) The Chairman of any Committee deemed to be such under sub-section (1) of section 5 shall be the Sarpanch of the Panchayat.

(2) The Chairman of the Committee established under sub-section (2) of section 5 shall be the person appointed as such by the Deputy Commissioner from among the members of the Committee.

(3) The Chairman shall be the Chief Executive Officer of the Committee and shall be responsible for the due maintenance of all records or registers which may be prescribed.

Funds.

7. (1) There shall be a fund vested in each Committee which shall be utilized by the Committee to meet charges in connection with its duties under this Act.

(2) All grants from the Government or local bodies and all sum recovered by or on behalf of the Committee under this Act or otherwise, shall be credited to the aforesaid fund.

Committee to take steps for acquiring land.

8. (1) On receiving any application made to it under sub-section (2) of section 4 the Committee shall take all steps necessary for providing to the applicant the area of land required by him.

(2) If the Committee is unable to provide the land required by the applicant, it shall within one month of the application, apply to the Government for the acquisition of the necessary area of land within the notified area.

Requisition of land by Government.

[1][**9.** "(1) If the [2][State] Government is of the opinion that any area is required for conservation of manure, in pursuance of an application made to it by any Committee, it may by notification declare such area to be so required for the purpose of this Act and such notification shall be conclusive evidence of the matters stated therein, and shall not be liable to be called in question in any Court.

(2) The Deputy Commissioner of the District in which the area referred to in sub-section (1) is situated shall give publicity to the notification issued under sub-section (1) in such manner as he may deem fit.

(3) After the expiry of 15 days from the issue of a notification under sub-section (1) the Deputy Commissioner may, notwithstanding any law to the contrary, authorize the Committee to take possession of the area specified therein.

(4) The Deputy Commissioner shall then proceed to occupy the area or procure its occupation, as the case may be, and the provisions of the Land Acquisition Act, 1894, except sections 4 to 8 inclusive as amended by the Land Acquisition (East Punjab Amendment) Act, 1948, shall be applicable as nearly as may be."] I of 1894.

Power of Committee to charge rents.

10. The Committee may charge rents not exceeding the prescribed scale for the site or sites it provides for conservation of manure to any person who has made application to it under sub-section (2) of section 4.

Power of entry.

11. Any member of a Committee or any [3][Revenue Officer not below the rank of Naib Tehsildar] shall be empowered to enter upon any land or premises within the jurisdiction of such member or officer, as the case may be, for the purpose of ascertaining whether or not manure is being conserved in such land or premises.

Power to require conservation of manure.

12. (1) If any person fails to conserve manure in the manner or to the extent required under sub-section (1) of section 4, the Committee may by notice in writing specifying a reasonable period require him to conserve manure in the prescribed manner or to the prescribed extent.

(2) If any work required to be done under sub-section (1) is not executed within the period of the notice, the Committee may itself cause such work to be executed and recover a sum not exceeding the cost thereof from the person to whom notice was issued under sub-section (1).

Penalty for disobedience

13. Any person who disobeys a notice issued by the Committee under section 12 shall on conviction by the Committee be punished with fine which may extend to twenty-five rupees, and if the breach is a continuing breach, with a further fine which may extend to four rupees for every day after the first during which the breach continues.

---

[1] Substituted by sec 3 of the Punjab Act VIII of 1950

[2] Substituted by the Adaptation of Laws Order, 1950

[3] Substituted by sec. 4 of the *ibid.*

Supervision of the proceedings of the Committee by the Deputy Commissioner.

14. (1) The Deputy Commissioner may of his own motion or on an application of the party aggrieved, call for the records of any proceedings whereby any person has been convicted by the Committee under section 13, and may cancel or modify any order of conviction but not so as to enhance the penalty.

(2) A fee of Rs. 2 shall be paid on every application.

Finality of orders of the Committee.

15. Subject to an order made by the Deputy Commissioner under section 14, the order of a Committee under section 13 shall be final and shall not be liable to be called in question by any court or other authority.

Procedure if the Committee does not issue notice.

16. If in any case a Committee fails within a reasonable period of the default to issue notice under sub-section (1) of section 12, any [1][Revenue officer not below the rank of Naib Tehsildar] may issue such notice. It the notice is not complied with he shall have the power of a Committee under sub-section (2) of that section.

Proceedings on disobedience of notice issued under the last preceding section.

17. If any person disobeys a notice issued under the last preceding section the officer who issued the notice may make a complaint to the nearest Magistrate having jurisdiction who shall thereupon exercise all the powers of a Committee under section 13.

No legal practitioner to appear before Committee.

XVIII of 1879.

18. Notwithstanding anything contained in the Legal Practitioners Act, 1879, no legal practitioner shall be permitted to appear before the Committee for any party in any proceedings under this Act.

Delegation.

19. The Deputy Commissioner may by written order delegate any functions under this Act by name or by designation of office to any Revenue Assistant or Tehsildar.

Recovery of dues as arrears of land revenue.

20. Any sums due under this Act may on application to the Collector be recovered as if they were arrears of land revenue.

Bar to suits or legal proceedings.

21. No suit, prosecution or other legal proceedings shall lie in respect of anything in good faith done or intended to be done under this Act or the rules made thereunder.

XI of 1939.

22. The provisions of the Punjab Village Panchayat Act, 1939, specified in the Schedule to this Act shall, so far as may be, apply to the proceedings of Committees, the powers to be exercised by them and the duties to be performed by them under this Act and their suspension or abolition.

Power of Government to make rules.

23. (1) Government may make rules for carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power Government may make rules regulating—

(*a*) the size of pits for the conservation of manure, the processes to which it is to be subjected and the extent to which it is to be conserved ;

---

[1] Substituted by sec. 3 of the Punjab Act VIII of 1950.

(*b*) the appointment, suspension and removal of members of Committees ;

(*c*) the functions and powers and the appointment, suspension and removal of Chairmen of Committees;

(*d*) the powers of a Committee to sue and to acquire, hold or transfer property and to enter into contracts;

(*e*) the records and registers to be maintained by Committees and their custody and proper maintenance;

(*f*) the custody and proper maintenance of the funds of Committees ;

(*g*) the terms and conditions on which lands may be transferred by Government to Committees;

(*h*) the scale of rents to be charged by Committees for sites provided by them for conservation of manure;

(*i*) the conduct of business at meetings of Committees and the quorum for such meetings;

(*j*) the punishment, suspension and dismissal of servants of Committees ;

(*k*) the manner in which summons issued by Committees are to be signed and sealed; and

(*l*) any other matter in respect of which rules are expressly required or allowed by this Act to be made.

Repeal of East Punjab Ordinance No. XV of 1949.

24. The East Punjab Conservation of Manure Ordinance, 1949, is hereby repealed but notwithstanding such repeal any orders made, anything done, any action taken or any proceedings commenced or liability or penalty incurred in exercise of the powers conferred by or under the said Ordinance shall be deemed to have been made, done, taken or commenced or incurred in exercise of the powers conferred by or under this Act.

THE MADHYA BHARAT MUNICIPAL REFUSE (CONVERSION INTOMANURE) ACT, 1950 (SAMVAT 2007)

Act No. LVII of 1950 (Samvat 2007)

An Act to provide for the conversion of refuse into manure within the limits of any municipality in Madhya Bharat.

WHEREAS it is expedient to provide for the conversion of refuse into manure within the limits of any municipality in Madhya Bharat, it is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called "The Madhya Bharat Municipal Refuse (conversion into manure) Act, Samvat 2007.

(2) It shall extend to the whole of Madhya Bharat.

(3) It shall apply to such municipalities as the Government may from time to time, by notification in the *Government Gazette*, specify.

(4) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Municipality" means a municipality or a corporation constituted under any Municipal Act for the time being in force in any part of Madhya Bharat;

(2) "Refuse" includes sweepings, night-soil, sewage, sludge and other waste material;

(3) "Government" means the Government of Madhya Bharat.

Municipality to convert refuse into compost manure.

3. Notwithstanding anything contained in any Municipal Act or any other law for the time being in force, every municipality to which this Act applies, shall, if so required by an order in writing of the Government or any officer authorised in this behalf by the Government, take steps to convert, in accordance with such directions as the Government may from time to time issue, all refuse into compost manure.

Disposal of manure.

4. Every such municipality shall deal with or dispose of the compost manure referred to in section 3 in such manner as the Government may, from time to time, direct.

Power to enforce an order under section 3.

5. (1) Where in the opinion of the Government, a municipality has failed to comply with an order under section 3, the Government may appoint a person to give effect to such order and may direct that the reasonable expense of giving effect to the order together with a reasonable remuneration payable to such person shall forthwith be paid by the municipality.

(2) If any such expense and remuneration are not so paid the Government may make an order, directing the deduction of such sums from grants-in-aid payable to such municipality by the Government or by directing any person, who for the time being has custody of any moneys on behalf of municipality as its officer, treasurer, banker or otherwise, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

Repeal.

6. As soon as this Act comes into force all Acts, rules, regulations relating to Municipal Refuse, in force in any part of Madhya Bharat which may be repugnant or inconsistent with the provisions of this Act shall, to the extent of such repugnancy or inconsistency, stand repealed:

Provided that all actions taken and orders passed under them shall be deemed to have been taken or passed under this Act.

THE MADHYA BHARAT VILLAGE REFUSE (CONVERSION INTO MANURE) ORDINANCE, 1951 (SAMVAT 2007)

Ordinance No. II of 1951 (Samvat 2007)

An Ordinance to provide for the conversion of village refuse into manure in Madhya Bharat.

WHEREAS circumstances exist which render it necessary that due to shortage of food immediate action be taken to provide for the conversion of village refuse into manure in Madhya Bharat ;

AND WHEREAS the Legislative Assembly is not in session;

THE RAJ-PRAMUKH, in exercise of the powers conferred upon him by Article 213 read with Article 238 of the Constitution, is pleased to make and promulgate the following Ordinance :

Title, extent and commencement

1. (1) This Ordinance may be called "The Madhya Bharat Village Refuse (Conversion into Manure) Ordinance, Samvat 2007."

(2) It shall extend to the whole of Madhya Bharat.

(3) It shall apply to such villages as the Government may from time to time, by notification in the Government Gazette, specify.

(4) It shall come into force at once.

Definitions.

2. In this Ordinance, unless there is anything repugnant in the subject or context,—

(1) "Refuse" includes farm yard rubbish, cattle dung, sweepings and other waste material;

(2) "Government" means the Government of Madhya Bharat;

(3) "Village" means a village as defined and recorded in the Land Records papers;

(4) "Prescribed" means prescribed by Rules made under this Ordinance.

Composting or pitting the refuse.

3. Notwithstanding anything contained in any law for the time being in force, every head of the family, residing in a village to which this Ordinance applies, shall, if so required, by an order in writing of the Government or an officer authorised in this behalf by the Government, take steps—

(1) to dig a pit or pits for collecting the refuse from his cattle yard and house on such land and in such manner as may be prescribed in this behalf;

(2) to collect the refuse from his cattle yard and house in the pit or pits prepared for this purpose; or

(3) to convert, in accordance with such directions as the Government may from time to time issue, refuse into compost manure.

Power to enforce an order under section 3.

4. Where, in the opinion of any officer authorised in this behalf by the Government, any person, or head of the family, has failed to comply with an order under section 3, the officer so authorised may cause any of the works specified in the same section to be executed and recover a sum not exceeding the cost thereof from that person. The officer may also take steps to take possession of the refuse from his cattle yard and house from time to time for this purpose.

Revision.

5. The Suba may on his own motion or on an application of the party aggrieved, call for the records of any proceedings or orders passed under section 4 and may cancel or modify the orders so passed. The Suba may delegate his powers under this section to any of his subordinate officers.

Finality of the order.

6. Subject to an order made under section 5, the order passed by an officer under section 4 shall be final.

Recovery of costs as arrears of Land Revenue.

7. All sums and costs recoverable under section 4 shall be recovered as arrears of Land Revenue.

Power to make Rules.

8. The Government may, by notification in the Government Gazette make rules to carry out the purpose of this Ordinance.

THE EAST PUNJAB TRACTOR CULTIVATION (RECOVERY OF CHARGES) ACT, 1949

East Punjab Act No. XI of 1949

An Act to provide for the cultivation of certain areas by means of tractors by the Department of Agriculture, East Punjab, and for the recovery of the charges in respect of such cultivation

It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the East Punjab Tractor Cultivation (Recovery of Charges) Act, 1949.

(2) It extends to the whole of the [1][State] of [2][ ] Punjab.

Interpretation.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "cultivator" means a person who actually cultivates the soil himself or through members of his household or gets it cultivated by hired labour or by a tenant;

(*b*) "director" means the Director of Agriculture, [1][ ] Punjab;

(*c*) "prescribed" means prescribed by rules made under this Act;

(*d*) "refugee cultivator" means a cultivator who on account of disturbances or the fear of such disturbances has abandoned land in the territories comprised in Western Pakistan and has been allotted any land whether temporarily or permanently in the [2][State] of [1][ ] Punjab. It also includes such refugee tenants who acquire ownership of land in [1][ ] Punjab ;

(*e*) "tractor" means a tractor owned by or worked under the control of the Department of Agriculture, [1][ ] Punjab;

(*f*) "tractor cultivation" includes any agricultural operations such as ploughing, harrowing, discing, sowing or harvesting which may be performed by tractors;

(*g*) "tractor cultivation charges" means the charges recoverable on account of tractor cultivation.

Application for Tractor cultivation.

3. (1) Any cultivator may make an application to the Director for having any agricultural operation performed by tractors on his land or any part of it.

(2) Such application shall be accompanied by a deposit, made in the prescribed manner, of full tractor cultivation charges according to the prescribed scale:

---

[1] The word "State" was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[2] The word "East" was deleted by the Adaptation of Laws Order, 1950.

Provided that—

(1) in exceptional cases, Director may require only such part as he may specify of the full cultivation charges to be deposited with the application;

(2) no such deposit shall be required from a refugee cultivator.

Procedure in dealing with applications.

4. (1) If the Director accepts an application made under section 3 he shall take all steps necessary in connection therewith.

(2) In case such application is rejected, any deposit made with the application shall be refunded in the prescribed manner to the applicant.

Notice of demand.

5. As soon as may be after the tractor cultivation has been completed, the Director shall in respect of such cultivation serve on the cultivator a notice of demand specifying the amount due from him after taking into account the deposit, if any, made by him.

Period within which payment is to be made.

6. (1) A cultivator other than a refugee cultivator, whose land has been brought under tractor cultivation on his application, shall within one month of the date of the receipt of notice of demand under section 5 pay in the prescribed manner the sums specified in such notice.

(2) A refugee cultivator shall pay in the prescribed manner the sum specified in such notice not later than the 15th of January in respect of tractor cultivation undertaken for kharif crop and the 15th of June in the case of such cultivation undertaken for rabi crop.

Recovery of outstanding dues as arrears of land revenue.

7. If any cultivator fails to make payment as specified in section 6, the sum due from him shall be recoverable as arrears of land revenue.

8. The Director may delegate any or all of his powers and functions under the Act to any officer of the [1][State] Government.

Rules.

9. (1) The [1][State] Government may by notification make rules for the purposes of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the [1][State] Government may make rules regulating or determining all or any of the following matters :—

(*a*) the mode of making a deposit under sub-section (2) of section 3;

(*b*) the scale of tractor cultivation charges;

(*c*) the mode of making a refund under sub-section (2) of section 4;

(*d*) the manner of making payment under sub-section (1) or sub-section (2) of section 6.

[1] The word "State" was substituted for the word "Provincial" by *ibid.*

THE MADHYA BHARAT TRACTOR CULTIVATION (RECOVERY OF CHARGES) ACT, 1950 (SAMVAT 2007)

Act. No. LXXXIII of 1950 (Samvat 2007)

An Act to provide for the cultivation of certain areas by means of Tractors by the Department of Agriculture, Madhya Bharat, and for the recovery of the charges in respect of such cultivation.

Be it enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called "The Madhya Bharat Tractor Cultivation (Recovery of Charges) Act, Samvat 2007".

(2) It extends to the whole of the Madhya Bharat.

(3) It shall come into force immediately on its publication in the Government Gazette.

Definitions

2. In this Act unless there is anything repugnant in the subject or context—

(*a*) "Cultivator" means a person who actually cultivates the soil himself or through members of his household or gets it cultivated by hired labour or otherwise;

(*b*) "Director" means the Director of Agriculture, Madhya Bharat, or any other officer appointed by the Government for purposes of this Act;

(*c*) "Prescribed" means prescribed by rules made under this Act;

(*d*) "Tractor" means a tractor owned by or worked under the control, direction or supervision of the Madhya Bharat Government;

(*e*) "Tractor Cultivation" includes any Agricultural operations such as ploughing, eradication of kans, harrowing, discing, sowing or harvesting which may be performed by tractors;

(*f*) "Tractor Cultivation Charges" means the charges recoverable on account of tractor cultivation;

(*g*) "Government" means the Government of Madhya Bharat.

Application for tractor cultivation.

3. Any cultivator may make an application to the Director for having any agricultural operation performed by tractor in his land or any part of it.

Procedure in dealing with applications.

4. (1) If the Director accepts an application made under section 3 he shall take all steps necessary in connection therewith.

(2) Notice of the acceptance of the application shall be immediately given to the applicant cultivator and such cultivator shall deposit with the Director 10% of the full tractor cultivation charges within 15 days of the receipt of the said notice. The application of the cultivator who does not deposit the prescribed amount within the said period shall be deemed to have been rejected.

Service of notice for amount due and the recovery of instalments.

5. (1) As soon as may be after the tractor cultivation has been completed the Director shall in respect of such cultivation serve on the cultivator a notice wherein shall be specified the amount due from him after deducting the deposited amount of 10%.

(2) Government shall recover such due amount from such cultivator in accordance with the rules framed by it for this purpose.

Recovery of outstanding arrears of land revenue.

6. If any cultivator fails to make payment as specified in section 5, the sum due from him shall be recoverable as arrears of land revenue.

Delegation of powers.

7. The Director may delegate any or all of his powers and functions under the Act to any officer of the Government.

Rules.

8. (1) The Government may by notification in the Government Gazette make rules for the purposes of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power the Government may make rules regulating or determining all or any of the following matters:

(*a*) the scale of tractor cultivation charges;

(*b*) the manner of making payment under section 5.

THE PUNJAB LAND PRESERVATION (CHOS) ACT, 1900 (AMENDED UPTO 1951)

Punjab Act II of 1900

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

[1][* * * * * * *]

[2][* * * * * * *]

IT is hereby enacted as follows :—

PRELIMINARY

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

[4][(2) It shall extend to the whole of the State of Punjab.]

(3) It shall come into force at once.

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

(*a*) the expression "land" means land within any *[5]* area preserved and protected or otherwise dealt with in manner in this Act provided, and includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

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

(*c*) the expression "tree," "timber", "forest produce" and "cattle", respectively, shall have the meanings severally assigned thereto in section 2 of the Indian Forest Act, [1927][6]; XVI of 1927.

(*d*) the expression "person interested" includes all persons claiming any interest in compensation to be made on account of any measures taken under this Act; *[7]*;

---

1 The words "situate within or adjacent to the Siwalik mountain range" omitted by Punjab Act XI of 1942, section 2.

2 The preamble omitted by Punjab Act XI of 1942, section 3.

3 The bracket and word "(Chos)" was omitted by Punjab Act IV of 1944, section 2.

4 Substituted by Act I of 1951.

5 The word "local" omitted by Punjab Act IV of 1944, section 3.

6 Substituted for the figures "1878" by Punjab Act IV of 1944, section 3.

7 The word " and " omitted by Punjab Act IV of 1944, section 3.

(*e*) the expression "Deputy Commissioner" includes any officer or officers at any time specially appointed by the [1][State Government] to perform the functions of a Deputy Commissioner under this Act;

[(*f*) the expression "right-holder" includes—

(*i*) persons not being tenants or mortgagees having rights to or in land; and

(*ii*) persons having rights of collection of forest produce or of grazing or pasture; and

(*g*) the expression "erosion" includes the removal or displacement of earth, soil stones or other materials by the action of wind or water.][2]

NOTIFICATION AND REGULATION OF AREAS

Notification of areas.

[3][**3.** Whenever it appears to the [4][State] Government that it is desirable to provide for the conservation of subsoil water or the prevention of erosion in any area subject to erosion or likely to become liable to erosion, such Government may by notification[5] make a direction accordingly.]

Power to regulate, restrict or prohibit, by general or special order within notified areas, certain matters.

4. In respect of areas notified under section 3 generally or the whole or any part of any such area, the [6][State Government] may, by general or special order, temporarily [7]***** regulate, restrict or prohibit—

(*a*) the clearing or breaking up or cultivating of land not ordinarily under cultivation prior to the publication of the notification under section 3;

(*b*) the quarrying of stone or the burning of lime at places where such stone or lime had not ordinarily been so quarried or burnt prior to the publication of the notification under section 3;

(*c*) the cutting of trees or timber, or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (*b*) of this sub-section of any forest-produce other than grass, save for *bona fide* domestic or agricultural purposes [8][of right-holder in such area];

(*d*) the setting on fire of trees, timber or forest produce;

(*e*) the admission, herding, pasturing or retention of sheep [9][goats or camels];

(*f*) the examination of forest-produce passing out of any such area; and

---

[1] Substituted for the words "Provincial Government" by the Government of India (Adaptation of Indian Laws) Order, 1950.

[2] Clauses (*f*) and (*g*) added by Punjab Act IV of 1944, section 3.

[3] Section 3 substituted by Punjab Act XI of 1942, section 5.

[4] The word "State" was substituted for the word "Provincial" by *ibid.*

[5] For Notification *see* Punjab Local Rules and Orders.

[6] Substituted for the words "Provincial Government" by the Adaptation of Laws Order, 1950.

[7] The words "or permanently" were omitted by Punjab Act VII of 1926, section 2.

[8] Inserted by Punjab Act IV of 1944, section 4.

[9] Inserted by Punjab Act IV of 1944, section 4.

(*g*) the granting of permits to the inhabitants of towns and villages situate within the limits or in the vicinity of any such area, to take any tree, timber or forest produce for their own use therefrom, or to pasture sheep, [1][goats or camels] or to cultivate or erect buildings therein and the production and return of such permits by such persons.

Power in certain cases to regulate, restrict or prohibit, by special order, within notified areas, certain further matters.

[2]5. In respect of any specified village or villages, or part or parts thereof, comprised within the limits of any area notified under section 3 the [3][State Government] may, by special order, temporarily [4][ ] regulate, restrict or prohibit—

(*a*) the cultivating of any land ordinarily under cultivation prior to the publication of the notification under section 3;

(*b*) the quarrying of any stone or the burning of any lime at places where such stone or lime had ordinarily been so quarried or burnt prior to the publication of the notification under section 3 ;

(*c*) the cutting of trees and timber or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (*b*) of this sub-section of any forest-produce [5][for any purposes]; and

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

Power to require execution of works and taking of measures.

[7][**5-A.** In respect of areas notified under section 3 generally or the whole or any part of any such area, the [3][State Government] may, by general or special order, direct—

(*a*) the levelling, terracing, drainage and embanking of fields;

(*b*) the construction of earth-works in fields and ravines;

(*c*) the provision of drains for storm water;

(*d*) the protection of land against the action of wind or water;

(*e*) the training of streams; and

(*f*) the execution of such other works and the carrying out of such other measures as may, in the opinion of the [3][State Government], be necessary for carrying out the purposes of this Act.]

---

1 Inserted by Punjab Act IV of 1944, section 4.

2 For Notification *see* Punjab Local Rules and Orders.

3 Substituted for the words "Provincial Government" by the Adaptation of Laws Order, 1950.

4 The words "or permanently" were omitted by Punjab Act VII of 1926, section 3.

5 Substituted for the words "for *bona fide* domestic or agricultural purposes" by Punjab Act IV of 1905.

6 Substituted for the words "and goats" by Punjab Act IV of 1944, section 5.

7 Section 5-A added by Punjab Act IV of 1944, section 6.

Necessity for regulation, restriction or prohibition to be recited in the order under section 4 or 5.

6. Every order made under [1][section 4, 5 or 5-A] shall be published in the [2][Official Gazette] and shall set forth that the [3][State Government] is satisfied, after due inquiry that regulations, restrictions, [4][prohibitions or directions] contained in the order are necessary for the purpose of giving effect to the provisions of this Act.

Proclamation of regulations, restrictions and prohibitions and admission of claims for compensation for rights which are restricted or extinguished.

7. (1) When, in respect of any *[5]* area, a notification has been published under section 3, and—

(*a*) upon such publication any general order, made under section 4 [6][or section 5-A] becomes applicable to such area, or

(*b*) any special order under [7][section 4, 5 or 5-A], is made in respect of such area,

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

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

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

---

1 Substituted for the words and figures "section 4 or section 5" by Punjab Act IV of 1914, section 7.

2 Substituted for the word "Gazette" by the Government of India (Adaptation of Indian Laws) Order, 1937.

3 Substituted for the words "Provincial Government" by the Adaptation of Indian Laws Order, 1950.

4 Substituted for the words "or prohibitions" by Punjab Act IV of 1944, section 7.

5 The word "local" omitted by Punjab Act IV of 1944, section 8.

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

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

8 Substituted for the word "extinguish" by Punjab Act VII of 1926, section 4.

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

[1][**7-A.** (1) When an order has issued under section 5-A, the Deputy Commissioner may by notice require the owner or occupier of the land to execute such works or take such measures as may be specified in the notice. **Enforcement of orders made under section 5-A.**

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

(3) A person aggrieved by an order contained in such a notice as aforesaid may, within thirty days from the service of such notice or within such longer period as the Deputy Commissioner may allow in this behalf, serve a notice of his objections on the Deputy Commissioner in such manner as may be provided by the rules made under this Act.

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

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

(*a*) that the notice might lawfully have been served on the occupier of the land in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served;

(*b*) that some other person, being the owner, occupancy tenant, mortgagee with possession or lessee or farm holder or possessing some other right in or over the land to be benefited, ought to contribute towards the expenses of executing any works or taking any measures required;

(*c*) where the work or measure is work or measure for the common benefit of the land in question and other land, that some other person, being the owner or occupier of land to be benefited, ought to contribute towards the expenses of executing any works or taking any measures required;

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

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

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

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

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

of the tenancy and to the nature of works and measures required; and

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

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

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

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

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

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

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

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

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

(10) The Deputy Commissioner may by general or special order authorise any revenue officer subordinate to him to enquire into any objection that may be brought under this section :

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

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

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

CONTROL OVER THE BEDS OF CHOS

Action when [1][State] Government considers it desirable to take measures to regulate the beds of chos. Vesting of such beds in [1][State Government.]

8. (1) Whenever it appears to the [1][State Government] that it is desirable that measures should be taken in the bed of any cho for the purpose of—

(*a*) regulating the flow of water within and preventing the widening or extension of such bed, or of

(*b*) reclaiming or protecting any land situate within the limits of such bed;

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

(2) If the whole or any part of the bed of any cho be unclaimed, or, if, in the opinion of the [1][State Government] the measures deemed necessary under sub-section (1) are of such a character, in regard to extent and cost, that the interference of the [1][State Government] is absolutely necessary, or in the event of the owner or occupier of any portion of the bed of any cho failing to comply with the requirements of any notification issued under sub-section (1), such Government may, by notification, declare that the whole or any part of the area comprised within the limits of the bed of any cho shall [2][vest in [1][State Government]] ***[3] for such period and subject to such conditions (if any) as may be specified in the notification:

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

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

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

---

1 Substituted for the words "Provincial Government" by the (Adaptation of Indian Laws) Order, 1950.

2 Substituted for the words "vest in the Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

3 The words "either absolutely and in perpetuity or" were omitted by Punjab Act VIII of 1926, section 2.

Effect of notification to suspend or extinguish private rights in the area notified under section 8.

9. Upon the making of any declaration under sub-section (2) of section 8, all private rights of whatever kind existing in or relating to any land comprised within the area specified in the notification containing such declaration at the time of the publication thereof, [1][shall be suspended for the period specified in the declaration and for such further period (if any) to which such period may at any time be extended]:

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

Power of Deputy Commissioner to delimit the bed and to decide what constitutes such bed.

10. (1) The Deputy Commissioner shall, for the purposes of every notification issued under sub-section (2) of section 8 fix the limits of the area comprised within the bed of the cho to which such notification is to apply.

Power to take possession of bed when vested in His Majesty.

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

(*a*) take possession of the area specified in such declaration;

(*b*) eject all persons therefrom; and to

(*c*) deal with such area, while it remains vested in [1][the State Government] as if it were the absolute property of [1][the State Government].

Bar of compensation for acts done under section 8, 9 or 10.

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

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

Power to enter upon and Delimit Notified Areas and Beds

Power to enter upon, survey and demarcate local areas notified under section 3 or 8.

13. It shall be lawful for the Deputy Commissioner and for his subordinate officers, servants, caretakers and workmen from time to time, as occasion may require—

(*a*) to enter upon and survey any land comprised within any **[2] area in regard to which any notification has been issued under section 3 or section 8 [3][or in regard to which a notification is proposed to be issued under section 5A];

---

1 Substituted by the Adaptation of Laws Order, 1950.

2 The word "local" was omitted by Punjab Act IV of 1944, section 10.

3 Added by Punjab Act IV of 1944, section 10.

(*b*) to erect bench-marks on and to delimit and demarcate the boundaries of any such **[1] area; and

(*c*) to do all other acts and things which may be necessary in order adequately to preserve or protect any land or to give effect to all or any of the provisions of this Act :

Provided that reasonable compensation, to be assessed and determined in the manner in this Act provided, shall be made in respect of any damage or injury caused to the property or rights of any person in carrying out any operations under the provisions of this section, but no such compensation shall be payable in respect of any thing done under the said provisions within the limits of any [1]** area notified under section 8.

INQUIRY INTO CLAIMS AND AWARD OF COMPENSATION

14. (1) The Deputy Commissioner shall— Inquiries into claims and awards thereupon.

(*a*) fix a date for inquiring into all claims made under section 7 [2]** and may in his discretion from time to time adjourn the inquiry to a date to be fixed by him;

(*b*) record in writing all statements made under section 7;

(*c*) inquire into all claims duly preferred under section 7 [2]** ; and

(*d*) make any award upon each such claim, setting out therein the nature and extent of the right claimed, the person or persons making such claim, the extent (if any) to which, and the person or persons in whose favour, the right claimed is established, the extent to which it is to be restricted [3][or prohibited and the nature and amount of the compensation (if any) awarded.]

(2) For the purposes of every such inquiry the Deputy Commissioner may exercise all or any of the powers of a Civil Court in the trial of suits under the [4]Code of Civil Procedure.

Act XIV of 1889.

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

---

1 The word "local" was omitted by Punjab Act IV of 1944, section 10.

2 The words "or section 12" were omitted by the Punjab Act VIII of 1926, section 5.

3 Substituted for the word "extinguished" by Punjab Act VIII of 1926, section 5.

4 See now the Code of Civil Procedure, 1908 (Act V of 1908) [Unrepealed Central Acts, Volume V.

Method of awarding compensation and effect of such award.

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

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

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

[3](4) * * *

PROCEDURE, RECORDS AND APPEAL

Record of rights in respect of notified area.

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

(*a*) existing within such area at the time of the publication of the notification relating thereto under section 3 or section 8,

(*b*) regulated, restricted or [4] * [5][prohibited] by any order under section 4 or section 5.

(2) When any award is made under section 14, its effect upon any right shall also be recorded therein.

Mode of proclaiming notifications and of serving notices, orders and processes issued under the Act.

17. (1) Upon the publication of a notification issued under any of the provisions of this Act, the Deputy Commissioner shall cause public notice of the substance thereof to be given at convenient places in the locality to which such notification relates.

(2) The procedure prescribed in sections 20, 21 and 22 of the [6]Punjab Land Revenue Act, 1887, shall be followed, as far as may be, in proceedings under this Act. XVII 1887.

Appeal, review and revision.

18. Every order passed and every award made by a Deputy Commissioner under this Act, shall, for the purposes of appeal, review and revision, respectively be deemed to be the order of a Collector within the meaning of sections 13, 14, 15 and 16 of the [6]Punjab Land Revenue Act, 1887 : XVII 1887.

---

[1] See Unrepealed Central Acts, Volume III.

[2] Substituted for the words "Provincial Government" by the Adaptation of Laws Order, 1950.

[3] Repealed by the Punjab Act VIII of 1926, section 6.

[4] The word "suspended" was omitted by Punjab Act, VIII of 1926, section 7.

[5] Substituted for the word "extinguished" by Punjab Act, VIII of 1926, section 7.

[6] See Volume I of Punjab Code.

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

PENALTIES, BAR OF SUITS AND RULES

Penalty for offences.

19. Any person who, within the limits of any **[1] area, notified under section 3, commits any breach of any regulation made, [2][restriction or prohibition imposed, order passed or requisition made under section 4, 5, 5-A or 7-A] [3][or obstructs or restricts in any way whatever the execution of acts or things done under section 13] shall be punished with imprisonment for a term which may extend to one month, or with a fine which may extend to one hundred rupees, or with both.

Application of provisions of Act XVI of 1927.

20. [4][The provisions of sections 52, 54, 55, 56, 57, 58, 59, 60, 61, 62, 64 (excluding the last sentence), 66, 67, 68 and 73 of the Indian Forest Act, 1927], shall, so far as applicable, be read as part of this Act, and for the purposes of those provisions every offence punishable under section 19 shall be deemed to be a "forest offence", and every officer employed in the management of any area notified under section 3 or section 8, as care-taker or otherwise, shall be deemed to be a forest officer.

XVI of 1927.

Bar of suits.

21. No suit shall lie against [5][the Government] for anything done under this Act, and no suit shall lie against any public servant for anything done, or purporting to have been done, by him, in good faith, under this Act.

Power to make rules.

22. (1) The [6][State Government] may make rules, consistent with this Act,—

(*a*) regulating the procedure to be observed in any inquiry or proceeding under this Act; and

(*b*) generally for the purpose of carrying into effect all or any of the provisions of this Act.

(2) All rules made under this section shall be published in the [7][official Gazette].

---

[1] The word "local" was omitted by Punjab Act IV of 1944, section 11.

[2] Substituted for the words "or restriction or prohibition imposed under section 4 or section 5" by Punjab Act IV of 1944, section 11.

[3] Inserted by sec. 2 of 1950 Act.

[4] Substituted for the words, figures and brackets "the provisions of sections 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 63 (excluding the last sentence), 64, 65, 66, 67 and 72 of Indian Forest Act, 1878" by Punjab Act of 1944, section 12.

[5] Substituted for the words "Crown" by the Adaptation of Laws Order, 1950.

[6] Substituted for the words "Provincial Government" by the Adaptation of Laws Order, 1950.

[7] Substituted for the word "Gazette" by the Government of India (Adaptation of Indian Laws Order, 1937.

THE BOMBAY LAND IMPROVEMENT SCHEMES ACT, 1942 (AS AMENDED UPTO 1948)

Bombay Act No. XXVIII of 1942[1]

An Act to provide for the making and execution of schemes relating to the construction of tanks, embankments and other works, the prohibition and control of grazing for the purposes of preservation of soil, prevention of soil erosion, improvement of water supply and other matters in order thereby to protect and improve lands and crops in the Province of Bombay and for charging certain expenditure on the revenue of the Province.

WHEREAS it is expedient to provide for the making and execution of schemes relating to the construction of tanks, embankments and other works, the prohibition and control of grazing for the purposes of preservation of soil, prevention of soil erosion, improvement of water supply and other matters in order thereby to protect and improve lands and crops in the Province of Bombay and for charging certain expenditure on the revenues of the Province.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature; 26 Geo. 5, ch. 2

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Bombay Land Improvement Schemes Act, 1942.

(2) It shall extend to the whole of the [2][State] of Bombay.

(3) It shall come into force in such area and on such date as the [2][State] Government may, by notification in the Official Gazette, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Board" means a Board constituted under section 3;

[3][(2) "Director of Agriculture" means the officer appointed for the time being to be the Director of Agriculture and includes any officer appointed by the [2][State] Government to perform the duties of the Director of Agriculture under this Act;

[1] For the Statement, see *Bombay Government Gazette*, 1943, Part IV, page 44.

[2] For retrospective operation of this Act, see sec. 22, Bom. 7 of 1945.

[3] Clause (2) was substituted for clause (2) by Bom. 73 of 1948, s. 2.

[1](2A) "Divisional Soil Conservation Officer" means the officer appointed for the time being to be the Divisional Soil Conservation Officer;

[1](2B) "District Agricultural Officers" means the officer appointed for the time being to be the District Agricultural Officer;]

[2][(2C) "Executing Officer" means an officer appointed by the Board under sub-section (1) of section 11;]

(3) "Inquiry Officer" means an officer appointed as such by the Board;

(4) "owner" includes an owner in severalty, in common or joint, an occupant as defined in the Bombay Land Revenue Code, 1879, a privileged occupant as defined in the Khoti Settlement Act, 1880, [3][a tenant] and a mortgagee in possession [3][and the expressions 'owning' and 'own' shall be construed accordingly;]

Bom. V of 1879.
Bom. of 1880.

(5) "prescribed" means prescribed by rules made under this Act;

(6) [4][* * * * * * *]

(7) "scheme" means land improvement scheme prepared under this Act;

[5][(7A) "Soil Conservation Officer" means the officer appointed for the time being to be the Soil Conservation Officer;

(7B) "Tenant" means an agriculturist who holds land on lease and includes a person lawfully cultivating any land belonging to another person if such land is not cultivated personally by the owner and if such person is not—

(*a*) a member of the owner's family, or

(*b*) a servant on wages payable in cash or kind but not in crop share or a hired labourer cultivating the land under the personal supervision of the owner or any member of the owner's family;

Explanation.—A person shall not be deemed to be a tenant under this Act if such person has been on an application made by the owner of the land as provided under section 2A of the Bombay Tenancy Act, 1939, declared by a competent authority not to be a tenant.]

Bom. XXIX of 1939.

(8) The words and expressions used in this Act, but not defined, shall have the meaning assigned to them in the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

---

1 Clauses (2A) and (2B) were substituted by *ibid.*

2 Clause (2A) which was renumbered as clause (2C) by Bom. 73 of 1948, s. 2 (6), was inserted by Bom. 7 of 1945, s. 2 (*a*), read with Bom. 29 of 1948, s. 2.

3 These words were substituted for the original by Bom. 7 of 1948, s. 2.

4 Clause 6 was deleted by Bombay Act 53 of 1949.

5 Clauses (7A) and (7B) were inserted by Bom. 73 of 1948, s. 2.

CHAPTER II

CONSTITUTION OF BOARDS AND PREPARATION OF LAND IMPROVEMENT SCHEMES

Constitution of Boards.

3. [1][(1) The [2][State] Government shall constitute in each district a Board consisting of the Collector, the District Agricultural Officer, the Divisional Soil Conservation Officer and such non-official persons not exceeding two as may be appointed by the Provincial Government.

(1A) The Divisional Soil Conservation Officer shall be the Secretary of the Board.]

(2) If there is a difference of opinion among the members of the Board regarding any question under the provisions of this Act the decision of the majority of the members shall prevail.

Power of Board to direct preparation of land improvement scheme and matters for which scheme may be prepared.

4. (1) The Board may direct the preparation of a land improvement scheme of any area within its jurisdiction. A scheme may make provision for any of the following matters, namely :—

(*i*) preservation and improvement of soil;

(*ii*) prevention of erosion of soil;

(*iii*) improvement of water supply;

(*iv*) introduction of dry farming methods;

(*v*) improvement in the methods of cultivation;

(*vi*) reclamation of waterlogged land or of land from the sea ;

(*vii*) prohibition or control of grazing;

(*viii*) control and maintenance of tree growth ;

[3][(*viii-a*) regulation or prohibition of firing of vegetation;]

[4][(*viii-b*) cultivation of waste or fallow land;]

(*ix*) such other matters not inconsistent with the objects of this Act as may be prescribed.

[5][(2) On such direction being issued by the Board, the Board shall appoint an officer to prepare, in accordance with such instructions as it may issue, a draft scheme containing the following particulars, namely :—

(*i*) the objects of the scheme ;

(*ii*) the approximate area of the lands to be included in the scheme;

(*iii*) the work or kind of work to be carried out under the scheme;

(*iv*) the agency or agencies through which the work shall be carried out;

(*v*) such other particulars as may be prescribed.]

---

1 Sub-sections (1) and (1A) were substituted for sub-section (1), by Bom. 73 of 1948, s. 3.

2 The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

3 Clause (*viii-a*) was inserted by Bom. 7 of 1945, s. 4(*i*) read with Bom. 29 of 1948, s. 2.

4 This clause was inserted by Bom. 73 of 1948, s. 4.

5 Sub-section (2) was substituted by Bom. 7 of 1945, 34 (*iii*) read with Bom. 29 of 1948, s. 2.

Publication of scheme and inviting objections.

[1][5. (1) The draft scheme prepared under section 4 shall be submitted to the Board which shall either approve the scheme with or without modifications and appoint an Inquiry Officer, or reject it.

(2) The scheme approved by the Board under sub-section (1) shall be published in the official gazette and in the village and at the headquarters of the taluka or mahal and of the district in which the lands proposed to be included in the scheme are situate.

(3) The Board shall, [2][simultaneously with the publication of the scheme in the official gazette under sub-section (2)] require all persons affected by the scheme who wish to make any objections to the scheme or part thereof to submit their objections in writing to the Inquiry Officer or appear before him, within twenty-one days of [3][such publication.]]

Report of Inquiry Officer.

6. (1) The Inquiry Officer shall hear such objections as are made to him in person, consider all objection duly submitted under section 5 and submit his report together with the objections to the Board.

(2) The Inquiry Officer may, while submitting his report under sub-section (1), recommend any modifications which in his opinion are required in any of the particulars contained in the scheme approved by the Board under sub-section (1) of section 5.]

7. [*Decision of disputed claims.*] *Rep. by Bom.* 7 *of* 1945, *s.* 6, *read with Bom.* 29 *of* 1948, *s.* 52.

8. [*Report of Inquiry Officer.*] *Rep. by Bom.* 7 *of* 1945, *s.* 6, *read with Bom.* 29 *of* 1948, *s.* 2.

Power of Board to sanction scheme with or without modifications.

[4][**9.** (1) After consideration of the objections and the report submitted under sub-section (1) of section 6 and of any further report which the Board may require the Inquiry Officer to submit, the Board may sanction the scheme with or without modifications or reject it :

Provided that if not less than 33 per cent. of the total number of the owners of the land included in the scheme other than the [5][Government] or owners other than the Government owning in the aggregate not less than 33 per cent. of the land included in the scheme have made objections to the scheme or part thereof, the Board shall submit the scheme to the [6][State] Government for its orders. The State Government may thereupon sanction the scheme with or without modifications or reject it.

(2) The scheme as sanctioned under sub-section (1) shall be published in the official gazette, and in the village and at the headquarters of the taluka or mahal and of the district in which the lands included in the scheme are situate and shall on such publication be final.]

---

1 Sections 5 and 6 were substituted for the original sections, *ibid.* s. 5.

2 These words brackets and figures were substituted for "on publication of the Scheme" by Bom. 73 of 1948, s. 5(*a*).

3 These words were substituted for "the publication of the Scheme in the official gazette under sub-section (2)" by Bom. 73 of 1948, s. 5 (*b*).

4 This section was substituted for the original by Bom. 1945, s. 7, read with Bom. 29 of 1948, s. 2.

5 The word "Government" was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

6 The word "State" was substituted for "Provincial" by *ibid.*

Effect of scheme.

10. On the date on which the scheme is published in the official gazette under sub-section [1][(2)] of section 9, it shall come into force and shall have effect as if it were enacted in this Act.

Power of [4][State] Government or of Board to make regulations.

[2][**10A.** For the purpose of carrying out the objects of a scheme which has come into force under section 10, [3][the [4][State] Government or] the Board may make regulations requiring any person or [5][* *] persons or the public generally to take certain action or to refrain from doing certain acts in respect of any matters supplementary and incidental to the scheme.]

CHAPTER III

EXECUTION OF THE SCHEME

Power to enforce scheme.

[6][**11.** (1) After a scheme has come into force under section 10, the Board shall appoint an officer to execute it.

(2) Every owner of land included in the scheme shall pay the costs or part costs, as the case may be, of the works which under the scheme are carried out by the [7][Government] in his land at the cost or part cost of the owner.

(3) If any owner of the land included in the scheme desires to carry out himself any works which under the scheme are to be carried out in his land by the [7][Government] at the cost or part cost of the owner, he shall give notice in writing to that effect to the Executing Officer within twenty-one days of the publication of the scheme in the official gazette under section 9.

(4) On receipt of such notice, the Executing Officer shall inform the owner of the works which are to be carried out in his land, and shall fix the date before which the owner shall carry out the works.

(5) If such owner fails to carry out any work to the satisfaction of the Executing Officer before the date fixed by him or at any time expresses in writing to the Executing Officer his inability to do so, the Executing Officer may himself get the work carried out and the expenses incurred by the Executing Officer for the purpose shall be recovered from the owner.

(6) Where the owner of any land included in the scheme is the [7][Government] the Department of Government which has the control or management of such land, or the Executing Officer directed in this behalf by the Board or the [4][State] Government, as the case may be, shall carry out the works which the [7][Government] is liable to carry out under the scheme.]

---

1 The brackets and figure "(2)" were substituted for the brackets and figure "(3)", *ibid* s. 8.,

2 This section was inserted by Bom. 3 of 1944, s. 2, read with Bom 29 of 1948, s. 2.

3 These words were inserted by Bom. 7 of 1945, s 9, read with Bom. 29 of 1948, s. 2.

4 The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

5 The words "class of" were deleted by Bom. 73 of 1948, s. 6.

6 This section was substituted for the original by Bom. 7 of 1945, s. 10, read with Bom. 29 of 1948, s. 2.

7 The word "Government" was substituted for the word "Crown" by *ibid.*

Liability of persons whose lands are not included in scheme to contribution.

12. (1) If, in consequence of any work carried out [1][* * *] under the scheme [2][any person, including the [3][Government] other than the owner of the land in which the work is done,] is likely to be benefited, he shall pay such amount [4][as the [5][State] Government may determine as contribution to the owner of the land, if the work has been carried out by the owner, or to the [5][State] Government, if the work has been carried out by the Executing Officer]:

Provided that the [5][State] Government may excuse payment of such contribution in whole or in part in respect of any work carried out by it [6][in land belonging to the [3][Government]]

[7][(2) The amount shall be paid within such time as may be specified by the [5][State] Government.]

Penalty.

[8][**12A.** Any person who contravenes or causes any contravention of any of the provisions of a scheme which has come into force under section 10, or any of the regulations made under section 10A, or does any act which causes damage to any of the works carried out under the scheme, or fails to fulfil any liability imposed upon him under section 13 or sub-section [9][(4)] of section 25 shall, on conviction, be punishable with fine which may extend to fifty rupees or with simple imprisonment for a period which may extend to one month, or with both.]

CHAPTER IV

MAINTENANCE, REPAIR AND USE OF WORKS CARRIED OUT UNDER THE SCHEME

Statement

[10][**13.** (1) The Executing Officer shall prepare a statement giving for any specified area the following particulars—

(*a*) (*i*) the work done ;

(*ii*) the cost thereof ;

(*iii*) the total amount to be recovered from the owners,

(*iv*) the general rate per acre or per rupee of assessment per annum at which such amount is to be recovered from the owners ;

(*v*) the period within which such amount is to be recovered ;

---

1 The words "by the owner of any land" were deleted by Bom. 7 of 1945, s. 11 (*i*), read with Bom. 29 of 1948, s. 2.

2 These words were substituted for the words "any other person, including the Crown", *ibid.* s. 11 (*ii*).

3 The word "Government" was substituted for the word 'Crown" by the Adaptation of Law Order, 1950.

4 These words were substituted for the words "to the owner of the land as contribution as the Board may determine" by Bom. 73 of 1948, s. 7 (*a*).

5 The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Orde 1950.

6 These words were inserted by Bom. 7 of 1945, s. 11 (*iv*), read with Bom. 29 of 1948, s. 2.

7 This sub-section was substituted for the original by Bom. 73 of 1948, s. 7 (*b*).

8 This section was inserted by Bom. 3 of 1944, s. 3, read with Bom. 29 of 1948, s. 2.

9 The brackets and figure "(4)" were substituted for the brackets and figures "(5)" by Bom. of 1945, s. 12, read with Bom. 29 of 1948, s. 2.

10 This section was substituted for the original, *ibid.*, s. 13.

[1][(*vi*) the work which, in his opinion, shall be maintained and repaired individually or jointly and the names of such person or persons ;]

(*b*) If in the case of any survey number or sub-division of a survey number the owner is not liable to maintain or repair works therein, or if the cost is to be recovered from an owner at a rate other than the general rate a list of such survey numbers or sub-divisions, and the rate at which the cost is to be recovered from the owner of such survey numbers or sub-divisions ;

(*c*) a map showing the work carried out in the village;

(*d*) such other matters as may be prescribed.

(2) When the statement is prepared under this section any rights and liabilities shown therein shall be entered in the record of rights maintained under Chapter X-A of the Bombay Land Revenue Code, 1879, and in the village accounts in such manner as the [2][State] Government may prescribe and shall thereupon form part of such record of rights and of the village accounts.] Bom. V of 1879.

Obligation of persons to maintain and repair works.

[3][**14.** (1) Every person shown in the statement prepared under section 13 as liable to maintain and repair work shall, to the satisfaction of the Divisional Conservation Officer and within such time as the said officer may fix, maintain and repair the work in his own land and in any other land in respect of which he is shown as liable in the said statement.

(2) If such person fails to maintain or repair the work within the time fixed by the Divisional Conservation Officer under sub-section (1), the Land Improvement Officer shall himself get the work maintained or repaired and the cost of so doing shall be recovered from the person.]

[4][(3) If the Land Improvement Officer is of opinion that an emergency has arisen and that the immediate repair of any work referred to in sub-section (1) is necessary in the general interest, he shall carry out such repair and the cost of such repair shall be paid by the owner of the land on which the repair has been carried out.

(4) The Divisional Conservation Officer shall, as soon as practicable, make report to the [2][State] Government regarding such repair.]

CHAPTER V

MISCELLANEOUS

Payment and recovery of amount.

[5][**15.** Any amount or instalment thereof payable under section 11, 12, 14 or 25A which is not paid on the date when it becomes due under this Act shall be deemed to be an

[1] This clause was substituted for the original by Bom. 73 of 1948, s. 8.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This section was substituted for the original by Bom. 7 of 1945, s. 14, read with Bom. 29 of 1948, s. 2.

[4] These sub-sections were added by Bom. 73 of 1948, s. 9.

[5] This section was substituted for the original, *ibid.*, s. 10.

arrear of land revenue due on account of the land for the benefit of which the scheme has been sanctioned under this Act or the work is or repairs are carried out and shall be recoverable as such arrear by any of the methods specified in section 150 of the Bombay Land Revenue Code, 1879.]

m. V of 79.

Right of entry.

16. For the purpose of preparing, sanctioning or executing any scheme [1][or repairing or maintaining any works under any scheme], any person authorised by [2][the Board, the Collector or the Divisional Soil Conservation Officer] may, after giving such notice as may be prescribed, to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land, and do all acts necessary for such purpose.

Inquiries to be held summarily.

17. (1) Any authority other than a Board empowered under this Act to make an inquiry shall make the inquiry in the manner provided for holding a summary inquiry under the Bombay Land Revenue Code, 1879, and all the provisions contained in the said Code relating to the holding of a summary inquiry shall, so far as may be, apply.

om. V of 879.

(2) Such authority as well as a Board shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the revenue officers under the Bombay Land Revenue Code, 1879.

om. V of 879.

Permission to owners to increase rent on account of improvements effected.

18. Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the owner of any land included in a scheme to enhance the rent payable by a tenant of the land by such amount and subject to such conditions as may be prescribed.

Registration of document, plan or map in connection with land improvement scheme not required.

XVI of 1908.

19. (1) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any document, plan, or map prepared, made or sanctioned in connection with a scheme which has come into force.

(2) All such documents, plans and maps shall, for the purpose of sections 48 and 49 of the Indian Registration Act, 1908, be deemed to be registered in accordance with the provisions of that Act :

XVI of 1908.

Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

20. [*Delegation of powers by* [3][*State*] *Government.*] *Rep. by Bom. 7 of* 1945, *s.* 16, *read with Bom.* 29 *of* 1948, *s.* 2.

Delegation.

[4][**21.** The [3][State] Government and subject to the control of the [3][State] Government the Collector or the Land Improvement Officer may delegate to any officer any of the powers conferred on it or him or any of the functions to be performed by it or him by or under this Act.]

---

[1] These words were inserted by Bom. 7 of 1945, s. 15 (*i*), read with Bom. 29 of 1948, s. 2.

[2] These words were substituted for the words "the Board or the Collector", *ibid.*, s. 15 (*ii*).

[3] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] This section was substituted for the original by Bom. 73 of 1948, s. 11.

Certain officers to be public servants.

22. The members and Secretary of a Board, the Inquiry Officer and any officer or person authorised or appointed by the Board, the Collector, [1][the Divl. Conservation Officer] or the [2][State] Government under sub-section (2) of section 4, sub-section (1) of section 11, sub-section (2) of section 12, section 16, [3][section 21] or sub-section (2) of section 25, as the case may be, shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860.

Protection of persons acting in good faith and limitation of suits and prosecutions.

23. (1) No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act or the rules made thereunder.

(2) No suit or prosecution shall be instituted against any public servant or person duly authorised under this Act in respect of anything done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Power to make rules.

24. (1) The [2][State] Government may, by notification published in the official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made to determine the following matters, namely :—

[4][(*i*) the matters to be prescribed under clause (*ix*) of sub-section (1) and clause (*v*) of sub-section (2) of section 4;

(*ii*) the matters to be prescribed under clause (*d*) of sub-section (1) of section 13;

(*iii*) the manner in which the rights and liabilities shown in the statement prepared under section 13 shall be entered in the record of rights maintained under Chapter X-A of the Bombay Land Revenue Code, 1879, and in the village accounts under sub-section (2) of section 13 ; Bom. V of 1879.

(*iv*) the manner of giving notice under section 16;

(*v*) the manner in which documents, plans and maps shall be made accessible to the public under section 19 ;

(*vi*) the number of equated annual instalments payable under sub-section (2) of section 25A.]

[5]* * * *

(3) The rules made under this section shall be subject to the condition of previous publication.

---

1 These words were inserted by Bom. 7 of 1945, s. 18, read with Bom. 29 of 1948, s. 2.

2 The word "State" was substituted for the word "Provincial" by the Adoptation of Laws Order, 1950.

3 The word and figures "section 21" were inserted, *ibid.*, s. 18.

4 Clauses (*i*) to (*vi*) were substituted for the original clauses (*i*) to (*viii*) by Bom. 7 of 1945, s. 19, read with Bom. 29 of 1948, s 2.

5 Clause (*viii*) inserted by Bom. 3 of 1944, s. 5 (2), was repealed by Bom. 7 of 1945, s. 19, read with Bom. 29 of 1948, s. 2.

Power of [1][State] Government to direct preparation scheme in certain circumstances.

25. (1) Notwithstanding anything contained in this Act the [1][State] Government may direct the preparation of a land improvement scheme providing for any of the matters specified in sub-section (1) of section 4 [2][in any case in which the [1][State] Government or any trust may contribute not less than 25 per cent. of the cost of the scheme, or] in any area in which the [1][State] Government declares that a state of famine or scarcity prevails or in which in the opinion of the [1][State] Government a state of famine or scarcity is likely to prevail [3][or land improvement is necessary in the interest of any members of [4][Regular Army] whether in service or retired, or of their dependents].

[5][(2) On such direction the person appointed by the [1][State] Government or the Board in this behalf shall prepare in accordance with such instructions as the [1][State] Government or the Board may issue, a draft scheme containing the particulars specified in sub-section (2) of section 4 and submit it to the [1][State] Government or the Board, as the case may be, for its approval.

(3) After the scheme is submitted to the [1][State] Government or the Board for approval under sub-section (2) the provisions of sections 5 to 23 and the rules made under section 24 shall, so far as they can be made applicable, apply in respect of such scheme.

(4) Notwithstanding anything contained in sub-section (3), the owner of the land in which any work has been carried out for the purposes of a scheme under this section shall be liable, pending the preparation of the statement under section 13 to maintain the work to the satisfaction of the Divl. Soil Conservation Officer and repair it to his satisfaction within such time as he may fix.

The provisions of sub-section (2) of section 14 shall apply in respect of the owner's liability under this sub-section.]

[6][* * * * *]

[1][State] Government may carry out work in a scheme and subsequently recover cost from owners of lands.

[7][**25A.** [8][(1) Notwithstanding anything contained in this Act, the [1][State] Government may at any time direct the preparation of a scheme for any of the matters specified in sub-section (1) of section 4 in any area, if in the opinion of the [1][State] Government such scheme is necessary in the interest of the public :

Provided that if any person or authority is willing to contribute not less than 25 per cent. of the estimated cost of any scheme, the [1][State] Government may also direct the preparation of such scheme.]

(2) The cost directed to be recovered under sub-section (1), with interest at such rate as the [1][State] Government may

---

1 The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

2 These words and figures were inserted by Bom. 3 of 1944, s. 6 (*i*) (*a*), read with Bom. 29 of 1948, s. 2.

3 These words were added, *ibid.*, s. 6 (1) (b).

4 The words "the Regular Army" were substituted for the words "His Majesty's forces" by *ibid*

5 Sub-sections (2) to (4) were substituted for original sub-sections (2) to (5) by Bom. 7 of 1945, s. 20, read with Bom. 29 of 1948, s. 2.

6 Sub-section (5) inserted by Bom. 3 of 1944, s. 6 (*ii*), was repealed by Bom. 7 of 1945, s. 20.

7 This section was inserted, *ibid.*, s. 7.

8 This sub-section was substituted for the original by Bom. 73 of 1948, s. 12.

direct, shall be recoverable from the owners concerned in such number of equated annual instalments payable on the date appointed for the payment of the first instalment of land revenue as may be prescribed.]

Expenditure incurred by [1][State].

26. The expenditure incurred by the [1][State] Government in pursuance of anything done under this Act shall be charged on the revenues of the [1][State].

Government to be charged on revenues of [1][State] Saving.

[2][**27.** All Boards constituted for a division under section 3 shall be dissolved on the day on which the new Board shall be constituted under section 3 as amended by the Bombay Land Improvement Schemes (Amendment) Act, 1948: Bom. LXXIII of 1948.

Provided that any direction issued, appointments made, scheme sanctioned, regulation made and all things done by the first mentioned Board shall be deemed to have been lawfully issued, made, sanctioned or done and any scheme so sanctioned shall be executed by the new Board constituted as aforesaid in the district in which the land in respect of which such scheme is made is situate :

Provided further that if such land is situate within the limits of more than one district the [1][State] Government shall decide which of the Boards shall execute the scheme in respect thereof.

Validation of constitution and acts of Board.

28. Notwithstanding anything contained in this Act, the Board constituted, any directions issued, appointments made, scheme approved, regulations made and all things done by or on behalf of the Board, before the date on which the Bombay Land Improvement Schemes (Amendment) Act, 1948, Bom. came into force shall be deemed to be and to have always LXXIII of been validly constituted, issued, made, approved or done 1948. and shall not be deemed to have been invalidly constituted, issued, made, approved or done by reason only of the fact that the Agricultural Commissioner or the Director of Agricultural Engineering acted as a member of the Board before the said date.

Saving of Khar lands.

29. Nothing in this Act shall apply to Khar lands in respect of which a scheme is or has been sanctioned under the Bombay Khar Lands Act, 1948.] Bom. LXXIII of 1948

[1] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] Sections 27, 28 and 29 were added by Bom. 73 of 1948, s. 13.

THE JAMMU AND KASHMIR LAND PRESERVATION ACT, 1943 (2000)

Act No. VIII of 1943 (2000)

An Act to provide for the better preservation and protection of certain portions of the territories of the Jammu and Kashmir State.

Preamble.

WHEREAS it is expedient to provide for the better preservation and protection of certain portions of the territories of the Jammu and Kashmir State situate within or adjacent to the mountain ranges or affected or liable to be affected by the deboisement of forests within those ranges, or by the action of streams and torrents, such as are commonly called *Khuds* and *Nallahs* flowing through or from them ;

It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Jammu and Kashmir Land Preservation Act, 2000.

(2) It shall extend to the whole of the State.

Definitions.

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

(*a*) "Collector" includes any revenue officer, not lower in rank than an Assistant Collector of the first class specially appointed by the Government to perform the functions of a Collector under this Act;

(*b*) "*Khud*" or "*Nallah*" means a stream or torrent flowing through or from mountain range;

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

(*d*) "person interested" includes all persons claiming any interest in compensation to be made on account of any measures taken under this Act; and

(*e*) the words "tree", "timber", "forest produce" and "cattle" respectively, shall have the meanings severally assigned to them in the Jammu and Kashmir Forest Act, 1987.

NOTIFICATION AND REGULATION OF AREAS

Notification of areas.

3. Whenever it appears to the Government that it is desirable to provide for the better preservation and protection of any local area, situate within or adjacent to any mountain range or affected or liable to be affected by the deboisement of forests in that range or by the action of *Khuds* and *Nallahs* they may, by notification in the Government Gazette, make a direction accordingly.

Power to regulate, restrict or prohibit by general or special order within notified areas, certain matters.

4. In respect of areas notified under section 3 generally or the whole or any part of any such area, the Government may, by general or special order, temporarily regulate, restrict or prohibit—

(*a*) the clearing or breaking up or cultivating of land not ordinarily under cultivation prior to the publication of the notification under section 3 ;

(*b*) the quarrying of stone, or the burning of lime or the making of bricks at places, where such stone or lime or bricks had not ordinarily been so quarried or burnt or made prior to the publication of notification under section 3 ;

(*c*) the cutting of trees or timber, or the collection, removal or subjection to any manufacturing process, otherwise than as described in clause (*b*) of this section, of any forest produce other than grass save for *bona fide* domestic or agricultural purposes;

(*d*) the setting on fire of trees, timber or forest produce;

(*e*) the admission, herding, pasturing or retention of sheep and goats;

(*f*) the examination of forest produce passing out of any such area ; and

(*g*) the granting of permits to the inhabitants of towns and villages situate within the limits or in the vicinity of any such area to take any trees, timber or forest produce for their own use therefrom, or to pasture sheep or goats or to cultivate or erect buildings therein and the production and return of such permits by such persons.

Power in certain cases to regulate, restrict or prohibit, by special order within notified areas, certain further matters.

5. In respect of any specified village or villages, or part or parts thereof, comprised within the limits of any area notified under section 3, the Government may by special order temporarily regulate, restrict or prohibit—

(*a*) the cultivating of any land ordinarily under cultivation prior to the publication of the notification under section 3;

(*b*) the quarrying of stone or the burning of lime or the making of bricks at places where such stone or lime or bricks had ordinarily been so quarried or burnt or made prior to the publication of the notification under section 3;

(*c*) the cutting of trees or timber, or the collection, removal or subjection to any manufacturing process, otherwise than as described in clause (*b*) of this section, of any forest produce for any purposes; and

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

Explanation.—For the purposes of clause (*b*) of section 4 and clause (*b*) of this section, the word "making" includes "burning".

Necessity for regulation, restriction or prohibition to be recited in the order under section 4 or 5. Publication of order.

6. Every order under section 4 or 5 shall be published in the Government Gazette and shall set forth that the Government are satisfied, after due inquiry and consideration, of objections as may have been preferred and the regulations, restrictions or prohibitions contained in the order are necessary for the purpose of giving effect to the provisions of this Act.

Proclamation of regulations restrictions and prohibitions and admission of claims of compensation for rights which are restricted or extinguished.

7. (1) When in respect of any local area a notification has been published under section 3; and

(*a*) upon such publication any general order made under section 4 becomes applicable to such area; or

(*b*) any special order under section 4 or section 5, is made in respect of such area;

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

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

Provided that if the claimant statisfies the Collector that he had sufficient cause for not preferring the claim within time, the Collector may admit any such claim as if it had been made within such period.

Control over the beds of Khuds and Nallahs

Action when Government considers it desirable to take measures to regulate the beds of Khuds and Nallahs. Vesting of such beds in the Government.

8. (1) Whenever after due enquiry and consideration of such objections as may be preferred it appears to the Government that it is desirable that measures should be taken in the bed of any *Khud* or *Nallah* for the purpose of—

(*a*) regulating the flow of water within and preventing the widening or extension of such bed, or of

(*b*) reclaiming or protecting any land situate within the limits of such bed,

hey may either proceed at once in the manner provided in ub-section (2), or they may, in the first instance, issue a notification specifying the nature and extent of the measures which in their opinion are necessary, and the locality in, and the time within, which such measures are to be taken, requiring all owners and occupiers of land situate in such locality to carry out the measures specified in such notification.

(2) If the whole or any part of the bed of any *Khud* or *Nallah* be unclaimed, or, if in the opinion of the Government the measures deemed necessary under sub-section (1) are of such a character in regard to extent and cost that the interference of the Government is absolutely necessary, or in the event of the owner or occupier of any portion of the bed of any *Khud* or *Nallah* failing to comply with the requirements of any notification issued under sub-section (1), the Government may by notification declare that the whole or any part of the area comprised within the limits of the bed of any *Khud* or *Nallah* shall vest in the Government for such period and subject to such conditions, if any, as may be specified in the notification, and may, from time to time, by like notification, extend the period during which any such area shall remain vested in the Government.

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

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

Effect of notification to suspend or extinguish private rights in the area notified under section 8.

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

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

Power of the Collector to delimit the bed and to decide what constitutes such bed.

10. (1) The Collector shall, for the purpose of every notification issued under sub-section (2) of section 8, fix the limits of the area comprised within the bed of the *Khud* or *Nallah* to which such notification is to apply.

Power to take possession of bed when vested in the Government.

(2) Upon the publication of the notification containing any declaration under sub-section (2) of section 8, it shall be lawful for the Collector to—

(*a*) take possession of the area specified in such declaration ;

(*b*) eject all persons therefrom; and

(*c*) deal with such area while it remains vested in the Government as if it were the absolute property of Government.

BAR OF COMPENSATION FOR ACTS DONE UNDER SECTIONS 8, 9 AND 10

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

POWER TO ENTER UPON AND DELIMIT NOTIFIED AREA AND BEDS

Power to enter upon, survey and demarcate local areas notified under section 3 or 8.

12. It shall be lawful for the Collector and his subordinate officers, servants, caretakers and workmen from time to time, as occasion may require—

(*a*) to enter upon and survey any land comprised within any local area in regard to which any notification has been issued under section 3 or section 8 ;

(*b*) to erect bench-marks on and to delimit and demarcate the boundaries of any such local area ; and

(*c*) to do all other acts and things which may be necessary in order adequately to preserve or protect any land or to carry into effect all or any of the provisions of this Act :

Provided that reasonable compensation to be assessed and determined in the manner provided in this Act shall be made in respect of any damage or injury caused to the property or rights of any person in carrying out any operations under the provisions of this section, shall be payable in respect of anything done.

INQUIRY INTO CLAIMS AND AWARD OF COMPENSATION

Inquiries into claims and award thereupon.

13. (1) The Collector shall—

(*a*) fix a date for inquiry into all claims made under sections 7 and 8 and may, in his discretion, from time to time, adjourn the inquiry to a date to be fixed by him;

(*b*) record in writing all statements;

(*c*) inquire into all claims duly preferred;

(*d*) make an award upon each such claim, setting out therein the nature and extent of the right claimed, the person or the persons making such claim, the extent, if any, to which, and the persons or person in whose favour, the right claimed is established, the extent to which it is restricted or prohibited and the nature and amount of compensation if, any, awarded.

(2) For the purposes of every such inquiry the Collector may exercise all or any of the powers of a Civil Court in the trial of suits under the Code of Civil Procedure, 1977.

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

Method of awarding compensation and effect of such award.

14. (1) In determining the amount of compensation and the taking over of possession the Collector shall be guided, so far as may be, by the provisions of sections 23, 24, 16 and 17 of the Jammu and Kashmir Land Acquisition Act, 1990, and as to matters which cannot be dealt with under those provisions by what is just and reasonable in the circumstances of each case.

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

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

PROCEDURE, RECORDS AND APPEALS

Record of right in respect of notified areas.

15. (1) For every area, notified under section 3, or section 8, the Collector shall prepare a record setting forth the nature, description, and extent of all rights mentioned in section 4 and section 5—

(*a*) existing within such area at the time of the publication of the notification relating thereto under section 3 or section 8 ;

(*b*) regulated, restricted or prohibited by any order under section 4 or section 5.

(2) When any award is made under section 14, its effect upon such rights shall also be recorded therein.

Mode of proclaiming notification and of serving notices, orders and processes issued under the Act.

16. (1) Upon the publication of a notification issued under any of the provisions of this Act, the Collector shall cause a public notice or the substance thereof to be given at convenient places to which such notification relates.

(2) The procedure prescribed in sections 15-B, 15-C and 15-D of the Land Revenue Act, 1996, shall be followed, as far as may be, in proceedings under this Act.

Appeal, review and revision.

17. Every order passed and every award made by the Collector under this Act, shall for the purposes of appeal, review and revision, respectively be deemed to be an order of the Collector within the meaning of sections 11, 12, 13 and 14 of the Jammu and Kashmir Land Revenue Act, 1996.

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

Penalty for offences.

18. Any person who within the limits of any local area notified under section 3 commits any breach of any regulation made or restrictions or prohibitions imposed under section 4 or section 5 shall be punished with fine which may extend to one hundred rupees or in default with imprisonment for a period not exceeding one month.

Bar of suits

19. No suit shall lie against the Government for anything done under this Act and no suit shall lie against any public servant for anything done or purporting to have been done by him in good faith, or against any private individual for anything done or purporting to have been done by him in good faith under the orders of any such public servant, under this Act.

Power to make rules.

20. (1) The Government may make rules consistent with this Act—

(*a*) regulating the procedure to be observed in any inquiry or proceeding under this Act ; and

(*b*) generally for the purpose of carrying into effect all or any of the provisions of this Act.

(2) All rules made under this section shall be published in the Government Gazette and on the expiry of thirty days from the date of such publication shall have the force of law.

THE BOMBAY KHAR LANDS ACT, 1948 (AMENDED BY BOM. 18 OF 1951)

Bombay Act No. LXXII of 1948[1]

An Act to provide for the protection and improvement of khar lands and the reclamation of tidal lands in the Province of Bombay by the construction and maintenance of embankments and for certain other matters.

WHEREAS it is expedient to provide for the protection and improvement of khar lands and the reclamation of tidal lands in the Province of Bombay by the construction and maintenance of embankments and for certain other matters; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Bombay Khar Lands Act, 1948.

(2) It shall extend to the whole of the [2][State] of Bombay.

(3) It shall come into force in such area and on such date as the [2][State] Government may, by notification in the official Gazette, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Board" means the Khar Lands Development Board established under section 3;

(*b*) "Chairman" means the Chairman of the Board;

(*c*) "embankment" includes—

(*i*) every bank, dam, wall and dyke made or used for excluding water from, or retaining water upon, any tidal or khar land or for excluding salt water from entering into any adjoining sweet water nallas;

(*ii*) every sluice, spur, groyne, training-wall, berm, or other work annexed to, or portion of, any such embankment ;

(*iii*) every bank, dam, dyke, wall, groyne or spur made, or erected for the protection of any such embankment or of any tidal or khar land from erosion or overflow by or of tides, waves or waters; and

(*iv*) all buildings intended for inspection and supervisions;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, p. 354.

[2] The word "State" was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

(*d*) "khar land" means such tidal land as is made cultivable by protecting it by means of an embankment from the sea or tidal river, and includes all such land in whatever manner described, whether as khar, khajan, kharepat, gazni or otherwise;

(*e*) "member" means a member of the Board;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "sea" includes bay, inlet, creek or an arm of the sea;

(*h*) "tidal land" means such parts of bed or shore of the tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides together with the adjoining bed or shore not exceeding two furlongs in distance from the spring tide mark;

(*i*) "tidal water" means any part of the sea or river within the flow and ebb of the tide at ordinary spring tides;

(*j*) "unit" means a unit formed by the Board under sub-section (2) of section 11.

Establishment of Khar Land Development Board.

3. (1) As soon as may be after the commencement of this Act, the [1][State] Government shall establish the Khar Lands Development Board. The Board shall consist of a Chairman and of members as specified in sub-section (2).

(2) The Board shall consist of three *ex-officio* members and eight other members :—

(*a*) The *ex-officio* members shall be :—

(*i*) Secretary to the Government of Bombay, Revenue Department;

(*ii*) Secretary to the Government of Bombay, Agriculture and Rural Development Department;

(*iii*) Director of Agricultural Engineering, Bombay Province.

(*b*) The other members shall be eight in number, two each representing the Thana and the Kolaba districts and one each representing the Surat, Broach, Ratnagiri and Kanara districts.

(3) The members other than the *ex-officio* members shall be selected by the [1][State] Government from a panel of representatives elected in the prescribed manner by the landlords and tenants of lands in a unit :

Provided that the [1][State] Government may, in establishing the Board for the first time immediately after the coming into force of this Act, nominate the said eight members in the same proportion to represent the said districts.

(4) The names of members selected or nominated under sub-section (3) shall be published in the *Official Gazette*.

(5) The members other than *ex-officio* members shall possess such qualifications as may be prescribed.

[1] The word "State" was Substituted for the word "Province" by the Adaptation of laws order, 1950.

Term of office; vacancies.

4. (1) The members other than *ex-officio* members shall hold office for a period of three years from the date of the publication of their names under sub-section (4) of section 3:

[1][Provided that such members of the Board established for the first time immediately after the coming into force of this Act shall in the first instance be appointed for a period of one year, but shall be eligible for reappointment every year for the total period not exceeding five years from the date of the establishment of the Board.]

(2) If any such member—

(*a*) dies; or

(*b*) is absent from the meetings of the Board for more than three consecutive meetings of the Board; or

(*c*) leaves the [2][State] of Bombay with the intention of being absent therefrom for more than three consecutive months; or

(*d*) resigns; or

(*e*) refuses to act or becomes incapable of acting, his office shall thereupon become vacant.

(3) All casual vacancies among the members other than the *ex-officio* members shall be filled up as soon as it conveniently may be by selection in the manner specified in sub-section (3) of section 3 ; and the person selected to a casual vacancy shall hold office so long as the member in whose place he is selected would have held it if the vacancy had not occurred.

(4) No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Board.

Power of [2][State] Government to nominate members in certain circumstances.

5. Notwithstanding anything contained in section 3 or 4, if the landlords and tenants of lands in a unit fail to elect a panel of representatives or if any of the representatives so elected refuse to act as members, the [2][State] Government may nominate such persons as members who in its opinion are suitable to represent the interest of landlords and tenants in the said unit.

Incorporation of Board.

6. The Board constituted under section 3 shall be a body corporate by the name of "The Khar Lands Development Board" and shall have perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both movable and immovable and to contract and to do all things necessary for the purposes of this Act.

Power of Board to make by-laws.

7. (1) The Board may with the previous sanction of the [2][State] Government make by-laws consistent with this Act and the rules made thereunder for all or any of the following matters :—

(*a*) the manner in which its business shall be transacted;

---

[1] This proviso was substituted for the original by Bom. 18 of 1949, s. 2.

[2] The word "State" was Substituted for the word Province by the Adaptation of laws order, 1950.

(*b*) the definition of its power to enter into contracts, which shall be binding on it and the manner in which such contracts shall be executed;

(*c*) any other matter for which provision is required to be made for the efficient discharge of its duties or business.

(2) The Board may also make regulations for carrying out the objects of a scheme which has come into force under this Act.

Appointment of Chairman[1]*.

8. [2]* The [3][State] Government shall appoint a Chairman. The Chairman so appointed shall hold office for a period of three years from the date of his appointment:

[4][Provided that the Chairman of the Board established for the first time immediately after the coming into force of this Act shall in the first instance be appointed for a period of one year, but shall be eligible for reappointment every year for the total period not exceeding five years from the date of his appointment.]

2* * * * * *

Appointment of [5]* officers and servants.

9. (1) The [3][State] Government may appoint [6][the Secretary and] such other officers and servants as may be required to enable the Board to discharge its functions under this Act.

(2) The Board may, with the previous sanction of the [3][State] Government, consult such technical advisers, as it thinks necessary for the purpose of carrying out the objects of this Act and they shall be paid such remuneration as may be determined by the Board with the previous sanction of the [3][State] Government.

(3) The officers and servants [7][appointed under sub-section (1)] shall be the servants of the [3][State] Government and they shall draw their pay and allowances from the [State] revenues.

Board to pay costs on account of pay, pension, etc., of officers and servants.

10. The Board shall pay every year out of its fund to the [3][State] Government such cost as the [3][State] Government may determine on account of the pay, pension, leave and other allowances of the officers and servants appointed under this Act.

Powers and duties of Board.

11. (1) It shall be the duty of the Board to promote the development of khar lands in the most efficient and economical manner.

---

1 The words "and Secretary" were omitted by Bom. 18 of 1949, s.3.

2 The brackets and figure "(1)" and sub-section (2) were omitted, *ibid.*

3 This proviso was substituted for the original, *ibid.*

4 The word "other" was omitted, *ibid.*, s. 4.

5 These words were inserted, *ibid.*

6 This portion was inserted by Bom. 18 of 1949, s. 3.

7 The word "State" was substituted for the word "Provincial" by the Adaptation of laws order, 1950.

(2) Without prejudice to the generality of the foregoing power, the Board may—

(*a*) cause survey to be made of all the khar and tidal lands in the [1][State] to which this Act applies ;

(*b*) prepare a list of—

(*i*) all embankments,

(*ii*) the lands benefited or to be protected by each such embankment,

(*iii*) the names of landlords and tenants of such lands;

(*c*) from units having regard to the contours of embankments constructed or to be constructed for the protection of lands and the homogeneity of the plots of lands protected or to be protected thereby;

(*d*) prepare schemes for the construction, maintenance and preservation of embankments and other prescribed objects;

(*e*) remove encroachments on inland waterways;

(*f*) superivse all work in connection with the better cultivation of khar lands;

(*g*) reclaim tidal lands for the purpose of bringing them under cultivation; and

(*h*) generally do all that is necessary for carrying out the objects of the Act.

Power of Board to prepare scheme.

12. (1) The Board may prepare a scheme for each unit for the purpose of carrying out its duties under section 11.

(2) A scheme prepared under sub-section (1) shall contain the following particulars, namely :—

(*i*) the objects of the scheme;

(*ii*) the approximate area of the lands likely to be included in or affected by the scheme;

(*iii*) a plan showing the approximate area included in or affected by the scheme;

(*iv*) the persons, including the [2][Government], affected by the scheme;

(*v*) the kind of embankment to be constructed or maintained under the scheme;

(*vi*) a detailed estimate of the cost of the scheme;

(*vii*) such other particulars as may be prescribed.

Publication of scheme.

13. (1) The scheme prepared under section 12 shall be published in the *Official Gazette* and in the village and at the headquarters of the taluka or mahal and of the district in which the lands proposed to be included in the scheme are situate.

(2) The Board shall, on publication of the scheme, require all persons affected by the scheme who wish to make any objections to the scheme or part thereof to submit their

---

1 The word "State" was substituted for the word "Province" by the Adaptation of laws order, 1950.

2 The word "Government" was substituted for the word "Crown" by *ibid.*

objections in writing to such person as the Board may authorize in this behalf or appear before him within one month of the publication of the scheme in the *Official Gazette* under sub-section (1) or within fifteen days from the date of the publication of the scheme in the village under sub-section (1) whichever period expires later.

Report of authorised person.

14. (1) The person authorised under sub-section (2) of section 13 shall hear such objections as are made to him in person, consider all objections duly submitted under the said sub-section (2) and submit his report together with the objections to the Board.

(2) Such person may, while submitting his report under sub-section (1), recommend any modifications which in his opinion are required in any of the particulars contained in the scheme prepared by the Board under section 12.

Power of [1][State] Government to sanction scheme with or without modification.

15. (1) After consideration of the objections and the report submitted to it under sub-section (1) of section 14, the Board shall within the period prescribed submit the draft scheme with any modifications which it may have made therein together with the objections forwarded to it, to the [1][State] Government and shall at the same time apply for its sanction.

(2) After receiving such application and after making such inquiry, as it may think fit, the [1][State] Government may within the period prescribed sanction the scheme with or without modification and subject to such conditions as it may think fit to impose or refuse to give sanction.

(3) If the scheme is sanctioned under sub-section (2) it shall be published in the *Official Gazette* and in the village and at the headquarters of the taluka or mahal and of the district in which the lands included in the scheme are situate.

(4) In considering the objections, the decision of the Board on the question whether or not any land included in the scheme, is benefited by, or will be protected under, the scheme shall be conclusive evidence on the question.

Effect of scheme.

16. On the date on which the scheme is published in the *Official Gazette* under sub-section (3) of section 15 it shall come into force and shall have effect as if it were enacted in this Act.

Execution of scheme.

17. After the scheme has come into force under section 16, the Board shall execute the scheme in accordance with the rules prescribed in that behalf.

Power of Board to make regulations.

18. For the purpose of carrying out the objects of the scheme which has come into force under section 16, the Board may make regulations requiring any person or class of persons who in the opinion of the Board is or are interested in or affected by the scheme or the public generally to take certain action or to refrain from doing certain acts in respect of any matters supplementary and incidental to the scheme.

---

[1] The word "State" was substituted for the word "Provincial" by the Adaptation of laws order, 1950.

Committees for units.

19. The Board shall appoint a Committee for each unit to be constituted in the prescribed manner and it shall be the duty of the Committee so appointed to maintain and repair embankments included in the unit to which the scheme relates. The Committee shall exercise such powers and perform such other duties as the Board may determine.

Acquisition of land, right or interest.

20. If at any time, on an application of the Board, it appears to the [1][State] Government that any land or the right or interest of any person in any land should for the purposes of any scheme under the Act be compulsorily acquired, it shall be lawful for the [1][State] Government to publish a notification to that effect in the *Official Gazette*. The notification so published shall be deemed to be a declaration under section 6 of the Land Acquisition Act, 1894, I of 1894. and shall be conclusive as if it was made under the said provision and the land, right or interest in the land shall be deemed to be needed for a public purpose within the meaning of the said Act. On the publication of the notification, the Collector shall proceed to take order for the acquisition of the land, right or interest, as the case may be, and the provisions of the said Act shall *mutatis mutandis* apply to the determination of the amount of compensation, the apportionment of the compensation and other matters relating to the acquisition of the said land, right or interest. The [State] Government may make rules in all matters connected with the enforcement of the said provisions in so far as they are applicable to the acquisition of such land, right or interest ;

Provided that where any land which is acquired has remained fallow for three successive years immediately preceding the date of the notification, the market value of such land shall not be assessed to be more than twice the amount of annual assessment payable in respect thereof.

Claim for compensation for consequential damage.

21. Subject to the provisions of section 23, whenever any land other than land acquired for the purposes of this Act or any right of fishery, right of drainage, right of the use of water or other right of property shall have been injuriously affected by any act done, or any scheme executed, under the provisions of this Act, the person in whom such property or right is vested may prefer a claim in writing to the Collector for compensation and thereupon the provisions of the Land Acquisition Act, 1894, shall, so far as may be, *mutatis mutandis*, I of 1894. apply for the determination of the compensation, apportionment and payment thereof.

Limitation to claim for compensation.

22. No claim under section 21 shall be entertained if it is made later than two years next after the completion of the work by which such right is injuriously affected.

No compensation in certain cases for the use or removal of earth.

23. Any land which, before the commencement of this Act, has been used for the purpose of obtaining earth or other materials for the construction or repair of any embankment shall be deemed to be at the disposal of the Board for such purpose without payment of compensation for the use or removal of such earth or other materials.

[1] The word "State" was substituted for the word "Provincial" by the Adaptation of laws order, 1950.

Power of Board to regulate fishing rights.

24. (1) Notwithstanding any custom, usage, law or contract to the contrary no person shall fish or exercise the right of fishery in any water on any tidal or khar land to which the provisions of this Act apply except under a licence granted by the Board in this behalf.

(2) The licence granted under sub-section (1) shall be granted on the payment of such fees and subject to such restrictions and on such conditions and shall be in such form and contain such particulars as may be prescribed.

Contribution towards cost of scheme.

25. (1) The cost of the scheme which has come into force under section 16 shall be met by a contribution by the [1][State] Government and the landlords and tenants in the proportion specified in sub-section (2).

(2) The [1][State] Government may contribute 40 per cent. of the cost and the landlords and tenants shall respectively contribute 40 per cent. and 20 per cent. of such cost :

Provided that in any case where any land included in the scheme has not been leased to a tenant, the contribution to be borne by the owner of the land shall be 60 per cent. of such cost :

Provided further that the [1][State] Government may prescribe by rules made in this behalf the manner in which the contribution of 20 per cent. may be levied from tenants and to the extent of the same percentage from owners in lieu of cash payment.

Application for loan.

26. The landlords and tenants of lands who are not able to pay their share of the contribution towards the cost of the scheme under section 25 may within the prescribed period make an application to the [1][State] Government for the grant of a loan for the purpose of paying their share of such contribution.

Power of [1][State] Government to grant loans.

27. When an application for a loan is made under section 26, the [1][State] Government may grant the loan in accordance with the rules from time to time made in this behalf.

Recovery of loans.

28. Every loan made in accordance with such rules, all interest (if any) chargeable thereon and the costs (if any) incurred in making or recovering the same shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety.

Liability of joint borrowers as among themselves.

29. When a loan is granted under section 27 to persons on such terms that all of them are jointly and severally bound to the [1][State] Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed, marked or sealed by each of them or his agent duly authorized in this behalf and by

1 The word "State" was substituted for the word "Provincial" by the Adaptation of laws order 1950.

the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Forfeiture of lease of land for failure to pay contribution.

30. If any person holding any land on lease from the [1][State] Government fails to pay his share of the contribution under section 25 in respect of such land, within such time as the [1][State] Government may fix to the [1][State] Government, the Collector may dispose of the land in accordance with the rules made in this behalf under section 46. Such lease shall be determined by forfeiture to the [1][State] Government, notwithstanding anything contained in any law for the time being in force and unless the Collector otherwise directs, be freed from all rights, incumbrances and equities theretofore, created in favour of any person other than the [2][Government] in respect of such land.

Levy of annual contribution.

31. (1) All landlords and tenants and all owners of lands benefited or protected by embankments included in a scheme under this Act shall pay to the Board an annual contribution which shall be levied and paid in such manner and at such rate and subject to such conditions, if any, as may be prescribed.

(2) The decision of the Board on the question whether any land is benefited or protected by an embankment under this Act shall be conclusive evidence on such question.

Presentation of budget estimates.

32. The budget estimates of the Board for each financial year shall be presented to the Board before the 1st day of March in the preceding financial year by the Chairman and the budget as finally passed shall be subject to the approval of the [1][State] Government which shall have power to reduce any item in the estimates of expenditure and to restore any provision which it considers to be essential for the safe and efficient conduct of the business of the Board.

Restriction on unbudgeted expenditure.

33. (1) Save where in the opinion of the Board circumstances of extreme urgency have arisen, no sum exceeding Rs. 25,000 shall be expended by the Board unless such sum has been included in the budget approved by the [1][State] Government under section 32.

(2) Where any such sum is expended under circumstances of extreme urgency a report thereon shall be made as soon as practicable to the [1][State] Government.

Custody and disbursement of monies.

34. (1) All monies received by the Board shall be credited into a separate account maintained for the purpose in the Government Treasury.

(2) All funds for disbursement shall be drawn by means of cheques which shall be signed by the Chairman of the Board or such other member of the Board as the Chairman may, with the approval of the Board, authorize in this behalf.

Provisions for audit.

35. The accounts of the Board shall be maintained in such form and shall be subject to such audit, by such agency and on such terms and conditions as the [1][State] Government may prescribe.

---

[1] *ibid.*

[2] The word "Government" was substituted for the word "Crown" by *ibid.*

Supply of copies of budget and accounts.

36. The Board shall furnish each financial year to the [1][State] Government a copy of its budget and of the accounts of the preceding financial year.

Fund.

37. (1) The Board shall have its own fund and the following monies shall be placed to the credit thereof—

(*a*) the fees received under section 24;

(*b*) all contributions paid to the Board under section 25; and

(*c*) seventy-five per cent. of the annual contributions paid to the Board under section 31.

(2) The balances of the fund and the interest accruing thereon shall be expended by the Board in such manner and for such purposes as may be prescribed.

Sinking fund.

38. The Board shall have also a sinking fund to which shall be credited twenty-five per cent. of the annual contributions paid to the Board under section 31. The Board may apply the sinking fund to the repair of breaches in embankments included in a scheme caused by tempest, flood or other irresistible force and to such other purposes as may be prescribed.

Penalty.

39. Any person who contravenes or causes any contravention of any of the provisions of a scheme which has come into force under section 16 or any of the regulations made under section 18 or does any act which causes damage to any of the works carried out under the scheme or obstructs any person in the due exercise of his powers or execution of his duties under this Act or contravenes the provisions of any rules made, or fails to comply with the conditions of a licence granted, under this Act, shall, on conviction, be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

Recovery of amounts due.

40. Save as otherwise expressly provided in section 30, all amounts due under this Act shall be recoverable as arrears of land revenue.

Right of entry.

41. For the purpose of preparing, sanctioning or executing any scheme or otherwise for carrying out the objects of this Act, any person duly authorized by the Board or the Committee appointed by the Board under this Act may, after giving such notice as may be prescribed, to the owner or occupier or other person interested in any land enter upon, survey and mark out such land and do all acts necessary for such purposes.

Inquiries to be held summarily.

42. (1) The person authorized under sub-section (2) of section 13 shall, if he desires to make any inquiry, make the inquiry in the manner provided for holding a summary inquiry under the Bombay Land Revenue Code, 1879, and all the provisions contained in the said Code relating to the holding of a summary inquiry shall, so far as may be, apply.

Bom. V of 1879.

[1] The word "State" was substituted for the word "Provincial" by *ibid.*

(2) Such person as well as the Board shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the revenue officers under the Bombay Land Revenue Code, 1879. Bom. V of 1879.

Registration of document, plan or map in connection with scheme not required.

43. (1) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any document, plan or map prepared, made or sanction in connection with a scheme which has come into force. XVI of 1908.

(2) All such documents, plans and maps shall for the purposes of sections 48 and 49 of the Indian Registration Act, 1908 be deemed to be registered in accordance with the provisions of that Act : XVI of 1908

Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

Certain persons to be public servants.

44. The Chairman, members and Secretary of the Board, the members of any committee or officers appointed by the Board and the person authorized under sub-section (2) of section 13 shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860.

Protection of persons acting in good faith.

45. (1) No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorized under this Act in respect of anything in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

(2) No suit or prosecution shall be instituted against any public servant or person duly authorized under this Act in respect of anything done or intended to be done under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Rules.

46. (1) The [1][State] Government may, by notification in the *Official Gazette*, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters :—

(*a*) the manner of electing panel of representatives by landlords and tenants of a unit under sub-section (3), and the qualifications to be possessed by non-official members of the Board under sub-section (5), of section 3;

(*b*) the other objects for which a scheme may be prepared by the Board under clause (*d*) of sub-section (2) of section 11;

(*c*) the other particulars to be prescribed under clause (*vii*) of sub-section (2) of section 12;

(*d*) the period within which the Board shall submit the draft scheme, and the period within which the [1][State] Government may sanction the draft scheme, under section 15;

(*e*) execution of a scheme under section 17;

(*f*) the manner of constituting a committee for each unit under section 19;

(*g*) matters connected with the acquisition of land, right or interest under section 20;

(*h*) the fees for the grant of a licence, the restrictions subject to which and the conditions on which a licence shall be granted, the form of the licence and the particulars to be contained therein, under section 24;

(*i*) the manner in which the contribution of 20 per cent. may be levied from tenants and to the extent of the same percentage from owners in lieu of cash payment under section 25;

(*j*) the period within which an application for a loan may be made under section 26;

(*k*) grant of a loan under section 27;

(*l*) disposal of land under section 30;

(*m*) the manner in which, the rate at which and the conditions subject to which the annual contribution shall be levied and paid under sub-section (1) of section 31;

(*n*) the form of accounts to be maintained, the agency of audit and the terms and conditions of audit, under section 35;

(*o*) the manner in which and the purposes for which balances of the fund and the interest accruing thereon shall be expended under sub-section (2) of section 37;

(*p*) the other purposes for which sinking fund may be applied under section 38;

(*q*) the notice to be given under section 41;

(*r*) the manner in which the documents, plans and maps relating to the sanctioned scheme shall be accessible to the public under the proviso to sub-section (2) of section 43 ;

(*s*) any other matter which is or may be prescribed under this Act.

(3) All rules made under this section shall be subject to the condition of previous publication.

THE MADRAS LAND IMPROVEMENTS SCHEME (CONTOUR BUNDING AND CONTOUR TRENCHING) ACT, 1949

Madras Act No. XXII of 1949

An Act to provide for the preparation and execution of land improvement schemes in the [1]Province of Madras including contour bunding and contour trenching schemes.

WHEREAS it is expedient to provide for the preparation and execution of land improvement schemes, in the Province of Madras, including contour bunding and contour trenching schemes; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Land Improvement Schemes (Contour Bunding and Contour Trenching) Act, 1949.

(2) It extends to the whole of the [1][State] of Madras.

(3) This section shall come into force at once; and the remaining provisions of this Act shall come into force in such areas and on such dates as the Government may by notification in the *Fort St. George Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Board" means the Board of Revenue and where the Government, by notification in the *Fort St. George Gazette* empower any other authority or officer to perform the functions of the Board under this Act, means such other authority or officer ;

(*b*) "Collector" means the Collector of the district;

(*c*) "Executing Officer" means an officer appointed under section 8 ;

(*d*) "Government " means the [2][State] Government;

(*e*) "Inquiring Officer" means an officer appointed under section 5 (2) (*b*);

(*f*) "owner" means—

(*i*) any person holding land in severalty or jointly or in common under a ryotwari settlement or in any way subject to the payment of revenue direct to the Government, or

(*ii*) a landholder as defined in the Madras Estates Land Act, 1908, or a ryot as defined in that Act, or Madras Act I of 1908.

(*iii*) an inamdar, not being a landholder defined as aforesaid, or

---

[1] The word "State" was substituted for the word "Province" by the Adaptation of laws order 1950

[2] The word "State" was substituted for the word 'Provincial' by *ibid.*

Madras Act XIV of 1930.

(*iv*) a landlord as defined in the Malabar Tenancy Act, 1929, or a tenant as defined in that Act,

and includes a mortgagee with possession, a lessee or a sub-lessee;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "record of rights" or "record" means the record of rights and liabilities published under section 13;

(*i*) "scheme" means any land improvement scheme, prepared under this Act including a contour bunding and contour trenching scheme;

(*j*) "work" means any work carried out or to be carried out under any scheme.

Power of Govt. to direct Board to prepare draft scheme in respect of specified area.

3. The Government may direct the Board to prepare detailed plans and estimates for a scheme in respect of any area.

Preparation of draft scheme.

4. (1) The Board shall thereupon appoint an officer to prepare, in accordance with its instructions, a draft scheme setting out—

(*a*) the objects of the scheme;

(*b*) the boundaries and approximate area of the lands to be included in the scheme;

(*c*) the persons, including the Government, who will be affected by the scheme;

(*d*) the works, if any, to be carried out under the scheme;

(*e*) such other particulars as may be prescribed.

(2) The draft scheme so prepared shall be submitted to the Board which may approve it either with or without modifications or may reject it and prepare, or cause to be prepared, a fresh scheme in lieu thereof.

Publication of draft scheme.

5. (1) Copies of the scheme as approved or prepared or caused to be prepared by the Board, together with the connected maps and plans, if any, shall be forwarded to the Collector and shall be made available by him for inspection by the public free of charge in every village, and at the headquarters of the taluk, in which the lands proposed to be included in the scheme are situated, at such places as the Collector may direct.

(2) A general notice shall be published in the District Gazette and also in such newspapers, if any, circulating in the locality as the Collector may direct—

(*a*) intimating that the scheme has been prepared and that copies thereof have been kept and may be inspected by the public free of charge at the places aforesaid and also that copies of the scheme may be obtained on payment of the cost thereof (which shall be specified in the notice) from the Collector or the Tahsildar and also from any other officer specified in the notice ;

(*b*) requiring all persons affected by the scheme who wish to object to it or to any part thereof, to submit their objections in writing to an officer appointed by the Board in that behalf, or to appear before him and state their objections, within thirty days of the publication of the notice.

(3) Separate notices to the same effect shall also be served in the prescribed manner on all owners of the lands affected by the scheme and on all persons shown in the village records as interested in such lands, so far as such service may be practicable.

Inquiring Officer to consider objections and submit report to Board.

6. The Inquiring Officer shall inquire into the objections received or recorded by him and submit them to the Board together with his report thereon and his recommendations, if any, for the modification of the scheme.

Power of Board to sanction or reject scheme.

7. (1) After considering the objections and the report and recommendations of the Inquiring Officer and any further report which the Board may require from him, the Board may—

(*a*) sanction the scheme with or without modifications; or

(*b*) reject the scheme, and direct that, in lieu thereof, a fresh scheme be prepared and submitted for its sanction.

(2) If the scheme is sanctioned by the Board, the scheme as sanctioned shall be published in the District Gazette and also in every village, and at the headquarters of the taluk, in which the lands included in the scheme are situated, at such places and in such manner as the Collector may direct.

Copies of the scheme shall also be sold at the offices of the Collector and of the Tahsildar and at such other offices as the Collector may specify in this behalf.

(3) The scheme shall come into force and shall have effect as if it were enacted in this Act, on and from the date of its publication in the District Gazette.

Execution of scheme.

8. When a scheme comes into force, the Board shall appoint an officer to execute it.

Liability of owner to carry out works.

9. (1) The owner of any land in which any works are carried out by the Government in pursuance of the scheme shall pay the cost or part of the cost of such works, if the scheme so provides.

(2) If any owner desires to carry out any of the said works himself, he shall give notice in writing to that effect in the prescribed manner to the Executing Officer within twenty-one days of the publication of the scheme in the District Gazette.

(3) The Executing Officer shall thereupon fix the date before which the owner shall carry out the works specified by him and inform him, by notice given in the prescribed manner, of such date and of the details of the works to be carried out.

(4) If any work is not carried out to the satisfaction of the Executing Officer before the date fixed in that behalf, or within such further time as he may allow, or if the owner intimates to the Executing Officer in writing that he is unable to carry out any work before the date or within the time aforesaid, the Executing Officer may cause the work to be carried out and recover the expenses from the owner.

(5) Any amount payable under sub-section (1) or sub-section (4) shall, at the option of the person liable to pay it, be paid either in a lump sum or with interest at such rate as may be prescribed, in equated annual instalments not exceeding twenty in number :

Provided that where a person who elects to pay in instalments, commits default in the payment of any instalment, the entire unpaid balance shall become immediately payable.

Works in Government lands.

10. In land owned by the Government, all works shall be carried out by, or under the authority of, the department having the control or management of the land, unless the Board directs the Executing Officer to carry out the works himself.

Contribution to cost of works.

11. (1) If in consequence of any work carried out in any land, any person (including the Government) other than the owner of the land is, in the opinion of the Board, likely to be benefited, such person shall pay to the owner of the land, by way of contribution, such amount and within such time as the Board may determine :

Provided that, before any person is required to pay any such contribution, he shall be given a reasonable opportunity of making his representations, if any, in regard to the matter :

Provided further that the Board may, in its discretion, permit any such contribution to be paid with interest at such rate as it may determine in equated annual instalments not exceeding twenty in number :

Provided also that any such contribution may be waived by the Government in whole or in part, in respect of any work carried out in land owned by them.

(2) If default is made in the payment of any such contribution or of any instalment thereof, as the case may be, within the time determined in that behalf in pursuance of sub-section (1), the contribution or where payment is made in instalments, the entire unpaid balance (which shall be deemed to have become payable immediately on the occurrence of the default) shall be recovered by the Board and paid to the owner.

Assessment not to be reduced.

12. The assessment on any land shall not be reduced merely on the ground that the unprofitable area therein has increased as the result of any work, notwithstanding anything to the contrary in any orders issued by the Government or the Board of Revenue.

Record of rights and liabilities.

13. (1) The Executing Officer shall prepare, in the prescribed manner, a record of rights and liabilities setting out—

(*a*) the names of the owners of the lands included in the scheme;

(*b*) a map and plan, if any, showing the situation, nature and dimensions of all works ;

(*c*) in regard to each such work, the owner or owners liable to maintain and repair it, and the extent of the liability of each such owner;

(*d*) the rights, if any, of the owners or any of them in regard to the use of any such work ;

(*e*) such other particulars as may be prescribed.

(2) If, on any matter which is not covered by the scheme, a dispute exists which, in the opinion of the Executing Officer, it is necessary to decide for the purpose of preparing the record, he shall inquire into and decide the dispute.

(3) After the record has been so prepared, a notice shall be published in the prescribed manner, in the language of the district, intimating that the record has been prepared and that copies thereof in the said language are kept and may be inspected at such places as may be specified in the notice, provided that there shall be at least one such place in every village, and at the headquarters of the taluk, in which the lands to which the record relates are situated.

(4) Against any entry in the record so published, an appeal shall lie to the Collector within two months from the date of publication of the notice referred to in sub-section (3).

(5) The Collector may also revise the record from time to time, subject to such rules as may be prescribed, and whenever the record is so revised, notice shall be given of the fact of such revision in the prescribed manner, and the record kept at each of the places referred to in sub-section (3) shall also be revised accordingly.

(6) Every entry in the record shall be evidence of the matter referred to in such entry, and shall be presumed to be correct until the contrary is proved or until a new entry is lawfully substituted therefor.

(7) In any suit or proceeding in which the correctness of any entry in the record is called in question, whether directly or indirectly, the Court shall, before the final settlement of issues in the case of a suit and at as early a stage as possible in the case of any other proceeding, give notice of the suit or proceeding to the Collector, and shall make the [1][State] of Madras a party to the suit or proceeding, if moved to do so by the Collector.

Obligation of owners of lands to maintain and repair works.

14. (1) Every owner of land who is bound to maintain or repair any work in accordance with the entries in the record shall do so to the satisfaction of the Collector, and all repairs shall be executed within such time as he may fix or such further time as he may allow.

1 The word "State" was substituted for the word "Province" by the *ibid.*

(2) If any owner fails so to maintain or repair the work, the Collector may—

(*a*) authorize any other person who, in his opinion, is interested in such maintenance or repair, or any officer appointed by the Government in this behalf, to maintain or repair the work; and

(*b*) recover the expenses incurred by such person or officer from the owner and pay the same to such person or to the Government, as the case may be.

(3) Any dispute as to the amount of the expenses shall be decided by the Collector, and his decision shall be final.

Powers of entry, etc., on land.

15. Any of the following officers or persons may after giving such notice as may be prescribed to the occupier of any land, and if the occupier is not the owner also to the owner in all cases where it is practicable to give notice without undue delay to the owner, enter upon, survey and demarcate such land and do all such other acts as may be necessary for the purpose of preparing, inquiring into, or executing any scheme or of preparing any record of rights—

(*a*) The officer appointed by the Board under section 4.

(*b*) The Inquiring Officer.

(*c*) The Executing Officer.

(*d*) Any officer or person authorized by the Board, the Collector, or any of the officers referred to in clauses (*a*), (*b*) and (*c*).

Amounts to be recovered as arrears of land revenue.

16. All amounts payable to, or recoverable by, the Government, the Board, or any officer of the Government, under this Act may be recovered as if they were arrears of land revenue.

Inquiries to be held summarily.

17. Any authority having power to make an inquiry under this Act shall make the inquiry in the manner provided in the Madras Revenue Inquiries Act, 1893, and shall have all the powers which are or may be vested in revenue officers by that Act and by the Madras Revenue Summonses Act, 1869.

Madras Act V of 1893.

Madras Act III of 1869.

Provisions in respect of records, documents, plans or maps connected with sanctioned scheme.

Central Act XVI of 1908.

18. (1) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any record, document, plan, or map prepared, made or sanctioned in connexion with a scheme which has come into force; and all such records, documents, plans and maps shall, for the purposes of sections 48, 49 and 50 of that Act, be deemed to have been duly registered in accordance with its provisions.

(2) Subject to such rules, and to the previous payment of such fees, as may be prescribed—

(*a*) all such records, documents, plans and maps shall be open to the inspection of any person applying for such inspection; and

(*b*) copies of such records, documents, plans and maps shall be given to any person applying for such copies.

Delegation of powers by Collector.

19. Subject to such rules as may be prescribed, the Collector may delegate any of the powers conferred on him by or under this Act, to any officer in the district or having jurisdiction over the district or any part thereof.

Certain officers to be public servants.

20. All officers and persons authorized or appointed in pursuance of sections 4, 5, 8, 14 and 15 shall be deemed to be public servants for the purposes of this Act and the Indian Penal Code.

Bar of certain suits, prosecutions, etc.

21. (1) No suit or other proceeding shall lie against the Government for any act done or purporting to be done under this Act or any rule made thereunder. Central Act XLV of 1860.

(2) (*a*) No suit, prosecution or other proceeding shall lie against any officer or servant of the Government or any public servant for any act done or purporting to be done under this Act or any rule made thereunder, without the previous sanction of the Government.

(*b*) No officer or servant of the Government, and no public servant, shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith and in the course of the execution of the duties or the discharge of the functions imposed by or under this Act.

Limitation for certain suits and prosecutions.

22. No suit, prosecution or other proceeding shall be instituted against any officer or servant of the Government or any public servant for any act done or purporting to be done under this Act, after the expiry of one year from the date of the act complained of.

Power to make rules.

23. (1) The Government may, by notification published in the *Fort St. George Gazette*, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) all matters expressly required or allowed by this Act to be prescribed ;

(*b*) the manner in which publicity shall be given to the appointment of the officer referred to in section 4, sub-section (1) ;

(*c*) the time within which any amount due under section 9, sub-section (1) or sub-section (4), shall be payable; the manner in which such amount shall be apportioned where there are two or more owners in respect of the same land; and the time within which, and the authority or officer to whom, any option exercised in pursuance of section 9, sub-section (5), shall be intimated; and

(*d*) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the Government necessary for giving effect to the purposes of this Act.

(3) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

THE BOMBAY IRRIGATION ACT, 1879[1] (AS AMENDED UPTO 1950)

Bombay Act No. VII of 1879[1]

An Act to provide for Irrigation in the Bombay Presidency

WHEREAS it is necessary to make provision for the construction, maintenance and regulation of canals, for the supply of water therefrom and for the levy of rates for water so supplied, in the Bombay Presidency; It is enacted as follows :— Preamble.

PART I

PRELIMINARY

1. This Act may be called the Bombay Irrigation Act, 1879. Short title.

It extends to the whole of the [2][State] of Bombay, except the city of Bombay. Local extent.

2. [*The amendments made by s. 2 of this Act have been incorporated in the Bombay Land Revenue Code*, 1879.]

3. In this Act, unless there be something repugnant in the subject or context,— Interpretation clause.

(1) "canal" includes—

(*a*) all canals, channels, pipes and reservoirs constructed, maintained or controlled by [3][any Government] for the supply or storage of water ;

(*b*) all works, embankments, structures and supply and escape-channels connected with such canals, channels, pipes or reservoirs, and all roads constructed, for the purpose of facilitating the construction or maintenance of such canals, channels, pipes or reservoirs;

(*c*) all water-courses, drainage-works and flood embankments as hereinafter respectively defined ;

(*d*) any part of a river, stream, lake, natural collection of water or natural drainage-channel, to which the

---

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1878, Pt. V, p. 126; or Report of the Select Committee, *see ibid.*, 1879, Pt. V, p 83, and for Proceedings in Council, *see ibid.*, 1879, Pt. V, pp. 3, 115 and 151.

[2] Substituted by the Adaptation of Laws Order 1950.

[3] The words "any Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[1][State Government] may apply the provisions of section 5, or of which the water has been applied or used before the passing of this Act for the purpose of any existing canal ;

(*e*) all land belonging to [2][the Government] which is situate on a bank of any canal as hereinbefore defined, and which has been appropriated under the orders of [3][any Government] for the purpose of such canal;

(2) "water-course" means any channel or pipe not maintained at the cost of [4][the [1][State] Government], which is supplied with water from a canal, and includes all subsidiary works connected with any such channel or pipe, except the sluice or outlet through which water is supplied from a canal to such channel or pipe ;

(3) "drainage-work" means any work in connection with a system of irrigation or reclamation made or improved by [3][any Government] for the purpose of the drainage of the country, whether under the provisions of section 15 or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works connected therewith, but does not include works for the removal of sewage from towns ;

(4) "flood-embankment" means any embankment constructed or maintained by [3][any Government] in connection with any system of irrigation or reclamation-works for the protection of lands from inundation or which may be declared by the [1][State Government] to be maintained in connection with any such system, and includes all groins, spurs, dams and other protective works connected with such embankments ;

(5) "Collector" [5]* * * * includes any officer appointed by the [1][State Government] to exercise all or any of the powers of a Collector under this Act ;

(6) "Canal-officer" means any officer lawfully appointed or invested with powers under section 4;

[6][(6A) "Lands under irrigable command of a canal" means such lands as are irrigated or capable of being irrigated from the canal being under its command and shall include also such lands as are or shall be deemed to be irrigated within the meaning of section 48.]

(7) "owner" includes every person having a joint interest in the ownership of the thing specified; and all rights and obligations which attach to an owner under the provisions

---

[1] The words "State Government" were substituted for the word "Provincial Government" by the Adaptation of Laws Order 1950.

[2] The words "the Government" were substituted for the word the "Crown", *ibid.*

[3] The words "any Government" were substitued for the word "Government", *ibid.*

[4] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

[5] The words "means the head revenue officer of a district and" were repealed by the Bombay General Clauses Act, 1886, (Bom. 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

[6] Clause (6A) was inserted by Bombay Act 59 of 1950.

of this Act shall attach jointly and severally to every person having such joint interest in the ownership.

Appointment of Canal officers.

4. [1][The State Government] or, subject to such orders as may from time to time be passed by [1][the State Government], any [2][servant of the Government] whom the [1][State Government] empowers in this behalf, may—

(*a*) appoint [3]such officers with such designations, and assign to them respectively such powers and duties, under this Act, as [1][the State Government] or such officer may deem fit;

(*b*) invest [3]any [4][servant of the Government], in any department, either personally, or in right of his office, or any other person, with such powers, and impose upon him such duties, under this Act, as [1][the State Government] or such officer may deem fit :

Proviso.

Provided that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority who made it.

PART II

OF THE CONSTRUCTION AND MAINTENANCE OF CANALS

Application of Water for purposes of Canals

Notification when water supply to be applied for purposes of canal.

5. Whenever it appears expedient to the [5][State Government] that the water of any river or stream flowing in a natural channel, or of any lake or any other natural collection of still water, should be applied or used by [6][the State Government] for the purpose of any existing or projected canal, the [5][State Government] may, by notification in the [7][Official Gazette], [8]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.

---

1 The words "the State Government" were substituted for the word "the Provincial Government" by the Adaptation of Laws Order 1950.

2 The words "servant of the Government" were substituted for the words "servant of the Crown", *ibid.*

The words "Provincial Government" were substituted for the words "Governor in Council", *ibid.*

4 For notification issued under this section, *see* Bombay Local Rules and Orders.

5 The words "servant of the Government" were substituted for the words "servant of the Crown" by the Adaptation of Laws Order 1950.

6 The words "the State Government" were substituted for the words "the Provincial Government", *ibid.*

7 The words "Official Gazette" were substituted for the words "*Bombay Government Gazette*", *ibid.*

8 For such a declaration as to the Khari river and its branches, *see* Bombay Local Rules and Orders.

Powers of entry on Land, etc.

Powers of Canal-officers for purpose of so applying water supply.

6. At any time after the day so named, any Canal-officer duly empowered in this behalf may enter on any land, remove any obstruction, close any channel and do any other thing necessary for such application or use of the said water, and for such purpose may take with him, or depute or employ, such subordinates and other persons as he deems fit.

Entry for inquiry.

7. Whenever it shall be necessary to make any inquiry or examination in connection with a projected canal, or with the maintenance of an existing canal, any Canal-officer duly empowered in this behalf, and any person acting under the general or special order of any such Canal-officer, may—

(*a*) enter upon such land as he may think necessary for the purpose, and

(*b*) exercise all powers and do all things in respect of such land as he might exercise and do if [1][the State Government] had issued a notification under the provisions of section 4 of the [2]Land Acquisition Act, 1870, to the effect that land in that locality is likely to be needed for a public purpose, and

(*c*) set up and maintain water-gauges and do all other things necessary for the prosecution of such inquiry and examination.

Power to inspect and regulate water supply

8. Any Canal-officer duly empowered in this behalf, and any person acting under the general or special order of any such Canal-officer, may enter upon any land, building or water-course, 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 land irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to enter for repairs, and to prevent accidents.

9. In case of any accident being apprehended or happening to a canal, any Canal-officer duly empowered in this behalf, and any person acting under the general or special order of any such Canal-officer, may enter upon any land adjacent to such canal, and may take trees and other materials, and execute all works which may be necessary for the purpose of preventing such accident or repairing any damage done.

Notice to occupier of building, etc.

10. When a Canal-officer or other person proposes, under the provisions of any of the three last preceding sections, to enter into any building or enclosed court or garden attached

[1] The words "the State Government" were substituted for the words "the Provincial Government" by the Adaptation of Laws Order 1950.

[2] *See* now the Land Acquisition Act, 1894 (I of 1894).

to a dwelling-house, not supplied with water from a canal, and not 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.

Canal Crossings

Mean of crossing canals to be provided and obstruction to drainage to be avoided.

11. Suitable means of crossing canals shall be provided at such places as the [1][State Government] [2][or any Commissioner if empowered by [3][the State Government] in this behalf] thinks necessary for the reasonable convenience of the inhabitants of the adjacent land; and suitable bridges, culverts or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal.

Removal of Obstructions to Drainage

Provincial Government may prohibit formation of obstructions of rivers, etc., within certain limits.

12. Whenever it appears to the [1][State Government] that injury to the public health, or public convenience, or to any canal or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream or natural drainage-course, the [1][State Government] may, by notification published in the [4][Official Gazette], prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or natural drainage channel, as is comprised within such limits, shall be held to be a drainage work as defined in section 3.

Canal-officer may issue order to person causing obstruction.

13. Any Canal-officer duly empowered in this behalf may, after such publication, issue an order to any person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in such order.

Canal-officer may cause obstruction to be removed.

14. If, within the time so fixed, such person does not comply with the order, the Canal-officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expences shall be recoverable by the Collector as an arrear of land-revenue.

---

1 The words "State Government" were substituted for the words "Provincial Government" by the Adaptation of Laws Order 1950.

2 These words were inserted by s. 2 Sch. I, Pt. II, Serial No 11 of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

3 The words "the State Government" were substituted for the word "the Provincial Government" by the Adaptation of Laws Order 1950.

4 The words "Official Gazette" were substituted for the words "*Bombay Government Gazette*" *ibid.*

Construction of Drainage-works

When drainage works are necessary [State] Government may order scheme to be carried out.

15. Whenever it appears to the [1][State Government] that any drainage work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any land, the [1][State Government] may cause a scheme for such work to be drawn up and carried into execution,

And the person authorized by the [1][State Government] to draw up and execute such scheme may exercise in connection therewith the powers conferred on Canal-officers by sections 7, 8 and 9, and shall be liable to the obligations imposed upon Canal-officers by sections 10 and 34.

PART III

OF WATER-COURSES

Construction of new water-courses

Construction of new water courses by private arrangement.

16. Any person may, with the permission of a Canal-officer duly empowered to grant such permission, construct a new water-course if he has obtained the consent of the holder of the land required therefor.

Application for construction by Canal-Officer of new water course

17. Any person desiring to construct a new water-course, but being unable or unwilling to construct it under a private arrangement with the holder of the land required for the same, may apply, in writing to any Canal-officer duly empowered to receive such applications, stating –

(1) that he is ready to defray all the expenses necessary for acquiring the land and constructing such water-course ;

(2) that he desires the said Canal-officer in his behalf and at his cost to do all things necessary for constructing such water-course.

Procedure when Canal-Officer considers construction of water-course expedient.

18. If the Canal-officer considers the construction of such water-course expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

and upon such deposit being made, shall cause inquiry to be made into the most suitable alignment for the said water-course,

and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof,

and shall forthwith publish a notification in every village through which the water-course 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 such land is situated, for publication on such land.

---

[1] The words "State Government" were substituted for the words "Provincial Government" by the Adaptation of Indian Laws Order in Council.

The said notification shall also call upon any person who wishes to share in the ownership of such water-course to make his application in that respect to the Canal-officer within thirty days of the publication of such notification. Application by person wishing to be joint owner.

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such water-course, and in the cost of acquiring the land for the same, and shall be an owner of such water-course when constructed. If application admitted, applicant liable for share of cost.

19. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the [1]Land Acquisition Act, 1870, as if a declaration had been issued by [2][the State Government] for the acquisition thereof under section 6 of that Act, and as if [2][the State Government] had thereupon directed the Collector to take order for the acquisition of such land under section 7 of the said Act, and (if necessary) as if [2][the State Government] had issued orders for summary possession being taken under section 17 of the said Act. Collector to acquire land.

20. On being put in possession of the land, the Canal-officer shall construct the required water-course; and on its completion shall give to the owner notice thereof, and of any sum payable by him on account of the cost of acquiring the land and constructing the water-course. On such notice being given, such sum shall be due from the owner to the Canal-officer. On receipt of payment in full of all expenses incurred, the Canal-officer shall make over possession of such water-course to such owner. Procedure after construction of water-courses.

Rights and Obligations of owners of Water-courses

21. Every owner of a water-course shall be bound— Obligations of owner of water-courses.

(*a*) to construct and maintain all works necessary for the passage across such water-course, of canals, water-courses, drainage-channels and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands;

(*b*) to maintain such water-course in a t state of repair for the conveyance of water ;

(*c*) to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under the provisions of section 23;

and every owner of a water-course and every person duly authorized under the provisions hereinafter contained to use a water-course shall be entitled— Right of owners and users of water courses.

---

[1] *See* now the Land Acquisition Act, 1894 (I of 1804).

[2] The words "the State Government" were substituted for the words "The Provincial Government" by the Adaptation of Laws Order 1950.

(*d*) to have a supply of water by such water-course, at such rates and on such terms, as may from time to time be prescribed under section 44 and by the rules made by the [1][State Government] under section 70 :

Provided always that any owner of a water-course and, subject to the terms of any agreement between the parties, or to any condition imposed under section 23, any such person as aforesaid may at any time, by giving three months' previous notice in writing in this behalf to a Canal-officer duly empowered to receive such notices, resign his interest in such water-course.

Arrangement with owner by other person.

22. Any person desiring to have a supply of water through a water-course of which he is not an owner may make a private arrangement with the owner for permitting the conveyance of water thereby, or may apply to a Canal-officer duly empowered to receive such applications for authority to use such water-course or to be declared a joint owner thereof.

Canal-officer after inquiry may authorize supply or declare applicant to be joint owner.

23. On receipt of any such application, the Canal-officer shall serve notice on the owner to show cause why such authority should not be granted, or such declaration should not be made, and, if no objection be raised, or if any objection be raised and be found insufficient or invalid, shall, subject to the approval of the Collector, either authorize the applicant to use the water-course, or declare him to be a joint owner thereof on such conditions as to the payment of compensation or rent or otherwise as may appear to him equitable.

Use of land acquired for water-course for other purpose.

24. No land acquired under this Part for a water-course [2][and no land occupied by a water-course constructed under section 92], shall be used for any other purpose without the previous consent of a Canal-officer duly empowered to grant such permission.

If owner fail to execute work or to repair water-course, Canal-officer may execute same.

25. If any owner of a water-course fails to fulfil any obligation imposed upon him by clause (*a*) or (*b*) of section 21, any Canal-officer duly empowered in this behalf may require him by notice to execute the necessary work or repair within a period, to be prescribed in such notice, of not less than fifteen days, and, in the event of failure, may execute the same on his behalf, and, except as hereinafter provided in this section, all expenses incurred in the execution of such work or repair shall be a sum due by such owner to [1][the State Government].

---

[1] The words " State Government" were substituted for the words "Provincial Government" by the Adaptation of Laws Order 1950.

[2] The words and figures "and no land occupied by a water-course constructed under section 2" were inserted by Bom. 14 of 1931, s. 2.

Every person other than an owner who uses any water-course in respect of which any repair has been executed by a Canal-officer under this section shall, in the absence of any agreement between the parties or of any condition imposed under section 23 at the time such person was authorized to use such water-course to the contrary, be liable to pay to [1][the State Government] such proportion of the expenses incurred in the execution of such repairs as shall be determined by the said Canal-officer. Persons using water-course to pay share of expenses of repair.

Settlement of Disputes concerning Water-courses

26. 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 water-course, or among joint owners of a water-course, as to their respective shares of the expense of constructing or maintaining such water-course, or as to the amounts severally contributed by them towards such expense, or as to failure on the part of any owner to contribute his share, Settlement of disputes as to mutual rights and liabilities of persons interested in water course.

any person interested in the matter of such dispute may apply, in writing, to any Canal-officer duly empowered to receive such applications, stating the matter in dispute.

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 if all the persons interested consent, in writing, to his being arbitrator, he may pass his order thereon;

failing such consent, he shall transfer the matter to the Collector, who shall inquire into and pass his order thereon.

Any order passed by the Collector under this section shall remain in force until set aside by a decree of a Civil Court.

PART IV

Of the Supply of Water

Applications for Supply

27. Every person desiring to have a supply of water from a canal shall submit a written application to that effect to a Canal-officer duly empowered to receive such applications, in such form as shall from time to time be prescribed by [1][the State Government] in this behalf. Water to be supplied on written application.

If the application be for a supply of water to be used for purposes other than those of irrigation, the Canal-officer may, with the sanction of [1][the State Government], give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation, control and measurement of the supply as he shall be empowered by [1][the State Government] to impose in each case. and water may be supplied for purpose other than those of irrigation.

[1] The words "the State Government" were substituted for the word "the Provincial Government" by the Adaptation of Laws Order 1950.

Provisions as to Supply

Power to stop water supply.

28. The supply of water to any water-course or to any person who is entitled to such supply shall not be stopped except—

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

(*b*) whenever and so long as any water-course by which such supply is received is not maintained in such repair as to prevent the wasteful escape of water therefrom ;

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

(*d*) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water ;

(*e*) within periods fixed from time to time by a Canal-officer duly empowered in this behalf, of which due notice shall be given ;

[1][(*f*) whenever and so long as it is necessary to stop such supply pending a change in the source thereof by a Canal-officer under section 91.

Duration of supply.

29. When canal-water is supplied for the irrigation of one or more crops only, the permission to use such water shall be held to continue only until such crop or crops shall come to maturity, and to apply only to such crop or crops.

Agreements for supply of water transferable with property in respect of which supply was given ; right to use of water not transferable in other case without permission of Canal-officer.

30. Every agreement for the supply of canal-water to any land, building or other immovable property shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such land, building or other immovable property takes place.

No person entitled to the use of any work or land appertaining to any canal, and, except in the case of any such agreement as aforesaid, no person entitled to use the water of any canal, shall sell or sub-let, or otherwise transfer, his right to such use without the permission of a Canal-officer duly empowered to grant such permission.

PART V

OF THE AWARD OF COMPENSATION

Compensation when claimable

Compensation in cases of ascertainable substantial damage.

31. Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation :

Clause (*f*) was inserted by Bom. 14 of 1931, s. 3.

Provided that no compensation shall be so awarded in respect of any damage arising from— Exceptions.

(*a*) deterioration of climate, or

(*b*) stoppage of navigation, or the means of rafting timber or of watering cattle, or

(*c*) stoppage or diminution of any supply of water in consequence of the exercise of the power conferred by section 5, if no use have been made of such supply within the five years next before the date of the issue of the notification under section 37, or

(*d*) failure or stoppage of the water in a canal, when such failure or stoppage is due to —

(1) any cause beyond the control of [1][the State Government],

(2) the execution of any repairs, alterations or additions to the canal, or

(3) any measures considered necessary by any Canal-officer duly empowered in this behalf for regulating the proper flow of water in the canal, or for maintaining the established course of irrigation;

but any person who suffers loss from any stoppage or diminution of his water-supply due to any of the causes named in clause (*d*) of this section shall be entitled to such remission of the water-rate payable by him as may be authorized by the [1][State Government]. Remission of water-rates when allowable.

32. No claim for compensation under this Act shall be entertained after the expiration of twelve months from the time when the damage complained of commenced, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period. Limitation claims.

33. [*Compensation not claimable in respect of works executed prior to Act.*] *Rep. Act XVI of* 1895.

Summary Decisions

34. In every case of entry upon any land or building under section 6, section 7, section 8, or section 9, the Canal-officer or person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building or other property, Compensation for damage caused by entry on land, etc.

and within one month from the date of such entry compensation shall be tendered by a Canal-officer duly empowered in this behalf to the landholder or owner of the property damaged.

If such tender is not accepted, the Canal-officer shall forthwith refer the matter to the Collector for the purpose of making inquiry as to the amount of compensation and deciding the same.

---

1 The words "the State Government" were substituted for the word "the Provincial Government" by the Adaptation of Laws Order 1950.

Compensation on account of interruption of water-supply.

35. If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in clause (*d*) of section 31, the holder of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector, after consulting the Canal-officer, shall award to the petitioner reasonable compensation for such loss.

Decision as to amount of compensation under either of last two sections conclusive.

36. The decision of the Collector under either of the last two preceding sections as to the amount of compensation to be awarded, or, if in any rule framed under section 70, such decision shall be declared to be appealable, then the decision of the authority to whom the appeal lies, shall be conclusive.

Formal Adjudications

Notice as to claims for compensation in certain cases.

37. As soon as practicable after the issue of a notification under section 5, the Collector shall cause public notice to be given at convenient places, stating that [1][the State Government] intend to apply or use the water as aforesaid, and that claims for compensation may be made before him.

A copy of sections 31 and 32 shall be annexed to every such notice.

Claims to be Preferred to Collector.

38. All claims for compensation under this Act, other than claims of the nature provided for in sections 34 and 35, must be made before the Collector of the district in which such claim arises.

Collector to be guided by Provisions of Land Acquisition Act, 1870.

39. The Collector shall inquire into every such claim and determine the amount of compensation, if any, which should in his opinion be given to the claimant; and sections 11, 12, 14, 15, 18 to 23 (inclusive), 26 to 40 (inclusive), 51 and 58 of the [2]Land Acquisition Act, 1870, shall apply to such inquiries :

Provided that instead of the last clause of the said section 26, the following shall be read :—

"The provisions of this section and of sections 31 and 40 of the Bombay Irrigation Act, 1879, shall be read to every assessor in a language which he understands before he gives his opinion as to the amount of compensation to be awarded."

Diminution in market-value to be considered in fixing compensation.

40. In determining the amount of compensation under the last preceding section, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed ;

and, where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

---

[1] The words "the State Government" were substituted for the words "the Provincial Government", by the Adaptation of Laws Order 1950.

[2] *See* now the Land Acquisition Act, 1894 (1 of 1894).

41. All sums of money payable for compensation awarded under section 39, shall become due three months after the claim for such compensation was made; Compensation when due

and simple interest at the rate of six per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same. Interest.

Abatements of Land-revenue and Rent

42. If compensation is awarded under section 39 on account of a stoppage or diminution of supply of water to any land paying revenue to [1][the State Government], and the amount of the revenue payable on account of such land has been fixed with reference to the water-advantages appertaining thereto, the holder of the said land shall be entitled to an abatement of the amount of revenue payable to such extent as shall be determined by the Collector. Abatement of revenue-demand on interruption of water-supply.

43. Every inferior holder of any land in respect of which such compensation has been paid shall, if he receives no part of the said compensation, be entitled to an abatement of the rent previously payable by him to the superior holder thereof in proportion to the reduced value of the holding; Abatement of inferior holder's rent on interruption of water-supply.

but, if a water-supply which increases the value of the holding is afterwards restored to the said land otherwise than at the cost of the inferior holder, the superior holder shall be entitled to enhance the rent in proportion to such increased value : Enhancement of inferior holder's rent on restoration of water-supply.

Provided that the enhanced rent shall not in any case exceed the rent payable by the inferior holder before the abatement, unless the superior holder shall, independently of the provisions of this section, be entitled so to enhance the previous rent.

PART VI

OF WATER-RATES

Supply Rates

44. Such rates shall be leviable for canal-water supplied for purposes of irrigation, or for any other purpose, as shall from time to time be determined by the [2][State Government]. Determination of rates for supply of canal-water.

If, owing to the construction of a new canal or to the improvement or extension of an existing canal, the amount or duration of any water-supply, in respect of which either no revenue or a fixed amount of revenue has hitherto been paid to [1][the State Government], is increased, rates shall be leviable under this section in respect of the increased water-supply only. Provision for cases in which existing water-supply is improved.

---

[1] The words "the State Government" were substituted for the word "the Provincial Government" by the Adaptation of Laws Order 1950.

[2] The words "Provincial Government" were substituted for the words "Governor-in-Council". *Ibid*

The said rates shall be payable by the person on whose application the supply was granted, or by any person who uses the water so supplied.

Occasional Rates

Liability when person using water unauthorizedly cannot be identified.

45. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom,

or, if no land has derived benefit therefrom, the person, or all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, for the charges which shall be made for such use under the rules prescribed by the [1][State Government] under section 70.

Liability when water runs to waste.

46. If water supplied through a water-course be suffered to run to waste, and if, after inquiry, the person through whose act or neglect such water was suffered to run to waste cannot be discovered,

the person or all the persons chargeable in respect of the water supplied through such water-course shall be liable, or jointly liable, as the case may be, for the charges which shall be made in respect of the water so wasted, under the rule prescribed by the [1][State Government] under section 70.

All questions arising under this and the last preceding section shall, subject to the provisions of section 67, be decided by a Canal-officer duly empowered in this behalf.

Charges recoverable in addition to penalties.

47. All charges for the unauthorized use or for waste of water may be recovered, as water-rates, in addition to any penalties incurred on account of such use or waste.

Percolation and Leakage-rates

Land deriving benefit from percolation liable to water rate.

48. If it shall appear to a Canal-officer duly empowered to enforce the provisions of this section, that any cultivated land within two hundred yards of any canal receives, by percolation or leakage from such canal, an advantage equivalent to that which would be given by a direct supply of canal-water for irrigation,

or that any cultivated land, wherever situate, derives by a surface-flow, or by means of a well sunk within two hundred yards of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal,

he may charge on such land a water-rate not exceeding that which would ordinarily have been charged for a similar direct supply to land similarly cultivated.

For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

---

1 The words "the State Government" were substituted for "the Provincial Government" by the Adaptation of Laws Order 1950.

Betterment Charges

Scheme of irrigable lands under command and betterment charges on construction or improvement, etc, of a canal.

[1][**49.** When the construction of a new canal or the improvement or extension of an existing canal is undertaken, the State Government shall direct an officer empowered in this behalf to prepare a scheme showing the lands under the irrigable command of the canal and the betterment charges leviable on such lands.

Publication of scheme and notice to owners and persons interested.

50. (1) The scheme so prepared shall be published in the *Official Gazette* and in such other manner as may be prescribed by rules.

(2) The officer empowered under section 49 shall also give notice to the persons known or believed to be the owners of or interested in the lands under irrigable command of the canal requiring them to appear before him either personally or by agent at a time and the place therein mentioned (such time not being earlier than fifteen days from the date of the notice) to state their objections, if any,

(*a*) to the inclusion of the lands in the scheme as the lands under irrigable command of the canal, and

(*b*) to the imposition and recovery of the betterment charges on such lands.

Inquiry and award.

51. On the date fixed under section 50 or on such other date to which the inquiry may be adjourned, the officer concerned after holding a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, and after hearing the objections, if any, stated by the persons as required by notice under section 50 make an award. The award shall specify—

Bom. V of 1879

(*a*) the lands under irrigable command of the canal,

(*b*) the increase in value of such lands by the completion of the construction of a new canal or the improvement or extention of an existing canal,

(*c*) the amount of the betterment charges leviable on each of the said lands,

(*d*) the date from which such betterment charges shall be leviable :

Provided that no betterment charges shall be leviable in respect of any land which is unarable (kharaba).

Increase in vlaue and betterment charges.

52. The increase in value on account of the completion of a new canal or the improvement or extension of an existing canal shall be the amount by which the value of the land on the completion date is likely to exceed the value of the land on the construction date and the betterment charges shall be one-half of such increase in value.

Explanation.—For the purposes of this section the State Government shall, by notification in the *Official Gazette*, specify—

(*a*) the date of the commencement of construction of any work in connection with the construction or improvement or extension of a canal, as the construction date ;

[1] Substituted by the Act of 1950.

(*b*) the date of completion of the construction, improvement or extension of a canal as the completion date.

Appeals to the Collector

53. (1) Any person aggrieved by the award may, within sixty days from the date of the award, appeal to the Collector.

(2) The provisions of Chapter XIII of the Bombay Land Revenue Code, 1879, shall apply to such appeals, as if the officer empowered under section 49 was a Revenue Officer and the Collector was his immediate superior. Bom. V of 1879.

Revision by State Government.

54. The State-Government may call for and examine the record of any inquiry under section 51 or of the proceedings in appeal under section 53 for the purpose of satisfying itself of legality or regularity of such inquiry or proceedings and may modify or reverse the award or the decision of the Collector.

Finality of orders of State Government, Collector's decision and award.

55. Any order passed by the State Government in revision under section 54 and subject to such order, the decision of the Collector on appeal under section 53, and subject to the order of the State Government and the decision of the Collector on appeal, the award made under section 51 shall be final.

Betterment charges to be first charge on land to land revenue

56. From the date specified in the award as the date from which the betterment charges shall be leviable, or from such date as may be otherwise specified by the Collector in appeal under section 53 or by the State Government in revision under section 54 as the date from which such charges shall be leviable, the betterment charges recoverable in respect of any land shall, subject to the prior payment of the land revenue if any due to the State Government thereon, be a first charge on the land in respect of which such betterment charges are leviable.

Payment of betterment charges.

56A. The betterment charges shall be payable on the date fixed under the rules made by the State Government under section 70 :

Provided that the owner of the land on which such charges are imposed may execute an agreement in favour of the State Government agreeing to pay the amount of such charges by annual instalments together with interest at such rate and within such period as may be prescribed by rules.

Relinquishment or exchange of land in lieu of the payment of betterment charges.

56B. Notwithstanding anything contained in section 56A, the State Government may allow the owner of the land on which the betterment charges may be payable to relinquish the whole or any part of the land or to deliver it in exchange in favour of the State Government on such conditions as may be prescribed by rules :

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances.

Irrigation cess

Levy of irrigation cess

56C. In addition to the water rates or other charges leviable under the provisions of this Act, there shall be levied in respect of land under irrigable command of a canal, a cess called 'the irrigation cess'.

Liability for irrigation cess.

56D. (1) In the case of unalienated land the occupant, and in the case of alienated land, the superior holder, shall be primarily liable to the State Government for the payment of the irrigation cess, inclusive of all arrears of such cess.

(2) In the case of default by any person who is primarily liable under this section, the irrigation cess including all arrears as aforesaid shall be recoverable from any person in possession of the land :

Provided that where the irrigation cess is recovered under this section from a person who is not primarily liable for the same, such person shall be allowed credit for any payments which he may have duly made to the person who is primarily liable, and shall be entitled to credit, for the amount recovered from him, in account with the person who is primarily liable.

Rate and period of irrigation cess

56E. (1) The irrigation cess payable in respect of any land under the irrigable command of a canal shall be at such rates and for such period as may be fixed by the State Government by notification in the *Official Gazette*.

(2) The determination of such rates and period shall be final and shall not be questioned in any court of law :

Provided that no increase shall be made during such period in the rates so fixed.

Date of payment of irrigation cess.

56F. The irrigation cess recoverable in respect of any land shall be leviable on the date on which the land revenue is leviable in respect thereof.

Recovery of Water-rates and other Dues in Arrears

Payment and recovery of water rate and other dues.

[1][**57.** (1) Every water rate leviable or charged under this Act shall be payable in such instalments and on such dates and to such officers as shall from time to time be determined under the orders of the [2][State] Government or of any Commissioner empowered by the [2][State] Government in this behalf.

(2) Any such rate or the instalment thereof which is not paid on the date when it becomes due shall be deemed an arrear of land revenue due on account of the land for the use of which canal water was supplied or which was benefited by percolation or leakage from any canal and shall be recoverable as such arrear by any of the methods specified in section 150 of the Bombay Land Revenue Code, 1879, including the forfeiture of the said land.

Bom. V. of 1879.

[3][The amount of the bettermnet charges or any of its instalments together with interest thereon, if not paid on the date specified in section 56A and the amount of the irrigation cess if not paid on the date specified in section 56F shall be deemed to be an arrear of land revenue due on account of the land in respect of which it is payable and shall also be recoverable as such arrear by any of the methods specified in section 150 of the Bombay Land Revenue Code, 1879, including the forfeiture of the said land.]

---

1 Section 57 was substituted by Bombay 64 of 1948, s. 2.

2 The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order 1950.

3 Inserted by the Act of 1950

(3) Any rent payable to the owner of a water-course by a person authorized to use such water-course may be paid in such instalments and on such dates as the Canal officer duly empowered to act under section 23 shall direct and no more of such rent shall at any time be payable to the owner thereof than is actually recovered from the person liable to pay.

(4) (*a*) Any other sum due to the [1][State] Government or to a Canal-officer under the provisions of this Act whether on behalf of the [1][State] Government or any other person under Part III of this Act which is not paid when demanded shall, and

(*b*) any rent or instalment thereof payable to the owner of a water-course, which is not paid when it becomes due may, on behalf of the owner,

be recoverable as arrears of land revenue in accordance with the provisions of the Bombay Land Revenue Code, 1879.] Bom. V of 1879.

PART VII

Of obtaining Labour for Canals on Emergencies

Procedure for obtaining labour for works or repairs urgently required.

58. Whenever it appears to a Canal-officer duly empowered to act under this section, that unless some work or repair is immediately executed such serious damage will happen to any canal as to cause sudden and extensive public injury,

or, that unless some clearance of a canal or other work which is necessary in order to maintain the established course of irrigation is immediately executed, serious public loss will occur,

and that the labourers necessary for the proper execution of such repair, clearance or work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of the same so as to prevent such injury or loss,

the said officer may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such repair, clearance or work; and thereupon every able-bodied person who resides or holds land in the vicinity of the locality where such repair, clearance or work has to be executed, and whose name appears in the list hereinafter mentioned, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such repair, clearance or work by labouring thereat as such officer or any person authorised by him in this behalf may direct.

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.

---

[1] The word "State" was substituted for the word "Provincial" by the adaptation of Laws Order 1950.

List of labourers.

59. Subject to such rules as may from time to time be prescribed under section 70 in this behalf, the Collector shall prepare a list of the persons liable to be required to assist as aforesaid, and may from time to time add to or alter such list or any part thereof.

Reports to be made by Canal-officer

60. All orders made under section 58 shall be immediately reported to the Collector for the information of the Commissioner of the Division, and likewise to the Chief Engineer for Irrigation, for the information of [1][the State Government].

PART VIII

OF PENALTIES

For damaging canal, etc.

61. Whoever voluntarily and without proper authority—

(1) damages, alters, enlarges or obstructs any canal;

(2) interferes with, or increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal, or by any means raises or lowers the level of the water in any canal;

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

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

(5) destroys, tampers with, or removes, any apparatus, or part of any apparatus, for controlling, regulating or measuring the flow of water in any canal;

(6) passes, or causes animals or vehicles to pass, in or across any of the works, banks or channels of a canal contrary to rules made under section 70, after he has been desired to desist therefrom;

(7) causes or knowingly and wilfully permits cattle to graze upon any canal or flood-embankment, or tethers or causes or knowingly and wilfully permits cattle to be tethered, upon any such canal or embankment, or roots up any grass or other vegetation growing on any such canal or embankment, or removes, cuts or in any way injures, or causes to be removed, cut or otherwise injured, any tree, bush, grass or hedge intended for the protection of such canal or embankment ;

(8) neglects, without reasonable cause, to assist or to continue to assist in the execution of any repair, clearance or work, when lawfully bound so to do under section 58;

(9) violates any rule made under section 70 for breach whereof the [1][State Government] shall, in such rules, direct that a penalty may be incurred;

---

[1] The words "the State Government" were substituted for the word "the Provincial Government" by the Adaptation of Laws Order 1950.

and whoever—

(10) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner or prevents or interferes with the lawful use of such water-course by any person authorized to use the same or declared to be a joint owner thereof under section 23 ;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate, be punished for each such offence with fine which may extend to fifty rupees, or with imprisonment [1]* * * for a term which may extend to one month, or with both. XLV of 1860.

For endangering stability of canal, etc.

62. Whoever without proper authority—

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

(2) opens, shuts or obstructs, or attempts to open, shut or obstruct any sluice in any canal;

(3) makes any dam or obstruction for the purpose of diverting or opposing the current of a river or canal on the bank whereof there is a flood embankment, or refuses or neglects to remove any such dam or obstruction when lawfully required so to do;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate of the first or second class, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment [1]* * * * * for a term which may extend to six months, or with both. XLV of 1860.

Obstruction to be removed and damage repaired.

63. Whenever any person is convicted 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. If such person neglects or refuses to obey such order within the period so fixed, any Canal-officer duly empowered in this behalf may remove such obstruction or repair such damage, and the cost of such removal or repair, as certified by the said officer, shall be leviable from such person by the Collector as an arrear of land-revenue.

[1] The words "of either description within the meaning of the said Code" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

Persons employed on canal may take offenders into custody.

64. Any person in charge of, or employed upon, any canal may remove from the lands or buildings 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—

(1) wilfully damages, obstructs or fouls any canal, or

(2) 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 endanger, damage, make dangerous or render less useful any canal.

Saving of prosecution under other laws.

65. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Act :

Provided that no person shall be punished twice in respect of one and the same act or omission.

Payment of fine as award to informant.

66. Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms part, may direct that the whole or any part of such fine may be paid by way of award to any person who gave information leading to the detection of such offence or to the conviction of the offender.

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or if an appeal be presented till after the decision of the appeal.

PART IX

MISCELLANEOUS

Appeals against orders under Act.

67. Every order passed by a Canal-officer under sections 13, 18, 25, 30, 45, 46 and 48 shall be appealable to the Collector :

Provided that the appeal be presented within thirty days of the date on which the order appealed against was communicated to the appellant.

Power to summon and examine witnesses.

All orders and proceedings of a Collector under this Act shall be subject to the supervision and control of the Commissioner [1]* * *.

68. Any officer empowered under this Act to conduct any inquiry may exercise all such powers connected with the summoning and examining of witnesses and the production of documents as are conferred on Civil Courts by the Code of Civil Procedure; and every such inquiry shall be deemed a judicial proceeding.

[1] The words " of the division" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule is printed as an appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

Service of notices.

69. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned. Whenever it may be practicable, the service of the notice shall be made on the person therein named. When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and, if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

Power to make, alter and cancel rules.

70. The [1][State Government] may from time to time make rules not inconsistent with this Act to regulate the following matters :—

(*a*) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter ;

(*b*) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable ;

(*c*) the person by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act, shall be done;

(*d*) the amount of any charge to be made under this Act;

[2][(*d*1) the other manner in which a scheme shall be published under section 50 ,

(*d*2) the date for payment, the rate of interest on and the period within which the instalments of betterment charges shall be paid under section 56A;

(*d*3) the suspension or remission of betterment charges, the instalments thereof and the interest thereon;

(*d*4) the conditions subject to which the relinquishment or exchange of lands shall be permitted under section 56B ;

(*d*5) the division into zones on lands under the irrigable command of a canal for the purpose of the betterment charges leviable on such lands ;]

(*e*) and generally to carry out the provisions of this Act;

The [1][State Government] may, from time to time, alter or cancel any rules so made.

Publication of rules.

Such rules, alterations and cancelments shall be published in the [3][Official Gazette], and shall thereupon have the force of law.

---

1 The words "State Government" were substituted for the words "the Provincial Government" by the Adaptation of Laws Order 1950.

2 Inserted by Act II of 1960.

3 The words "Official Gazette" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

71. Nothing in this Act shall be deemed to apply to any canal, channel, reservoir, lake or other collection of water vesting in any municipality. Saving of municipal water-works.

---

[1][PART X]

OF SECOND-CLASS IRRIGATION WORKS

72. This Part shall apply to Second-class Irrigation Works only. Application of this Part.

73. (1) The [2][State Government] may publish a notification in the [3][Official Gazette]— Notification of Second-class irrigation work.

(*a*) declaring that it is proposed to constitute any canal, channel, stream, river, [4][well, tubewell and artesian well], pipe or reservoir, natural or artificial, or any part thereof, whether constructed, maintained or controlled by [2][the State Government] or not, which is actually used or required for the purposes of irrigation, a Second-class Irrigation Work;

(*b*) fixing a period of not less than four months from the date of publication of such notification in the [3][Official Gazette] for the submission of objections to such proposal :

Provided that no artificial reservoir or water-course supplied from such reservoir which is actually used for the purposes of irrigation by a single irrigator shall be included in such notification except either with the consent of such irrigator or, if in the opinion of the [2][State Government] such inclusion is necessary in the public interests, then without such consent but subject to the payment, after the issue of the declaration mentioned in sub-section (3), to such irrigator of such compensation for his rights as may be settled in accordance with the provisions of section 79.

(2) After the publication of such notification in the [3][Official Gazette] it shall also be published by the Collector as soon as practicable in the language of the district at the Mamlatdar's Office of the taluka in which the work is situated and in every town and village which in the opinion of the Collector is likely to be affected by such notification.

(3) After considering such objections as may have been received within the period fixed as aforesaid the [2][State Government] may, by notification in the [3][Official Gazette], declare such canal, channel, stream, river [4][well, tube well, artesian well], pipe or reservoir or any part thereof to be a Second-class Irrigation Work.

---

1 Part X was inserted by s. 2 of the Bombay Irrigation (Amendment) Act, 1914 (Bom. 2 of 1914).

2 The words "Provincial Government" were substituted for the words "Governor in Provincial Government" by the Adaptation of Laws Order 1950.

3 The words "Official Gazette" were substituted for the words "*Bombay Government Gazette*", *ibid*.

4 Inserted by Act 1950.

Proclamation by the Collector.

74. When a notification has been issued under sub-section (3) of section 73 the Collector shall publish in the language of the district at the Mamlatdar's Office of the taluka in which the work is situated, and in every town and village which in his opinion is likely to be affected by such declaration, a proclamation—

(*a*) specifying, as nearly as possible, the source of supply, situation and limits of the Second-class Irrigation Work notified under sub-section (3) of section 73;

(*b*) stating that this Part applies to the work so notified from the date of the notification published under sub-section (3) of section 73; and

(*c*) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right in the work so notified either to present to the Collector within such period a written notice specifying or to appear before him and state, the nature of such right.

Application of certain sections of the main Act.

75. (1) A Second-class Irrigation Work shall be deemed to be a canal within the meaning of sub-section (1) of section 3 and to such work the following sections and Parts only shall, so far as may be, apply, namely :—

Sections 3, 4, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 28, 30, Part V, [Section 49 to 56 F (both inclusive), Section 57], Part VIII, except sub-section (8) of section 61, and Part IX.

(2) The aforesaid sections and Parts shall, for the purposes of this Part, be subject to the following modifications, namely:—

(*i*) In section 16 before the word "any" prefix the words—

"Subject to any rights recorded in the Record-of rights prepared or revised as hereinafter provided."

(*ii*) In section 17 before the word "any" prefix the words "Subject as aforesaid ".

(*iii*) In section 21 for clause (*d*), the following shall be substituted, namely :—

"(*d*) To have a supply of water on such terms as may be prescribed in the Record-of-rights prepared or revised as hereinafter provided."

(*iv*) To section 22 the following proviso shall be added, namely :—

"Provided that no such private arrangement shall affect any rights to water recorded in the Record-of-rights prepared or revised as hereinafter provided."

(*v*) In section 30 for the words "every agreement for" the words "all rights to" shall be substituted,

and in the same section after the word "property" the words "which have been recorded in the Record-of-rights prepared or revised as hereinafter provided" shall be inserted. Paragraph 2 of the same section shall be omitted.

(*vi*) In Part V, section 31, proviso clause (*c*) and the last paragraph shall be omitted.

(*vii*) In Part V, section 34, the words "section 6, section 7" shall be omitted.

(*viii*) In Part IX, section 67, after the figures "48" the words "and Part X" shall be inserted.

Framing of Record-of-rights.

76. (1) As soon as possible after the expiry of the period fixed by the Collector under section 74, clause (*c*), a Canal-officer duly empowered in this behalf, who shall be a Revenue officer not below the rank of a [1][Mahalkari], shall inquire into and settle claims to any right in the Second-class Irrigation Work, and shall record the extent of such right and draw up in the form from time to time prescribed by the [2][State Government] an Irrigation Record-of-rights so far as the same may be ascertainable from the records of Government and the evidence of any person likely to be acquainted with the same and any other documentary or oral evidence which the parties concerned or their witnesses may produce.

(2) Such Record-of-rights shall contain the following matters :—

(*a*) the nature of the Second-class Irrigation Work and any work subsidiary thereto,

(*b*) the lands irrigable therefrom,

(*c*) the custom or rule of irrigation,

(*d*) the rights to water and the conditions on which such rights are enjoyed, and

(*e*) such other matters as the [2][State Government] may by rules prescribe in this behalf.

Powers of Canal officer.

77. (1) For the purposes of the inquiries under section 76 such Canal-officer may enter, by himself or any officer authorised by him for the purpose, upon any land adjacent to any such work, and may survey, demarcate and make a map of the same.

(2) Notwithstanding anything contained in section 76 where no sufficient evidence is forthcoming as to all or any of the matters specified in that section such Canal-officer shall, so far as may be, settle and record the aforesaid matters in such manner as he may deem fit.

Revision of Record-of-rights.

78. The Record-of-rights prepared under section 76 may be revised from time to time by a Canal-officer duly empowered in that behalf, who shall be a Revenue officer not below the rank of a [1][Mahalkari].

[1] This word was substituted for the word "Mamlatdar" by Bom. 13 of 1947, s. 2.

[2] The words "State Government" were substituted for the words "Provincial Government" by the Adaptation of Laws Order 1950.

Commutation of rights.

79. Where the Canal-officer who has prepared or revised any Record-of-rights under this Part finds that, having due regard to the maintenance or management of the Second-class Irrigation Work, any right contained in the Record-of-rights cannot continue to be exercised to the extent recorded he shall (subject to such rules as the [1][State Government] may from time to time prescribe in this behalf) commute such right wholly or in part, either by the payment to the holder of such right of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he may think fit; and he shall revise the Record-of-rights accordingly.

Power of [1][State] Government where works are undertaken increasing supply.

80. In the event of [2][the State Government] undertaking at their own cost any work whereby the supply of water in any Second-class Irrigation Work is increased beyond the amount of such supply at the time of preparing or revising the Record-of-rights under this Part the [1][State Government] may, without prejudice to any rights so recorded, direct that the right to such surplus water shall vest in [3][the State Government] shall be applied as [2][the State Government] may deem fit and the Record-of-rights shall be revised in accordance with such direction.

Publication of Record-of-rights.

81. When any Record-of-rights has been prepared or revised under this Part it shall be published in the language of the district at the Mamlatdar's Office of the taluka in which the work is situated and in every town and village which in the opinion of the Collector is affected by such Record-of-rights.

Entries in the Record-of-rights to be relevant as evidence.

82. An entry in any Record-of-rights prepared or revised under this Part shall be relevant as evidence in any dispute as to the matters recorded, and shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor :

Provided that no such entry shall be so construed as to limit any of the powers conferred on the [1][State Government] by this Part.

Notice of Suit to be given to the Collector.

83. (1) In any suit or proceeding in which an entry made in any Record-of-rights prepared or revised under this Part is directly or indirectly called in question, the Court shall, before the final settlement of issues, give notice of the suit or proceeding to the Collector, and, if moved to do so by the Collector, shall make the [2][State Government] a party to the same.

Suits against [2][State] Government.

(2) Save as provided in sub-section (1) no suit shall lie against [2][the State Government] in respect of anything done by the Collector, Canal-officer or any other person

---

[1] The words "State Government" were substituted for the words" Provincial Government by the Adaptation of Laws Order 1950.

[2] The words "the State Government" were substituted for the words "the Provincial Government", *ibid.*

[3] The words "State Government" were substituted for the word "the Crown" for the purpose of the Province, *ibid.*

acting under he orders of [1][the State Government] in the exercise of any power by this Part conferred on such Collector, Canal-officer or other person or on [1][the State Government].

Period of limitation.

(3) Any suit or proceeding in which an entry made in any Record-of-rights prepared or revised under this Part is directly or indirectly called in question shall be dismissed (although limitation has not been set up as a defence) if it has not been instituted within one year from the date of the publication under section 81 of the Record-of-Rights, containing the said entry, or if one or more appeals have been made against any order of a Canal-officer with reference to any entry in such Record-of-rights then from the date of any order passed by the final appellate authority, as determined according this.

Obligation to carry out petty repairs.

84. In every second-class Irrigation Work the following repairs shall be performed by the persons on whom the obligation to perform them is imposed by the next following section, that is to say :—

(1) The filling up of gullies, ruts and holes especially at the back of revetments, and all petty repairs of a like nature essential for the safety of bunds of tanks, channel-banks or other portions of the said Second-class Irrigation Work.

(2) The prevention of the growth on such work of prickly pear, young trees and other vegetation endangering the safety or concealing the condition of such work.

(3) The preservation of such bushes and grasses as have been planted for the protection of the intrior water slopes of such work.

(4) The clearance of silt from sluices, supply and distributing channels.

(5) The clearance of waste weirs and waste channels.

Incidence of obligation.

85. The obligation to perform the repair prescribed by the last preceeding section shall, with reference to any land irrigated from such work, be deemed to be imposed jointly and severally, in the case of unalienated land, on the occupants of the land, and, in the case of all other land, on the holders of the land, as defined in either case in the [2]Bombay Land Revenue Code, 1879.

Bom. V of 1879.

Power to enforce rights and obligations.

86. If any person on whom any obligation is imposed with reference to any Second-class Irrigation Work by any of the provisions of this part fails to fulfil the obligation so imposed, or if any person infringes any right recorded in the Record-of-rights prepared or revised as hereinbefore provided, the Canal-officer may require him by notice to fulfil such obligation or to desist from infringing such within a period to be prescribed in the notice of not less than fifteen days,

---

[1] The word "the State Government" were substituted for the word "Provincial Government" by the adaptation of laws Order 1950.

[2] Supra.

and in the event of failure may take such steps as may be necessary for the discharge of the said obligation, or the enforcement of the said right, and the amount of any expense so incurred shall be a sum due to [1][the State Government] and recoverable as an arrear of land revenue.

Duty of Patel to report failure to effect repairs.

87. It shall be the duty of the Patel of any village within the limits of which any Second-class Irrigation Work or portion of such work is situated to report to the Mamlatdar without unnecessary delay any failure or neglect to carry out any of the repairs specified in section 84.

Public servant and some other persons protected from legal proceedings.

88. No suit, prosecution or other legal proceeding shall be maintained against any public servant or person appointed under this Part in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

Power to make rules.

89. The [2][State Government] may, from time to time by notification in the [3][Official Gazette] and after previous publication, make rules as to all or any of the following matters :—

(*i*) the manner of framing and revising the Record-of-rights,

(*ii*) the proceedings of any officer who under the provisions of this Part is required to take action in any matter,

(*iii*) and generally to carry out the provisions of this Part.

---

[3][PART XI]

SPECIAL PROVISIONS FOR CERTAIN LANDS IRRIGABLE BY THE LLOYD BARRAGE CANALS

(Deleted by the Adaptation of Laws Order 1950)

TRAVANCORE IRRIGATION, ACT 1897

(1072)

Act III of 1897 (1072)

An Act to provide for the construction, repair and maintenance of Irrigation Works and for the conservation and distribution of water for purposes of Irrigation.

WHEREAS it is expedient to provide for the construction, repair and maintenance of Irrigation Works and for the conservation and distribution of water for purposes of irrigation ; It is enacted as follows :— Preamble.

1. This Act may be called "The Irrigation Act of 1072" and it shall come into force on the 1st day of Chingom, 1073. Short title and commencement.

2. In this Act— Definitions.

(1) The term "Irrigation Work" shall include— Irrigation work.

(*a*) all canals, channels, reservoirs and tanks which are intended or which are or may be used for the supply or storage of water for agricultural purposes;

(*b*) all works, embankments, structures, supply and escape channels connected with such canals, channels, reservoirs or tanks;

(*c*) all water-courses which are supplied with water from such canal, channel, reservoir, or tank; and

(*d*) all drainage works, *i.e.*, canals, channels, escape channels from a canal, channel reservoir or tank dams, weirs, embankments, sluices, groynes or other works for the protection or benefit of agricultural lands.

(2) The term "Major Irrigation Work" shall mean and include all works irrigating an area of land exceeding two hundred acres. Major Irrigation work.

(3) The term "Petty Irrigation Work" shall mean and include all irrigation works irrigating an area of land not exceeding five acres. Petty Irrigation work.

(4) The term "Minor Irrigation Work" shall mean and include all irrigation works other than Major and Petty works as above defined. "Minor Irrigation Work.

(5) The term "Irrigation Officer" shall mean an officer drawing a monthly salary of not less than thirty rupees and appointed by Our Government to exercise control or jurisdiction over any irrigation work or all irrigation works in a specified area, or to distribute or to control the distribution of water for irrigation purposes. Irrigation Officer.

Proprietor. (6) The term "Proprietor" means the owner of land and includes the cultivator or person in actual possession of such land.

Majority of Proprietors. (7) The expression "Majority of Proprietors" means persons who own more than one-half of the acreage benefited by an irrigation work.

Irrigation. (8) The term "Irrigation," with its grammatical variations shall include "drainage" with its corresponding variations.

Powers of Irrigation Officer and their local limits. **3.** Our Government may, from time to time by notification in the Gazette, invest any [*] officer either by name or by virtue of his office [or any Board constituted under this Act or any member thereof] with all or any of the powers or duties hereinafter conferred or imposed under this Act, and shall declare the local limits within which such powers or duties shall be exercised or performed.

Construction, repair and maintenance of Petty Irrigation Works to devolve upon proprietors benefited. **4.** The construction, repair and maintenance of Petty Irrigation Works shall devolve upon the proprietors of the lands benefited by such works.

Application to Division Peishkar to have repair of such work carried out by Government. **5.** If the proprietors of lands benefited by a Petty Irrigation Work are unable to combine and carry out any repair or other work in connection with such work, or if, for any other reason, they desire to have such repair or work done by Government, it shall be lawful for any of the proprietors to apply to the Division Peishkar to have such repair or other work carried out by Government. The application shall specify the name of the Irrigation Work, the work proposed to be done to it, the area of lands to be benefited by it and any other particulars which Our Government may prescribe from time to time.

When Division Peishkar may carry out work. **6.** On receipt of the application referred to in the last section, the Division Peishkar may, after satisfying himself by making such enquiry as he may deem fit that the application is *bona fide* and is agreed to by the majority of the proprietors or should be complied with in the general interests of the proprietors, cause an estimate to be prepared and have the work carried out with the previous sanction of Government.

Powers to Government to determine by Rules the terms of construction and repair of Minor Irrigation Works in specified areas. **7.** Our Government may, in consideration of the circumstances of the ryots and other matters, determine by Rules, from time to time, the terms on which the Minor Irrigation Works in specified local areas may be constructed and repaired.

Saving of customary right. Nothing in this section and in section 8 shall apply to localities where according to custom such works are carried out or maintained by Government at their entire cost.

Procedure of Division Peishkar on application for Minor Irrigation Work in other cases.

8. In any local area in which the construction and repair of Minor Irrigation Works are not, according to custom or Rules passed under the last Section, undertaken by Government at their entire cost, it shall be competent for the Division Peishkar or other officer authorised by Our Government in this behalf, on the application of any proprietor interested in a Minor Irrigation Work, to satisfy himself after making such enquiry as he may deem necessary, that the work mentioned in the application should be executed in the interests of the majority of proprietors, and if so satisfied, to cause a plan and estimate of the work and a specification of the lands which will be benefited thereby to be prepared.

When Division Peishkar may move without application.

9. If, in any such area, the Division Peishkar or other officer aforesaid is satisfied that any Minor Irrigation Work should be constructed or repaired and that the persons interested in such work have not made application owing to the sparseness of the population or the circumstances of the inhabitants or other sufficient cause, he may, on his own motion, cause a plan, estimate and specification to be prepared as in the preceding section.

Notice to put in objections.

10. The plan, estimate and specification made under the last two sections shall be forwarded to the Dewan, and an abstract of the estimate and of the specification of the lands likely to be benefited shall be published in the Gazette, with a notice calling upon all persons concerned who may have any objection to the work being done to put in their objection before the Division Peishkar or other officer aforesaid who submitted the estimate, within a time to be specified therein. The Division Peishkar or other officer aforesaid shall hear and record the objections, if any, which may be put in, and forward the same to the Dewan with his opinion.

When Government may carry out the work.

11. If no objections have been put in, or if the majority of proprietors agree to the work, the estimate may be sanctioned and the work carried out at Government cost.

In any case in which the majority of proprietors do not agree, if it be found after duly considering their objections that the work proposed should be executed in the interests of the proprietors, the Dewan may order the work to be carried out at the cost of Our Government.

Accident to any Petty or Minor Irrigation Work.

[**11-A.** If, in the case of any accident being apprehended or happening to any Petty or Minor Irrigation work, any work in the nature of an urgent repair is needed, failure to carry out or delay in carrying out which is likely to cause serious damage, the Division Peishkar, or any other officer duly authorised in this behalf, may, notwithstanding anything contained in sections 6 and 8 to 11, order the execution of such work at the cost of Government.]

Procedure of Division Peishkar on application agreeing to repay cost.

12. If the majority of proprietors interested apply to the Division Peishkar or other officer aforesaid, stating that any Minor Irrigation Work should be constructed, restored or repaired by Government and agreeing to repay the cost such officer shall, after giving notice to the other proprietors investigate the matter, and if satisfied that the work applied for should be constructed or repaired in the interests of cultivation, shall submit a report to the Dewan. The report

shall specify the nature of the work, the area of land which will be benefited by it, with the assessment thereon, a rough estimate of the cost, the number of instalments in which the applicants are willing to repay the cost, and such other particulars as may be prescribed by the Dewan. The Dewan may sanction the execution of the work on the terms agreed to by the applicants.

Proprietors benefited and to maintain Minor Irrigation Works constructed or repaired at Government cost.

13. When any Minor Irrigation Work has been constructed or completely restored or repaired at the cost, wholly or partly, of Government, it shall be the duty of the proprietors of lands benefited by such work to maintain it, *i.e.* to keep it at the level of efficiency at which it was when the construction, restoration or repair was completed.

A list of all works constructed, or completely restored, or repaired under this section shall be published in the Gazette in the first month of every official year.

Irrigation Officer to report periodically on condition of such works.

14. It shall be the duty of the Irrigation officer to periodically inspect all the Minor Irrigation Works falling under the last section and report to the Division Peishkar or other Officer to whom he is subordinate, the condition of these works. The Division Peishkar or other officer aforesaid may, on being satisfied from such report or from other reliable information that the proprietors concerned have failed to maintain the work or have maintained it unsatisfactorily, published a notice calling upon the proprietors of lands benefited by the work to carry out the necessary work within a prescribed period or to show cause why they should not do so. The publication of the notice shall be by beat of tom-tom in the village in which the Irrigation Work is situate and by posting copies thereof in some conspicuous places in such village and in the Proverthi and Taluk Cutcherries.

Necessary works may be carried out at Government cost on proprietors' failure.

15. If, as required by the notice mentioned in the last section, the proprietors fail or refuse to execute or satisfactorily execute the work or to satisfy such officer that such work should not be carried out, the Division Peishkar or other officer may, subject to such Rules as may be issued by Our Government in regard to funds and the agency to execute such works, cause the work to be carried out at Government cost.

Cost of works executed under Sections 6, 11, 11-A, 12 and 15 to be first charged on lands benefited.

16. The cost of any work executed under Section 6, 11, [11-A], 12 and 15 shall be a first charge on the lands benefited by such work and shall be received *pro rata* from such lands as arrears of public revenue in such equal yearly instalments not less than five, as may be fixed by Our Government from time to time.

Our Government may remit, in whole or in part, the cost of any Petty or Minor Irrigation Work, recoverable under the first para. of this section.

Construction, repair and maintenance of Major Irrigation Works to devolve on Government.

17. The construction, repair and maintenance of all Major Irrigation Works shall devolve on our Government.

Power to Government to levy cess

18. Notwithstanding anything hereinbefore contained, Our Government may levy a cess on any area benefited by an Irrigation Work, Major or Minor, constructed, restored or repaired, after the passing of this Act, wholly at the cost of Government, provided that the total amount of such cess shall not exceed 6 per cent interest on the total outlay incurred, and provided also that, in the case of a Minor Irrigation Work, the cess shall absolve the ryots interested from payment of their portion of the cost of such work where such payment is otherwise leviable, and also from the duty of maintaining the work under section 13.

Application for construction of a new Irrigation Work.

19. Any person desiring the construction of a new Irrigation Work for irrigating his land may apply in writing to the Division Peishkar stating—

(1) that he has been unable to come to terms with the owners of the land on which such work has to be constructed or through which it will pass;

(2) that he desires the Irrigation officer, in his behalf and at his cost, to do all things necessary for acquiring a right to so much of the said land as will be necessary for such Irrigation Work; and

(3) that he is able to defray all costs involved in acquiring such land and constructing such work.

If the Division Peishkar considers—

Procedure of Division Peishkar thereupon.

(*a*) that the construction of such work is necessary,

(*b*) that the statements in the application are true,

he shall call upon the applicant to make such deposit as he considers necessary to defray the cost of the preliminary proceedings and the amount of any compensation which he may consider likely to become due, and upon such deposit being made, he shall, after due enquiry, mark out the land which in his opinion it will be necessary to acquire for the construction of the work and shall give notice of the same to the owner of such land. The notice shall also be published in the Gazette and in the village in which the land is situate.

Objection to construction to be made to Division Peishkar.

Within thirty days from the date of the above notice, the owner or any other person interested in the land or in the Irrigation Work to which the notice refers shall apply to the Division Peishkar by petition stating his objection to the construction for which application has been made. The Division Peishkar shall consider the objection and such evidence as may be adduced by both parties or as he may himself call for, and pass an order in writing stating the grounds of such order.

If the order be that the application is reasonable and should be granted, the land marked out may, with the previous sanction of the Dewan, be acquired under the Land Acquisition Act.

Condition to be complied with previous to giving occupation of land.

20. No such applicant shall be placed in occupation of such land until he has paid to the person named by the officer assuming the land, the amount of compensation awarded and any damage occasioned by the marking out and occupation of such land together with all expenses incidental to such occupation.

If such amount is not paid, the same may be recovered as if it were an arrear of the land revenue.

Conditions binding to secure continuance of occupation.

21. When any such applicant is placed in occupation of any land, the following conditions shall be binding on him:—

(1) The land shall not be used for any purpose other than such Irrigation Work, except with the special sanction of Government.

(2) The work shall be completed to the satisfaction of the Division Peishkar within such period after the occupation of the land is given to the occupant as may be determined by such officer.

(3) The applicant or his representative in interest shall pay the tax due on such land.

If any of these conditions is not complied with, the right of the applicant or his representative in interest to occupy such land or work shall cease absolutely :

Provided that the liability to pay tax shall continue until the applicant or his representative in interest has restored the land to its original condition.

Land for the extension of Irrigation Work to be obtained under same procedure.

22. The provisions of sections 19, 20 and 21 shall, so far as may be, apply to applications for land required for the extension or alteration of an existing Irrigation Work.

Procedure on failure to contribute cost or labour for work to be done by joint labour.

23. Whenever, by local custom, any work for purposes of agriculture should be done by the joint labour or cost of the proprietors of all the lands benefited by such work if any of such proprietors fails or neglects to do his share of the work or contribute his share of the cost or labour, it shall be lawful for the Division Peishkar [or any officer specially authorised in this behalf] on the application of a reasonable number of proprietors interested in such work or injured by such failure or neglect, to investigate th matter and pass such order as he deems fit. If the order directs that the defaulting proprietor shall execute a portion of the work, it shall distinctly specify the portion of the work to be executed, the time within which it should be done and the estimated cost of such work. On the defaulting proprietor refusing or failing to execute the work within the time prescribed in the order, the cost of the work may be recovered from such defaulter as arrears of land revenue and the work executed under the orders of the Division Peishkar [or such officer as aforesaid.]

Illustration.—The putting up of ring-bunds or draining of water in Punja Padoms in Kuttanad are works contemplated in this section.

Labourers may be called upon to co-operate in preventing or repairing breaches in the embankments of any tank canal &c.

24. Whenever it shall appear to the Irrigation officer that there is imminent danger of the embankment of any tank, canal or channel or other Irrigation Work being breached and of a destructive inundation being caused thereby which may be prevented by a large body of labourers immediately working together to strengthen the embankment or other work, or, when such breach has occurred, if it shall appear to such officer that it can be repaired and inundation caused by it be stopped, by the immediate employment of a large body of labourers for that purpose, it shall be lawful for such officer to call upon all able bodied male persons of the labouring classes of the Proverti or Provertis in the vicinity to co-operate in the work necessary for preventing or repairing the breach, as the case may be.

In the absence of the Irrigation officer, it shall be lawful for the local Tahsildar or Proverticar to make such requisition in his stead.

Rates of remuneration to labourers so employed.

25. Every person who shall be employed on such work under such requisition shall be paid for his labour by day at the highest rate paid in the neighbourhood for similar work, and, if he is required to work at night, at double such rate.

Inhabitants may be called upon for supply of materials.

26. It shall be lawful for the Irrigation officer or, in his absence, the local Tahsildar or Proverticar, to make requisitions upon the inhabitants in the vicinity for the supply of materials,—to wit, trees and leaves, bamboos, straw and the like, necessary for the purposes mentioned in section 24, and to seize and, if necessary, to cut down such articles wherever they may be found, giving receipts for them in writing.

Supplies how to be paid for.

Such supplies shall be paid for at the highest prices for which such supplies are sold in the neighbourhood.

And in case damage is sustained by any person in consequence of the cutting down of any such articles, compensation shall be made for such damage.

Distribution of water of works constructed at Government cost to be regulated by Government.

27. The distribution of the water of all Irrigation Works constructed, repaired or maintained by Government at their cost, whether wholly or partly, shall be regulated by such Rules or orders as may be prescribed or issued by Our Government, from time to time.

Acts punishable under the Act.

28. Whoever without proper authority does any of the following acts, that is to say—

(1) injures, alters, enlarges or obstructs any Irrigation Work ;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any Irrigation Work ;

(3) interferes with or alters the flow of water in any Irrigation Work so as to endanger, injure or render less useful any such work ;

(4) being responsible for the maintenance of or using an Irrigation Work, causes, or occasions waste of the water in such Irrigation Work or interferes with the authorised distribution of the water therefrom, or uses such water in an unauthorised manner;

(5) corrupts or fouls the water of any Irrigation Work so as to render it less fit for the purposes for which it is ordinarily used;

(6) being liable to furnish his own labour, fails or neglects to furnish such labour ; or

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

shall be liable, on conviction before a Magistrate to a fine not exceeding Rs. 50, or to imprisonment of either description for a period not exceeding one month, or to both.

Nothing in this section or section 29 shall apply to acts done in respect of Irrigation Works which are exclusively owned by individuals.

Power to arrest without warrant.

29. Any person in charge of an Irrigation Work or of the distribution of water from such work 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 :—

(1) wilfully injures or obstructs any Irrigation Work, or

(2) without proper authority interferes with the supply or flow of water in or from any Irrigation Work.

Power to Government to make Rules.

30. Our Government may, from time to time, make Rules consistently with the provisions of this Act to regulate the following matters :—

(1) The proceedings of any officer who, under the provisions of this Act, is required or empowered to take action in any matter;

(2) The cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provisions of the Act shall be appealable;

(3) The persons by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act shall be done; and generally to carry out the provisions of this Act; and

(4) The number of instalments in which the cost of Petty and Minor Irrigation Works may be recovered, and the circumstances under which remission of such cost may be granted under section 16.

Such Rules shall, when published in the Gazette, have the force of law.

31. No action shall lie against Government for not complying with the application of ryots for the construction, repair, improvement or restoration of any Irrigation Work. **Bar of action against Government**

[**32.** (1) Our Government may, by a Notification in Our Government Gazette, constitute Boards for any local area for regulating the distribution of water of any Irrigation Work, for keeping the Irrigation Work or any part thereof in repair and for other purposes, as may, from time to time be prescribed by Government by Rules made under this Act. **Constitution of Irrigation Boards. Their functions. Power to make Rules.**

(2) Our Government may, by a like Notification, dissolve any Board constituted under sub-section (1).

(3) For the discharging of its functions, any Board constituted under sub-section (1) may, with the previous sanction of Government, levy a cess on the lands benefited.

(4) Our Government may from time to time make Rules as to—

(*a*) the number of elected and nominated members for each Board;

(*b*) the term of office of the members of the Board;

(*c*) the qualification and registration of electors, the time and mode of election and any other matter connected with election ;

(*d*) the dissolution or supersession of Boards and the consequences of such dissolution or supersession;

(*e*) the powers and duties of the Boards;

(*f*) the conduct of business at their meetings;

(*g*) the appointment and punishment of their servants;

(*h*) the rates at which the cess may be levied;

(*i*) the mode of realising such cess;

(*j*) the purposes for which the money collected may be utilised;

(*k*) the relations between two or more Boards; and

(*l*) all other matters necessary for carrying out generally the purposes of this Act.

(5) All such Rules shall be published in Our Government Gazette and thereupon they shall have the force of law.]

THE BIHAR PRIVATE IRRIGATION WORKS ACT, 1922[1] (AS MODIFIED UPTO THE 16TH OCTOBER, 1952)

Bihar and Orissa Act V of 1922

WHEREAS it is expedient to [2][provide for the construction, repair extension or alteration of certain kinds of irrigation works and to secure their maintenance and] to regulate the supply or distribution of water by means of such works and to facilitate and regulate their construction, extension and alteration;

[3] [* * * * * *]

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

Short title and extent.

1. (1) This Act may be called the [4][Bihar] Private Irrigation Works Act, 1922.

(2) The Act or any specified portion of it shall extend to such districts or parts of districts as may be specified in this behalf by the [5][State Government] by notification[6].

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

[7][(1) 'Irrigation Engineer' means any person appointed by the [8][State Government] by notification to be Irrigation Engineer for the purposes of this Act, either generally or in respect of any existing or proposed irrigation work specified in the notification.]

---

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see the Bihar and Orissa Gazette*, Extraordinary, dated the 16th March 1922, p. 18, for Report of the Select Committee, *see ibid.*, 1922, Pt. V, p. 189, and for Proceedings in Council *see* Bihar and Orissa Legislative Council Debates, 1922, Vol. IV, pp. 1767 and 1806, and Vol. V, pp. 224 and 254.

LOCAL EXTENT.—This Act takes effect in areas to which it is extended by s. 1(2).

The application of the Act is barred in the Santhal Parganas, by the Santhal Parganas Settlement Regulation 1872, (III of 1872), s. 3(2), (Bihar and Orissa Code, Vol. I, 2nd Ed., p. 700), as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), s. 3, *ibid*, p. 748.

[2] These words in square brackets in the Preamble were substituted for the words "secure the repair and maintenance of private irrigation works" by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 2.

[3] The second paragraph of the Preamble was omitted by *ibid.*

[4] The word "Bihar" was substituted for the words "Bihar and Orissa" by *ibid.*, s. 3.

[5] These words were substituted for the words "Provincial Government" by the Adaptation of Laws Order, 1950.

[6] The Act has been extended to the districts of Patna, Gaya, Shahabad, Saran, Champaran, Muzaffarpur, Darbhanga, Monghyr, Bhagalpur, Purnea and Palamau, *see* the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Pt. VII and notification No. 357-R.R., dated the 5th September 1939, in *Bihar Gazette*, 1939, Pt. II, p. 781.

[7] Clause (1) was inserted by the Bihar and Orissa Private Irrigation Works (Bihar Amendmen Act, 1939 (Bihar Act X of 1939), s. 4.

[8] Substituted by Act XXXVII of 1950.

[1][(2)] "irrigation work" means any means or work constructed, altered or maintained artificially for the purpose of securing the supply, removal or storage of water for irrigation purposes, and includes—

(*a*) any part of any such means or work;

(*b*) any water-course, channel or reservoir for the supply, removal or storage of water for irrigation purposes;

(*c*) any work, embankment, structure or supply or escape channel connected with any such water course, channel or reservoir; [2]

(*d*) a head work, dam, weir, outlet, escape and sluice;

but does not include—

(*i*) any such means or work which has been brought under the control of the Government under the provisions of any other Act for the time being in force,

[3][ ] and

[[4](*e*) a well which is or may be used for irrigation purposes; and]

[1][(3)] "landlord" means a person immediately under whom a tenant holds, and includes the [5][Government and a proprietor, but does not include a village headman or a raiyat;

[1] [(4)] "prescribed" means prescribed by rules under this Act;

[1][(5)] "proprietor" means a person who is solely or jointly in possession of an estate or revenue-free property, or of any portion of an estate or revenue-free property, as owner thereof, whether in trust or for his own benefit, and whether or not he is recorded as the proprietor thereof; and

[1][(6)] "tenant" means a person who holds land under another person and is, or but for a special contract would be, liable to pay rent for that land to that person, but does not include an under-raiyat.

---

1 Original clauses (1), (2), (3), (4) and (5) were renumbered (2), (3), (4), (5) and (6) respectively by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), (s. 4).

2 Omitted by Act XXXVII of 1950.

3 Omitted by *ibid.*

4 Inserted by *ibid.*

5 The word "Crown" was substituted for the word "Government" by paragraph 3 and Sch. VII of the Government of India (Adaptation of Indian Laws) Order, 1937.

CHAPTER II

REPAIR AND IMPROVEMENT OF IRRIGATION WORKS

Issue of notices by Collector for repair of existing irrigation work or construction of new work.

3. Whenever it appears to the Collector [1] [* *]

(*a*) that the repair of an existing irrigation work is necessary for the benefit of any village or local area within the district and that the failure to repair such irrigation work adversely affects or is likely to affect adversely, the lands which are dependent thereon for a supply of water, or

(*b*) that it is desirable for the purpose of settling or averting disputes or preventing waste of water or injury to land by the wrongful or undue diversion of a stream or channel that any sluice, weir, outlet, escape, headwork, dam or other work should be constructed in any irrigation work, in order to regulate the supply or distribution of water for irrigation purposes,

he may, if satisfied that the matter is of sufficient importance to justify his intervention,—

(*i*) cause in the prescribed manner a notice to be served on the landlord of the land in which the irrigation work is situated and public notice to be given at convenient places in every village in which the irrigation work is situated stating that he intends to take action under this Chapter for the repair of the said work or for [2][extending or altering it in any of the ways specified in clause (*b*)], and specifying the date on which the inquiry under section 4 will be held, and

(*ii*) 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] :

[4][Provided that if the Collector is of opinion that any extension or alteration of an existing irrigation work of a nature specified in clause (*b*) is likely to cost more than two thousand five hundred rupees, he shall, before issuing any notice under clause (*i*) or (*ii*), request the Irrigation Engineer to prepare a plan and estimate of the costs of such extension or alteration.]

---

1 The words "from the statement of, or from information received from, any interested person' in s. 3 were omitted by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 5.

2 These words in square brackets in s. 3(*i*) were substituted for the words "the construction of an addition thereto by *ibid.*

3 These words in square brackets in s. 3 (*ii*) were substituted for the words "construct the proposed addition thereto" by *ibid.*

4 This proviso was added to s. 3 by *ibid.*

Inquiry by Collector.

4. On the date stated in the notices issued under section 3, or on 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 (if they appear) 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—

[1] [(*a*) the necessity for repairing, extending or altering the said irrigation work,]

(*b*) the nature of the works required for such repair, [2][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

[3] [(*d*) the probable cost of the proposed work of repair, extension or alteration.]

Power of Collector to order repair or construction.

5. (1) If, after making an inquiry under section 4, the Collector is satisfied that the state of disrepair of the irrigation work is such [4][as materially affects or is likely to affect materially] the irrigation of the lands which are dependent thereon for a supply of water, or that [5] [any extension or alteration of such irrigation work] is necessary for the purposes specified in clause (*b*) of section 3, he shall issue an order in writing [6][requiring that the proposed work of repair, extension or alteration shall be carried out—

(*a*) by one or more of the persons on whom notices under clause (*ii*) of section 3 have been served and who agrees or agree to carry out the said work, or

(*b*) by any such agency as he thinks proper, if, for reasons to be recorded by him, he considers that there are adequate reasons why any person mentioned in clause (*a*) should not be entrusted with the carrying out of the said work :

Provided that the Collector shall, if he is satisfied that the cost of carrying out the proposed work of repair, extension or alteration will be prohibitive, pass an order declaring that such work shall not be carried out :

Provided further that in the case of any extension or alteration of an existing irrigation work of a nature specified in clause (*b*) of section 3, the Collector shall not issue any order authorising any person or agency to carry out the

---

1 This clause was substituted for the original clause (*a*) by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 6(*i*)

2 These words were substituted for the words "or addition" by *ibid.*, s. 6(*ii*).

3 This clause was substituted for the original clause (*d*) by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 6(*iii*).

4 These words in square brackets in s. 5(1) were substituted for the words "as materially to effect" by *ibid.*, s. 7(1)(*i*).

5 These words in square brackets in s. 5(1) were substituted for the words "any addition to it" by *ibid.*

6 These words brackets, figures and letters in square brackets in s. 5(1) were substituted for the words brackets and figures "requiring any person on whom a notice under clause (*ii*) of section 3 has been served to carry out the required work of repair or construction in the manner and within the time specified in the order" by *ibid.*

said work, until the Collector has obtained the previous sanction of the prescribed authority if the estimated cost exceeds [1] [five thousand rupees] but does not exceed ten thousand rupees, or the previous sanction of the Provincial Government if such cost exceeds ten thousand rupees].

(2) Every order made under sub-section (1) shall specify, as closely as may be practicable, the nature of the work to be done, [2][* *] the estimated cost of executing it [3][and the manner in which and the time within which it shall be executed].

[4][(3) (*a*) If any person required by the Collector under clause (*a*) of sub-section (1) to carry out any work of repair, extension or alteration fails to do so in the manner and within the time specified in the order or within such further time (if any) as may be allowed by the Collector in writing, the Collector may impose on him such pecuniary penalty as he thinks proper in all the circumstances of the case.

(*b*) Such penalty shall be recoverable as a public demand [5] payable to the Collector.]

Proceedings in emergencies.

[6] [**5A.** (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 work which may be occasioned by proceedings commenced by a notice under section 3 adversely affects or is likely to affect adversely lands which are dependent on such irrigation work for a supply of water, he may forthwith cause the repair of such irrigation work to be begun by any one or more of the persons mentioned in clause (*ii*) of section 3 or by such agency as he thinks proper :

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.

Application for compensation and procedure on receipt of such application.

5B. (1) Any person who has sustained any loss by anything done by the Collector or by any person acting under the orders of the Collector under sub-section (1) of section 5A may make an application to the prescribed authority for compensation for such loss and for an order directing the restoration of the land or the irrigation work to its former condition.

---

1 The word "and" was omitted by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 7(1) (*ii*).

2 These words in square brackets in s. 5(2) were substituted for the words "provided that no such order shall be made if such cost exceeds two rupees per acre of the area benefited or likely to be benefited by the said work" by *ibid.*

3 This sub-section was added to s. 5 by *ibid.*, s. 7(2).

4 As to the recovery of public demands, *see* the Bihar and Orissa Public Demands Recovery Act, 1914 (B. & O. Act IV of 1914), in Bihar and Orissa Code, Vol. III, 2nd Ed., p. 171.

5 Sections 5A and 5B were inserted by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 8.

6 These words, brackets, figures and letters in square brackets in s. 5(1) were substituted for the words, brackets and figures "requiring any person on whom a notice under clause (*ii*) of section 3 has been served to carry out the required work of repair or construction in the manner and within the time specified in the order" by *ibid.*

(2) No such application shall be entertained unless it is made before the expiry of one year from the date on which the notice under sub-section (2) of section 5A is given.

(3) If the prescribed authority entertains any application made under sub-section (1), it shall make such inquiry as it thinks fit and, if it is satisfied that anything done by the Collector under sub-section (1) of section 5A was not, in all the circumstances of the case, desirable and that the applicant has, as a result of such act, sustained any loss, it shall assess in the prescribed manner the compensation which, in its opinion, the applicant is entitled to receive and shall further pass an order directing the Collector to cause such land or irrigation work, so far as any alteration thereof shall appear not to have been desirable in all the circumstances of the case, to be restored at the expense of the [1][State] Government as nearly as possible to the state in which such land or irrigation work was when the Collector commenced to act under the provisions of section 5A.

(4) The amount assessed by the prescribed authority as compensation under sub-section (3) shall be payable by the Provincial Government.]

Delegation by Collector of authority to repair or construct.

6. If any person required [2][under clause (*a*) of sub-section (1) of section 5 or sub-section (1) of section 5A] to carry out any work of [3][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 any rule under section 40, by a written order, authorize any [4][agency] to carry out the said work in the manner and within the period specified in the order.

[5][* * * * *]

Recovery of cost of work..

7. (1) When any work of [6][repair, extension or alteration] has been carried out by any person in pursuance of an order made [7][under clause (*a*) of sub-section (1) of section 5 or under section 5A], he may apply to the Collector for the recovery of the cost of the said work.

(2) On receipt of such application, the Collector shall—

(*a*) take such steps as he may consider necessary to satisfy himself that the cost has actually been incurred and that the work has been constructed in the manner and within the period specified in the order or within such further period (if any) as he may have allowed or decided to be reasonable; and

---

1 These words, brackets, figures and letters in s. 6 were substituted for the words and figures "under section 5" by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1936 (Bihar Act X of 1939), s. 9(*a*).

2 These words were substituted for the words "repair or construction" by *ibid*, s. 9(*b*).

3 This word was substituted for the words "other person whose land is benefited or likely to be benefited thereby" by *ibid.*, s 9(*c*).

4 The proviso to s. 6 was omitted by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 9(*d*).

5 These words were substituted for the words "repair or construction" by *ibid.*, s. 10(*a*).

6 These words, letter, brackets and figures in s. 7(1) were substituted for the words and figures "under section 5 or under the authority of section 6" by *ibid.*

7 The word "State" was substituted for the "Provincial" by the Adaptation of Laws Order 1950.

[1][(*b*) after considering the claim made by the applicant and any explanation furnished by him, and after disallowing any charge which he considers unreasonable and reducing any charge which he considers excessive, determine—

(*i*) the cost of the work payable to the applicant, and

(*ii*) the cost of any inspection which may have been undertaken for the purpose specified in clause (*a*), together with such costs as may have been incurred in preparing any plan or estimate under the proviso to section 3 and in issuing any notice under any of the provisions of this Chapter.]

[2][* * * *]

Power of Collector to apportion cost.

[3][**8.** (1) When the costs mentioned in clause (*b*) of sub-section (2) of section 7 have been determined, the Collector shall apportion the same in the manner laid down in section 10:

Provided that the amount apportioned in respect of the costs determined under sub-clause (*ii*) of the said clause (*b*) shall not exceed five *per centum* of the costs determined under sub-clause (*i*) of the said clause (*b*).

(2) When such apportionment has been made, the Collector shall make an award—

(*i*) specifying the person or persons by whom each sum so apportioned is payable; and

(*ii*) athorizing the applicant to recover as a public demand the sum so apportioned in respect of the cost mentioned in sub-clause (*i*) of clause (*b*) of sub-section (2) of section 7 from the person or persons liable to pay the same with interest at six and a quarter *per centum per annum*:

Provided that no interest shall be payable if such sum is paid within a period of thirty days after the service of the notice referred to in sub-section (3) upon the person or persons liable to pay such sum.

(3) The Collector shall cause to be served in the prescribed manner on every person to whom any sum has been apportioned, a copy of the award together with a notice specifying the amounts payable to the applicant in respect of the costs determined under sub-clause (*i*) of clause (*b*) of sub-section (2) of section 7 and the amount payable to the Collector in respect of the costs determined under sub-clause (*ii*) of the said clause (*b*).

---

[1] This clause was substituted for the original clause (*b*) by *ibid.*, s. 10(*b*).

[2] Sub-section (3) was omitted by *ibid*, s. 10 (*c*).

[3] This section was substituted for the original s. 8 by *ibid.*, s. 11.

(4) Any sum apportioned as aforesaid in respect of the costs mentioned in sub-clause (*ii*) of clause (*b*) of sub-section (2) of section 7 shall be paid to the Collector by the person or persons liable to pay the same and shall be recoverable as a public demand [1]payable to the Collector.]

Account of expenses incurred under section 8.

9. (1) When any work of repair, [2][extension or alteration] is carried out under [3][clause (*b*) of sub-section (1) of section 5, under section 5A or under section 6], an account shall be kept of the actual expenses incurred and shall be submitted to the Collector as soon as possible after the work has been completed.

(2) The Collector may revise any account so submitted to him if after making an inquiry he considers it necessary to do so.

Charging and apportionment of expenses.

10. [4][When any work of repair, extension or alteration has been carried out by any agency mentioned in clause (*b*) of sub-section (1) of section 5, under section 5A or under section 6, the Collector shall, after making such inquiry and giving such notice as he thinks fit, apportion the expenses incurred in carrying out any of the said works, including expenses incurred in preparing any plan and estimate of costs under the proviso to section 3, in supervising such work and in issuing any notice under any of the provisions of this Chapter, amongst the person or persons liable to pay the same in such proportions as may seem to him to be fair and equitable, and in making such apportionment, he shall have regard to the following considerations]—

(*a*) the obligation under which any person may be to maintain the irrigation work in an efficient state, and the reason for the failure of such person so to maintain it,

(*b*) the benefit which is likely to result from the work of repair or construction, and

(*c*) any other considerations which in the circumstances of the case he may deem it fair and equitable to take into account :

[5][Provided that the amount to be apportioned in respect of the expenses incurred in preparing any such plan and estimate, in supervising such work and in issuing any such notice shall not exceed five *per centum* of the expenses incurred in such repair, extension or alteration].

---

1 As to the recovery of public demands *see* the Bihar and Orissa Public Demands Recovery Act, 1914 (B. & O. Act IV of 1914), in Bihar and Orissa Code, Vol. III, 2nd Ed., p. 171.

2 These words were substituted for the words "or construction" by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 12.

3 These words, figures, brackets and letters in s. 9 (1) were substituted for the word and figure "section 8" by *ibid.*

4 These words, brackets, letters and figures in s. 10 were substituted for the words and figure "The Collector after making such further inquiry and giving such further notice, if any, as may be prescribed in this behalf shall charge or apportion the expenses incurred in repairing or constructing an irrigation work under section 8 to such person or among such persons, whether landlords or tenants, in such proportions as may seem to him to be fair and equitable, and in making such charge or apportionment shall have regard to the following considerations" by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 13(1).

5 This proviso was added to s. 10 by *ibid.*, s. 13(2).

Collector's award as to recovery of such expenses.

11. (1) When any [1][* * *] apportionment has been [2][made] under section 10, the Collector shall make an order (hereinafter called the award] specifying—

(*a*) the person or persons by whom each sum so [3][* *] apportioned is payable;

(*b*) the amount payable by each such person;

[4][(*c*) the instalments fixed for the payment of such amounts : provided that in fixing such instalments, the Collector shall act in accordance with such general or special order as may be issued by the State Government in this behalf;]

(*d*) the dates for the payment of such instalments.

[5][* * * * *]

[6][(2) The Collector shall cause to be served in the prescribed manner on every person to whom any sum has been apportioned, a copy of the award together with a notice specifying the amount payable to the applicant in respect of the costs determined under sub-clause (*i*) of clause (*b*) of sub-section (2) of section 7 and the amount payable to the Collector in respect of the costs determined under sub-clause (*ii*) of the said clause (*b*).]

Recovery of cost as a public demand.

12. All sums payable under [7][section 11] shall be recoverable as [8][public demands [9] payable to the Collector].

CHAPTER III

MAINTENANCE OF IRRIGATION WORKS BY GOVERNMENT AGENCY

Issue of notice by Collector for maintenance of irrigation work.

13. Whenever it appears to the Collector that an irrigation work which has been repaired previously under Chapter II has fallen into disrepair to the detriment of any land for the benefit of which such work was constructed, he may cause—

(*i*) a notice to be served on the landlord of the land in which the irrigation work is situated, and on every person known or believed to be under an obligation to maintain such work in an efficient state, and

---

1 The words "charge or" in s. 11(1) were omitted by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 14(*a*).

2 This word was substituted for the word "declared" by *ibid.*

3 The words "charged or" were omitted by *ibid.*

4 This clause was substituted by Act XXXVII of 1950.

5 The words "provided that—

(*i*) not less than one nor more than five instalments shall be payable by any one person in any one year, and

(*ii*) the amount to be paid in one year shall not exceed twelve annas per acre of the area benefited" in clause (*d*) of section 11 were omitted by *ibid.*

6 This sub-section was substituted for the original sub-sections (2) and (3) by *ibid.*, s. 14(*b*).

7 The word and figures "section 11" in s. 12 were substituted for the words and figures "sections 7 and 11" by *ibid*, s. 15.

8 These words in square brackets were substituted for the words "public demands" by *ibid.*

9 As to recovery of public demands, *see* the Bihar and Orissa Public Demands Recovery Act, 1914 (B. & O Act IV of 1914), in Bihar and Orissa Code, Vol. III, 2nd Ed., p. 171.

(*ii*) public notice to be given at convenient places in every village in which such work is situated,

stating that he proposes to take over and maintain the said work under this Chapter, and calling on any person who may be concerned to show cause on the date specified in the notice why such action should not be taken.

Inquiry by Collector.

14. On the date specified in the notice issued under section 13 or on any other date to which the proceedings may be adjourned, the Collector shall hold an inquiry and shall hear the persons on whom the notice has been served (if they appear) and any other persons, whose land is irrigated from the said work, who may attend; and may take down in writing any evidence that he may think necessary regarding—

(*a*) the necessity for taking over and maintaining such work;

(*b*) the probable cost of maintenance of such work; and

(*c*) the obligation to maintain such work in an efficient state, and the reasons why the person under such obligation has failed to repair it.

Power of a Collector to take over and maintain irrigation work, and to relinquish control and maintenance.

15. (1) If after making an inquiry under section 14, the Collector is satisfied that the state of disrepair of the irrigation work is such as [1][materially prejudices or is likely to prejudice materially] the irrigation of the lands which are dependent thereon for a supply of water, and that the person responsible for its maintenance is not likely to keep it in an efficient state, he may issue an order in writing directing that the work shall be taken over and maintained [2][by the State Government] :

Provided that—

[3][* * * * *]

[4][(*a*)] if the annual cost of maintenance, as estimated, exceeds one thousand two hundred and fifty rupees but does not exceed five thousand rupees the previous sanction of the [5][prescribed authority] shall be obtained, and

---

1 These words in square brackets in s. 15(1) were substituted for the words "materially to prejudice" by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 16(*a*)(*i*).

2 These words were substituted for the words "by Provincial Government" by Adaptation of Laws Order, 1950.

3 Clause (*a*) of the proviso was omitted by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 16(*a*)(*ii*).

4 The original clause (*b*) was re-lettered as clause (*a*) by *ibid.*, s. 16(*a*)(*iii*).

5 These words were substituted for the word "Commissioner" by *ibid.*

[1][(*b*)] if the annual cost of maintenance, as estimated, exceeds five thousand rupees, the previous sanction of the [2][State Government] shall be obtained.

(2) Such order shall specify the proportion of the cost of maintenance to be paid by each person affected by the order, and such apportionment shall be made in the manner laid down in section 10.

(3) The Collector may authorize any person [3][or agency] to take over and maintain the irrigation work on behalf [4][of the State Government].

(4) After giving such notice as may be prescribed in this behalf to the persons mentioned, and in the manner laid down in section 13 the Collector may, for reasons to be recorded by him in writing, order that on a date to be specified in the notice the control and maintenance of the irrigation work by or on behalf [4][of the State Government] shall cease; and when such order has been made the provisions of this Chapter shall, with effect from the said date, cease to apply to the said work save after the issue of fresh notices under section 13, but such order shall not affect the liability of any person to pay any portion of the cost due from him under sub-section (2), or the recovery of the same under section 17, if the cost was incurred during the period of such management and control.

Accounts of expenses incurred.

16. (1) The person [5][or agency] who takes over an irrigation work under section 15 shall keep accounts of the actual expense incurred in the maintenance thereof and shall submit such accounts to the Collector at such intervals [6][as may, from time to time, be fixed by the Collector].

(2) The Collector may revise any account so submitted to him, if after making inquiry he considers it necessary to do so.

Collector's recovery of expenses.

17. The Collector shall inform the persons liable under [7][sub-section (2) of section 15] of the amount due from each and shall intimate the date by which such sums are to be paid. Every such sum not paid by the date fixed shall be recoverable as a [8][public demand payable to the Collector].

---

1 The original clause (*c*) was re-lettered as clause (*b*) by the Bihar and Orissa Private Irrigation Work (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 16(*a*)(*iv*).

2 These words were substituted for the words "Provincial Government" by Adaptation of Laws Order, 1950.

3 These words were inserted by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 16(*b*).

4 These words were substituted for the words "of Provincial" Adaptation of Indian Laws Order, 1950.

5 These words were inserted by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 17.

6 These words in square brackets in s. 16(1) were substituted for the words "as may be prescribed by the Collector" by *ibid.*

7 The words, figures and brackets "sub-section (2) of section 15" in s. 17 were substituted for the word, figures and brackets "section 15(2)" by *ibid.*, s. 18.

These words in square brackets in s. 17 were substituted for the words "public demand" by *ibid.*

9 As to the recovery of public demands, *see* the Bihar and Orissa Public demands Recovery Act 1914 (B. & O. Act IV of 1914), in Bihar and Orissa Code, Vol. III, 2nd Ed., p. 171.

18. (1) Any of the persons liable for the cost of the maintenance of an irrigation work taken over [1][by the Provincial Government] under section 15 may apply to the Collector to be permitted to maintain the work in future. Application to Collector for future maintenance.

(2) The Collector, after making such inquiry as he considers necessary, may either refuse the application if he is not satisfied that the applicant is competent to maintain the irrigation work in an efficient condition or may direct that the irrigation work shall be made over to the applicant from any date specified in the order on such conditions as the Collector may deem to be necessary for its efficient maintenance.

(3) The Collector may from time to time for reasons to be stated by him in writing vary or cancel any order made under this section.

CHAPTER IV

MAINTENANCE OF [2][CERTAIN] IRRIGATION WORKS BY VILLAGE AGENCY

[3][**19.** The provisions of this Chapter shall apply to all classes of Irrigation works except those mentioned in Chapter V and VI]. Application of this Chapter.

[4][**20.** * * * * *]

21. (1) If on inquiry [5][the Collector] finds that [6][any irrigation work] is not being properly maintained, and that the person responsible for its maintenance is not likely so to maintain it, he may make an order declaring that the maintenance of the work shall be vested from the date of his order in any of the following village agencies :— Power of Collector to vest management in village agency.

(*a*) a *panchayat* of not less than five nor more than nine persons to be selected by him from those interested in the maintenance of the said work, and to include one person to represent the interests of the landlords of the land which is irrigated therefrom,

(*b*) a co-operative society whose membership is confined to the village or villages in which the area irrigated is situated,

---

1 These words were substituted for the words "by Government" by paragraph 3 and Schedule VII of the Government of India (Adaptation of Indian Laws) Order, 1937.

2 Substituted by Act XXXVII of 1950.

3 Substituted by *ibid.*

4 Omitted by *ibid.*

5 These words were substituted for the word "he" by he Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 20.

6 Inserted by Act XXXVII of 1950.

(*c*) a village *panchayat* or similar body constituted under any law for the time being in force and having jurisdiction over the area irrigated from the said work [1] [or, if there is more than one village *panchayat* or similar body having jurisdiction over such area, to the village *panchayat* or similar body having jurisdiction over the major portion of the area], or

(*d*) a village headman :

Provided that if the work is vested in any of the agencies specified in clauses (*b*) and (*c*), the Collector shall nominate a person to represent the interests of the landlords of the land which is irrigated from the said work, and such person shall for the purposes of this Chapter be deemed to be a member of such agency:

[2][Provided further that in the case of an irrigation work in respect of which the Collector has made an order under section 5 or 5A no inquiry under this sub-section shall be necessary;]

[3][The order shall further specify the exact area benefited by the said work and apportion the cost of maintenance amongst the person or persons who may be found to be liable to pay the same, having regard to the considerations mentioned in clauses (*a*) to (*c*) of section 10.]

(3) The Collector may from time to time vary or cancel any such order.

Powers and duties of village agency vested with management.

22. The said village agency shall thereupon—

(1) be responsible for the proper maintenance of the said work and be entitled to do all work incidental thereto;

(2) regulate the supply and distribution of water;

[3][(3) collect the cost of maintenance from the person or persons who may be found to be liable to pay the same in accordance with the order under section 21:

(4) keep accounts of all receipts and expenditure in such form as may be prescribed; and

(5) carry out any order that may be passed under section 26 by the Collector.

23. (*Limits to cost of maintenance.*) *Rep. by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act*, 1939 (*Bihar Act X of* 1939), *s.* 21.

---

1 These words in square brackets in clause (*c*) of sub-section (1) of section 21 were inserted by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 20.

2 Inserted by Act of 1950.

3 Substituted by *ibid.*

Power to realise arrears of cost by distraint and sale, or as public demand.

24. (1) Should any person on whom [1][the whole of the cost or a proportion of the cost has been assessed under section 21] fail to pay the same within one month of demand, the village agency may proceed to realize the amount by the distraint and sale of his movable property in the manner provided and subject to the limitations imposed in the Village Chaukidari Act, 1870,[2] and may call on the local chaukidar or chaukidars for assistance in carrying out the distraint.

Ben. Act. VI of 1870.

(2) Should the amount not be realized by such [3][distraint and sale], the village agency may apply to the Collector to realise the arrears as a public demand[4] and the said officer may if he thinks fit proceed to the realization of the demand.

Right to excavate earth.

25. Where the said work is formed by enclosing embankments the village agency shall have the right to excavate the earth to such depth and extent as may be necessary for the efficient maintenance of the work.

Power of control of Collector.

26. The Collector shall be entitled at all times to inspect the working and accounts of the said village agency and to pass such orders as he may deem necessary for the efficient performance of its duties under this Chapter.

CHAPTER V

CONSTRUCTION OF NEW IRRIGATION CHANNELS FROM NOTIFIED RIVERS

Sanction necessary for construction of new irrigation channels from notified rivers.

27. The [5][State Government] may by notification, after previous publication in the prescribed manner, direct that no person shall, unless the previous sanction of the Collector has been obtained, construct any new irrigation channel taking off from any river or stream within the limits specified in such notification. For the purposes of this section the re-excavation of an irrigation channel which has fallen into disrepair and has not been used for a period of seven years shall be deemed to be equivalent to the construction of a new irrigation channel.

Application for new sanction.

28. (1) Where the previous sanction of the Collector is necessary under section 27 for the construction of a new irrigation channel any person may apply in writing to the Collector for such sanction.

(2) Every such application must be accompanied by a plan and estimate of the cost of the proposed work, and must show the lands to be irrigated and the sources of the supply of any water which the applicant intends to convey through such channel.

---

1 Substituted by Act of 1950.

2 Printed in Bihar and Orissa Code, Vol. II, 2nd Ed., p. 121.

3 These words were substituted for the words "sale and distraint" by the Bihar and Orissa Privete Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 22.

4 As to the recovery of public demands, *see* the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act IV of 1914), in Bihar and Orissa Code, Vol. III, 2nd Ed., p. 171.

5 These words were substituted for the words "Provincial Government" by Adaptation of the Laws Order, 1950.

Issue of notice.

29. On receipts of any such application, the Collector shall cause a notice to be served in the prescribed manner in every village affected, on such persons as he may think fit, stating that he will, on a date to be specified in the notice, proceed to consider any objections which may be raised against the grant of sanction to the application.

Inquiry into and disposal of application.

30. (1) On the date specified in the notice, or on any subsequent date to which the inquiry may be adjourned, the Collector shall, after considering the objections raised (if any) and making any further inquiry he may deem necessary, make an order in writing, either disallowing the application, or sanctioning it in whole or in part and on such terms and conditions (if any) as to him may seem fit.

(2) The Collector may, before making an order under sub-section (1), cause an inquiry to be made by an officer not below the rank of Sub-Deputy Collector, and such officer shall submit to the Collector a report, which shall form part of the record of the Collector's proceedings.

CHAPTER VI

ACQUISITION OF LANDS FOR IRRIGATION PURPOSES

Application to Collector for land acquisition.

31. Any person who desires the construction of a new irrigation work, or the extension or alteration of an existing irrigation work, may apply, in writing, to the Collector, stating—

(*i*) that he has unsuccessfully endeavoured to acquire from the owners and occupiers of [1][any land] through which he desires such irrigation work to pass [2][or which may be liable to submersion as a result of the construction of such work or of any extension or alteration of an existing irrigation work], a right to occupy so much of the land as will be [3][needed for, or be liable to, submersion as a result of the construction of, such irrigation work or the extension or alteration of an existing irrigation work];

(*ii*) that he desires the Collector, in his behalf and at his cost, to do all things necessary for acquiring such right;

(*iii*) that he is able to defray all costs involved in acquiring such right and constructing, extending or altering such irrigation work.

Preliminary procedure of Collector.

32. If the Collector considers—

(*a*) that the construction, extension or alteration of such irrigation work is expedient;

---

1 These words were substituted for the words "the land" by the Bihar and Orissa Priavte Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 23(*a*).

2 These words in square brackets in s. 31(*i*) were inserted by *ibid.*, s. 23(*b*).

3 These words in square brackets in s. 31(*i*) were substituted for the words "needed for such irrigation work" by *ibid.*, s. 23(*c*).

(*b*) that the statements in the application are true; and

(*c*) that the applicant has a substantial interest in the land to be benefited,

he shall call upon the applicant to deposit such sum as the Collector considers necessary to meet the cost of the preliminary proceedings and such sums as the Collector considers likely to become due for the payment of compensation under section 35 ;

and, upon such deposit being made, he shall—

(*i*) cause inquiry to be made as to the most suitable alignment for the said irrigation work;

(*ii*) mark out [1][any land] which, in his opinion, it will be necessary to occupy for the construction, extension or alteration thereof [2][or which may be liable to submersion as a result of such construction, extension or alteration];

(*iii*) forthwith publish a notice in the prescribed manner, in every village through which [3][the irrigation work passes or is proposed to be taken], stating that so much of such land as belongs to such village has been so marked out; and

(*iv*) cause a copy of such notice to be served in the prescribed manner on all persons whom he has reason to believe to have an interest in the land to which the notice refers.

[4][**32A.** If the Collector considers—

Acquisition of certain existing irrigation works by Collector.

(*a*) that it is expedient to extend, alter or repair an existing irrigation work, which the owner thereof is under no obligation to maintain but which benefits or is likely to benefit any village or local area within the district ; and

(*b*) that it is desirable in the interest of such village or local area to acquire such irrigation work;

he may—

(*i*) mark out the land which, in his opinion, it will be necessary to acquire for the purposes of such extension, alteration or repair;

(*ii*) publish a notice in the prescribed manner in the village in which the irrigation work is situated or, if it is situated in or passes through more than one village, in every village in which it is situated or through which it passes, stating that he proposes to acquire the said irrigation work and the land marked out as aforesaid; and

---

[1] These words in square brackets in s. 32(*ii*) were substituted for the words "the land" by th Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 23 (*b*). s 24 (*a*) (*i*).

[2] These words in square brackets in s. 32(*ii*) were inserted by *ibid.*, s. 24(*a*)(*ii*).

[3] These words in square brackets in s. 32(*iii*) were substituted for the words "the irrigation work is proposed to be taken" *ibid.*, s 24(*b*).

[4] Substituted by Act of 1950.

(*iii*) cause a copy of such notice to be served in the prescribed manner on all persons who, he has reason to believe, are interested in the irrigation work or in the land to which the notice relates:

Provided that, if the Collector is of opinion that the cost of the acquisition of such irrigation work and of the extension, alteration or repair thereof (inclusive of the cost, if any, of the acquisition of any land which, in his opinion, is necessary for the purpose of carrying out the work or which may be liable to submersion as a result of the execution of such work) is likely to exceed two thousand and five hundred rupees, he shall, before taking action under clauses (*i*), (*ii*) and (*iii*), get a plan and estimate of the cost of such acquisition, extension, alteration or repair prepared by an Irrigation Engineer :

Provided further that the Collector shall not take any action under clauses (*i*), (*ii*) and (*iii*), until he has obtained the previous sanction of the prescribed authority if the estimated cost is likely to exceed five thousand rupees but is not likely to exceed ten thousand rupees, or the previous sanction of the State Government if such cost is likely to exceed ten thousand rupees.]

Construction of certain kinds of new irrigation works.

[1][**32B.** If the Collector considers that it is expedient to construct any new irrigation work, he may—

(*i*) cause inquiry to be made as to the most suitable alignment for the said irrigation work;

(*ii*) mark out the land which, in his opinion, it will be necessary to acquire for the construction thereof or which may be liable to submersion as a result of such construction;

(*iii*) forthwith publish a notice in the prescribed manner in every village through which the irrigation work is proposed to be taken stating that so much of the land as belongs to such village has been so marked out; and

(*iv*) cause a copy of such notice to be served in the prescribed manner on all persons who, he has reason to believe, are interested in the land to which the notice relates:

Provided that, if the Collector is of opinion that such work is likely to cost more than two thousand and five hundred rupees (inclusive of the cost of acquisition of any land which in his opinion will be needed for such construction or which may be liable to submersion as a result of such construction) he shall before taking action under clauses (*ii*) and (*iii*) and (*iv*) get a plan and estimate of the cost of such acquisition and construction prepared by an Irrigation Engineer:

Provided further that the Collector shall not take any action under clauses (*ii*), (*iii*) and (*iv*), until he has obtained the previous sanction of the prescribed authority if the estimated cost is likely to exceed five thousand rupees but

[1] Substituted by Act of 1950.

is not likely to exceed ten thousand rupees, or the previous sanction of the State Government if such cost is likely to exceed ten thousand rupees but not likely to exceed thirty thousand rupees.]

Objections how to be dealt with.

33. (1) Within thirty days from the publication of any notice under section 32, [1][32A or 32B] any person interested in the land or irrigation work to which the notice refers may apply to the Collector, by petition, stating his objection to the construction, extension, [2][alteration or repair in respect of which the notice was issued].

(2) The Collector may either reject the petition, or proceed to inquire into the validity of the objection after giving notice [3][to the parties or to the petitioner, as the case may be,] of the place and time at which such inquiry will be held.

(3) The Collector shall record in writing all orders passed by him under this section, and the grounds thereof; and shall, if necessary, cause boundaries to be demarcated on the ground.

When applicant may be placed in occupation of land.

[4][**34** If no such objection is made, or where any such objection is made, on the disposal of such objection, the Collector may proceed forthwith to take possession of the irrigation work or of the land referred to in section 32A or 32B, as the case may be, or, if the land has been marked out on an application made under section 32, to place the applicant in occupation of such land on such conditions, if any, as he may think just and proper to protect the interests of other persons affected by the application.]

Payment of compensation and expenses by applicant before occupation.

35. [5][(1) Except as otherwise provided in sub-section (3), the Collector shall not take possession of any irrigation work or land referred to in section 32A or 32B, nor shall the applicant be placed in occupation of any land marked out on an application made under section 32, until the Collector or, as the case may be, the applicant has paid to the persons named by the Collector such amount as the Collector determines to be due as compensation for the irrigation work or land so acquired or occupied, and for any damage caused by the marking out of such land, together with all expenses incidental to such acquisition or occupation.]

---

[1] The word, figures and letters "32A or 32B" were inserted by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 26(*a*)(*i*).

[2] These words in square brackets in s. 33(1) were substituted for the words "or alteration for which application has been made" by *ibid.*, s. 26(*a*)(*ii*).

[3] These words in square brackets in s. 33(2) were substituted for the words "to the parties" by *ibid.*, s. 26(*b*).

[4] This section was substituted for the original s. 34 by *ibid.*, s. 27.

[5] Sub-section (1) was substituted for the original sub-section (1) by *ibid.*, s. 28(1)(*a*).

(2) In determining the compensation to be paid under sub-section (1), the Collector shall proceed under the provisions of sections 8 to 15, [1][18 to 34] and 45 of the Land Acquisition Act, 1894,[2] so far as they are applicable, I of 1894. [3][but, in the case of a proceeding commenced by an application made under section 31, he may], if the person to be compensated so desires, award such compensation in the form of a rent-charge payable in respect of the land occupied

[4][(3) In cases of urgency the Collector may forthwith take possession of any irrigation work or land referred to in section 32A or 32B, though the compensation mentioned in sub-section (1) has not been paid.

(4) When the Collector takes possession of any irrigation work or land under sub-section (1) or sub-section (3), such irrigation work or land shall vest absolutely in the Crown free from all encumbrances.]

Execution of work and its maintenance and recovery of cost.

[5]**[35A.** (1) Subject to such special or general orders as may, from time to time, be issued by the [6][State] Government, the Collector shall, in any case in which he takes action under section 32A or 32B, cause the construction, alteration, extension or repair, as the case may be, of any irrigation work to be carried out in such manner and through such agency as he considers proper.

(2) Upon the completion of the construction, alteration, extension or repair of the irrigation work the Collector shall, after making the prescribed inquiry and giving the prescribed notice, apportion the costs incurred therein (including the cost incurred in acquiring any irrigation work or any land under section 32A or 32B) to such person or among such persons, whether landlords or tenants, in such proportions as may seem to him to be fair and equitable; and in making such apportionment the Collector shall have regard to the benefit resulting or likely to result from the irrigation work and any other consideration which, in the circumstances of the case, he may consider it fair and equitable to take into account.

(3) When any apportionment has been made under sub-section (2), the Collector shall make an award containing the particulars specified in clauses (*a*), (*b*), (*c*) and (*d*) of sub-section (1) of section 11 and cause a copy of such award, together with a general notice stating that the amounts apportioned are payable to the Collector, to be published in the prescribed manner in the villages in which the lands benefited or likely to be benefited by the irrigation work are situated: provided that instead of, or in addition to, causing a general notice to be served, the Collector may cause special notices to be served in the prescribed manner on all or any of the persons to whom any sum has been apportioned.

---

1 The word and figures "18 to 34" in s. 35(2) were substituted for the figures "22, 23, 24" by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939) s. 28(1) (*b*).

2 Printed in Central Acts, 1882-97, Ed. 1938, p. 483.

3 These words in square brackets in s. 35(2) were substituted for the words "but he may" by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 28(1)(*b*).

4 Sub-sections (3) and (4) were added to s. 34 by *ibid.*, s. 28(2).

5 Sections 35A and 35B were inserted by *ibid.*, s. 29.

6 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(4) Any sum payable under sub-section (3) shall be recoverable as a public demand[1] payable to the Collector.

(5) Upon the completion of the construction, alteration, extension or repair of the irrigation work, the Collector may make an order that the maintenance of such work shall, as from the date of the order, vest in any of the following village agencies, namely :—

(*i*) a *panchayat* of not less than five nor more than nine persons (including one person to represent the interests of the landlords of the area which is, or is likely to be, irrigated from the irrigation work) to be selected by him from those interested in the maintenance of the said work;

(*ii*) a co-operative society whose membership is confined to the village or villages in which the area irrigated or likely to be irrigated is situated;

(*iii*) a village *panchayat* or similar body constituted under any law for the time being in force and having jurisdiction over the area irrigated or likely to be irrigated from the said work, or, if there is more than one village *panchayat* or similar body having jurisdiction over such area, to the village *panchayat* or similar body having jurisdiction over the major portion of the area; or

(*iv*) a village headman :

Provided that if the maintenance of the work is vested in any of the agencies specified in clauses (*ii*) and (*iii*), the Collector shall nominate a person to represent the landlords of the area which is, or is likely to be, irrigated from the said work and such person shall, for the purposes of this Chapter, be deemed to be a member of such agency.

(6) The order shall further specify the area benefited or likely to be benefited by the said work and the principles on which the cost of maintenance shall be levied and, where the degree of benefit varies throughout the area, shall state the proportion of the cost of maintenance to be borne by each portion of the said area.

(7) The Collector may from time to time vary or cancel any such order.

Application of sections 22 and 24 to 26

35B. When the Collector has made an order under sub-section (5) of section 35A in respect of any irrigation works the provisions of sections 22, 24, 25 and 26 shall apply, as far as may be, as if such order were an order under section 21.]

Conditions binding on applicant placed in occupation.

36. (1) [2][When, in any proceeding commenced by an application made under section 31, the applicant] is placed in occupation of land as aforesaid, for the purposes of any irrigation work such land shall be subject to the provisions

[1] As to the recovery of public demands, *see* the Bihar and Orissa Public Demands Recovery Act, 1914 (B. & O. Act IV of 1914), in Bihar and Orissa Code, Vol. III, 2nd Ed., p. 171.

[2] These words and figur s in square brackets in s. 36(1) were substituted for the words "When any such applicant" by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 30.

of this Act, and the following conditions shall be binding on him and his representatives in interest, namely :—

(*a*) that all works necessary for the passage, across such irrigation work of water-courses existing previous to its construction, extension or alteration, and of the drainage intercepted by it, and for affording proper communication across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and shall be maintained by him or his representatives in interest to the satisfaction of the Collector;

(*b*) that the land of which applicant has been placed in occupation for the purposes of any irrigation work shall be used only for the purpose of that irrigation work ;

(*c*) that the proposed construction, extension or alteration of the irrigation work shall be completed to the satisfaction of the Collector within one year after the applicant is placed in occupation of the land, or within such further period as may be allowed, in writing by the Collector;

(*d*) that the proposed irrigation work shall, after completion, be maintained in a state of efficiency;

(*e*) any conditions in regard to the supply and distribution of water, and the charges, if any, to be made therefor, which the Collector may deem it fair and equitable to impose in the interest of persons whose land will be or is capable of being, irrigated from the said work; and

(*f*) in the case in which land is occupied on the condition of payment of a rent-charge that :—

(*i*) the applicant or his representative in interest shall so long as he occupies such land or irrigation work, pay rent for the same at such rate and on such days as were determined by the Collector when the applicant was placed in occupation ;

(*ii*) if the right to occupy the land ceases, owing to a breach of any of the conditions contained in clauses (*a*), (*b*), (*c*) and (*d*), or in sub-clause (*i*) of this clause or imposed under clause (*e*), the liability to pay the said rent-charge shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid compensation for any injury done to the said land, of such amount and to such persons as the Collector may determine ;

(*iii*) the Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due, or assess the amount of such compensation; and, if any such rent or compensation be not paid by the applicant or his representative in interest

the amount, with interest thereon at the rate of six and a quarter *per centum per annum* from the date on which it became due, shall be recoverable as a public demand[1] and shall be paid, when recovered, to the person to whom it is due.

(2) If any of the conditions contained in or imposed under sub-section (1) are not complied with,

or if any irrigation work constructed, extended or altered under this Act is disused for five years continuously,

the right of the applicant, or of his representatives in interest to occupy such land or irrigation work shall cease absolutely.

(3) (*a*) When the right of the applicant or his representative in interest to occupy such land ceases absolutely in accordance with the terms of the preceding sub-section, the person who owned the land at the date of the acquisition or his representative in interest may, within one year of the date on which the right of the applicant to occupy the land ceases absolutely, claim in the court of the Collector the return of the land on payment of the compensation paid to him or the total amount of the rent-charge paid to him by way of such compensation, after deduction therefrom of the amount paid under section 23(2) of the Land Acquisition Act, 1894[2] and any other sum which may be awarded by the Collector for depreciation in the value of the land subsequent to acquisition.

I of 1894.

(*b*) The Collector may on such claim being made order the return of the land to the claimant after payment by him of the amount mentioned in clause (*a*) of this sub-section, or he may (if he thinks fit) take action under [3][Chapter VI A] for the maintenance of the irrigation work.

(*c*) An order of the Collector under clause (*b*) for the return of the land to the claimant shall operate to revest the land in the claimant subject to all the rights of other persons existing at the time of acquisition.

---

[3][CHAPTER VIA]

MAINTENANCE OF IRRIGATION WORKS BY GOVERNMENT AGENCY

36A. (1) Where the maintenance of an irrigation work has not been vested in a village agency under the provisions of section 21 or of sub-section (5) of section 35A or where the Collector is satisfied that the village agency in whom the maintenance of any irrigation work has been vested under the said provisions is not likely to maintain it in an efficient state, he may issue an order in writing that the work shall be taken over and maintained by the State Government :

---

[1] As to the recovery of public demands, *see* the Bihar and Orissa Public Demands Recovery Act, 1914 (B. & O. Act IV of 1914), in Bihar and Orissa Code, Vol. III, 2nd Ed., p. 171.

[2] Printed in Central Acts, 1882–97, Ed. 1938, p. 483.

[3] Substituted by Act of 1950.

Provided that—

(*a*) if the annual cost of maintenance, as estimated, exceeds two thousand and five hundred rupees, but does not exceed ten thousand rupees, the previous sanction of the prescribed authority shall be obtained; and

(*b*) if the annual cost of maintenance, as estimated, exceeds ten thousand rupees, the previous sanction of the State Government shall be obtained.

(2) The order shall further specify the exact area benefited by the said work and apportion the cost of maintenance amongst the person or persons who may be found to be liable to pay the same, having regard to the consideration mentioned in clauses (*a*) to (*c*) of section 10.

(3) The Collector may authorise any person or agency to take over and maintain the irrigation work on behalf of the State Government.

36B. (1) The person or agency who takes over an irrigation work under section 36A shall keep accounts of the actual expense incurred in the maintenance thereof and shall submit such accounts to the Collector at such intervals as may, from time to time, be fixed by the Collector.

(2) The Collector may revise any accounts so submitted to him, if after making inquiry he considers it necessary to do so.

36C. The Collector shall inform the persons liable under sub-section (2) of section 36A of the amount due from each and shall intimate the date by which such sums are to be paid. Every such sum not paid by the date fixed shall be recoverable as a public demand payable to the Collector.]

---

[2][CHAPTER [1][VIB]

COMPENSATION

Compensation for consequential damage.

[2][**36D**] (1) Whenever any land other than land acquired under the Land Acquisition Act, 1894[3], or otherwise for the purposes of this Act, or any right of fishery, right of drainage, right to the use of water or other right of property is injuriously affected by any act done or any work executed under this Act, the person in whom such land or right is vested may prefer a claim by petition to the Collector for compensation : I of 1894.

Provided that no person shall be entitled to claim compensation—

(*a*) for any damage sustained by him which, if caused by a private person, would not render such person liable to a suit; or

---

[1] Substituted by Act of 1950.
[2] Substituted by *ibid.*
[3] Printed in Central Acts, 1882–97, Ed. 1838, p. 483.

(*b*) for any damage caused by—

(*i*) any stoppage or diminution of percolation or of floods,

(*ii*) any deterioration of climate or soil, or

(*iii*) any stoppage of navigation or of the means of rafting timber or watering cattle.

(2) No claim for compensation shall be entertained unless it is made within six months of the date when the act was done or the work executed by reason of which the land or right in respect of which compensation is claimed was injuriously affected.

Determination of compensation.

[1][**36E.**] (1) The Collector shall consider all claims made under sub-section (1) of section 36A and shall determine the amount of compensation, if any, which should be paid and the person to whom such amount should be paid.

(2) In determining the amount of compensation to be paid under sub-section (1), the Collector shall take into consideration the following matters and no other matter :—

(*a*) the market value of the land or right injuriously affected at the time when the act was done or the work executed ;

(*b*) the damage sustained by the claimant by reason of such act or work injuriously affecting the land or right ;

(*c*) the consequent diminution of the market value of the land or right injuriously affected, when the act was done or the work executed; and

(*d*) whether the claimant has derived or is likely to derive any benefit from the act or work in respect of which the compensation is claimed, or from any work connected therewith, in which case the estimated value of such benefit, if any, shall be set off against the compensation which would otherwise be paid to such person.

(3) In addition to the market value of the land or right as above provided, the Collector shall in every case award a sum of fifteen *per centum* on such market value.

Apportionment and recovery of compensation.

[2][**36F.**] Any amount awarded to any person as compensation under this Chapter shall be—

(*a*) apportioned in such manner as the Collector may determine among the persons benefited by the acquisition of the land or the doing of the act or the execution of the work in respect of which the compensation is claimed,

(*b*) recoverable from the persons among whom it is apportioned under clause (*a*) as a public demand [3] payable to the Collector,

(*c*) payable to the person to whom it is awarded.]

---

[1] Substituted by Act of 1950.

[2] Substituted by *ibid.*

[3] As to the recovery of public demands, *see* the Bihar and Orissa Public Demands Recovery Act (B. and O. Act IV of 1914), in Bihar and Orissa Code, Vol. III, 2nd Ed., p. 171.

CHAPTER VII

SUPPLEMENTAL PROVISIONS

Appointment of Irrigation Committee.

37. (1) The [1][State Government] may appoint an Irrigation Committee for any district; and may, from time to time, appoint and accept the resignation of the members of such Committee and direct that any person shall cease to be a member thereof.

(2) The [1][State Government] may, from time to time, direct that any such Committee shall be consulted by the Collector in the discharge of any function or the performance of any duty imposed on him by this Act; and by notification may, from time to time, direct that any such function or duty shall be performed or discharged by such Committee.

(3) The business of every such Committee shall be conducted under such rules as the [1][State Government] may, from time to time, make in that behalf.

(4) Whenever the Collector differs from the Irrigation Committee in any matter on which he is required by this Act or by the rules thereunder to consult the said Committee, he shall submit the question to the [2][prescribed authority] for decision, with copies of any remarks which may have been recorded by the Committee or any members thereof.

Record of system of rotation.

38. (1) In cases where the system of rotation (*parabandi*) for any irrigation work is not clearly entered in the record of rights or determined by a decree of a civil court which is binding on all the parties concerned, and in cases where the execution of works of repair or maintenance under the foregoing sections necessitates some revision of the existing or recorded system, the Collector may, after such inquiry as he considers necessary, draw up a new or revised system of rotation and may modify the same from time to tim if necessary.

(2) Where the Collector has prepared such a system no person shall use the water supplied by the irrigation work concerned except in accordance with such system.

[3][(3) In the case of an irrigation work constructed or acquired under section 32A or 32B, the Collector shall, after such inquiry as he considers necessary, draw up a system of rotation and may, if necessary, modify the same from time to time.]

Power of entry.

39. Any person duly authorized to prepare a specification and estimate, or to execute any work, under this Act, in respect of or upon any land, may, himself or by his agents and workmen, enter into or upon such land, and carry out such work thereupon as may be required.

---

[1] These words were substituted for the word "Provincial Government" by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the word "Commissioner" by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 32.

[3] Sub-section (3) was inserted by *ibid.*, s. 33.

Power to make rules.

40. (1) The [1][State Government] may, after previous publication, [2] make rules for carrying out the purposes and objects of this Act.

(2) In particular, and without prejudice to the generality of sub-section (1), rules[3] may be made—

(*a*) prescribing the procedure to be followed by any officer who is required or empowered by or under this Act to take action or hold inquiry in any matter or to give, serve or publish any notice;

[4][(*a*1) prescribing the manner in which a copy of any award shall be served under sub-section (3) of section 8 or sub-section (2) of section 11;]

(*b*) prescribing the cases in which, the officers to whom, and the conditions subject to which, a Collector may delegate any of his powers or duties under this Act;

[5][(*b*1) prescribing the authority whose previous sanction shall be necessary under the last proviso to sub-section (1) of section 5, if the estimated cost of any work referred to in the said proviso exceeds [6][five thousand rupees];

(*b*2) prescribing the manner in which, and the authority by whom, compensation shall be assessed under section 5B;]

(*c*) prescribing the procedure to be followed by the Collector in giving authority for the carrying out of a work of repair or construction under section 6 and the conditions, if any, under which such authority may be given ;

[7][(*d*) prescribing the manner of preparing the accounts referred to in sections 9 and [8][36B] and the procedure for publication thereof and for hearing of objections thereto;]

(*e*) for the recovery of the expenses referred to in sections [9][8], 11, [10][24, 35A & 36C]; [11][*]

[12][(*f*) prescribing the manner in which notices under sections 32A and 32B shall be served or published, as the case may be;

(*g*) prescribing the inquiry to be made and the notice to be given under sub-section (2) of section 35A;

---

[1] These words were substituted for the words "Provincial Government" by the Adaptation of Laws Order, 1950.

[2] As to the procedure for previous publication, *see* s. 26 of the Bihar and Orissa General Clauses Act, 1917 (B. & O. Act I of 1917), in Bihar and Orissa Code, Vol. III, 2nd Ed., p. 302.

[3] For rules regarding service of notice, *see* the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Pt. VII.

[4] Clause (*a*1) was inserted by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 34(*i*).

[5] Clauses (*b*1) and (*b*2) were inserted by *ibid.*, s. 34(*ii*).

[6] Substituted by Act of 1950.

[7] Substituted by *ibid.*

[8] Substituted by *ibid.*

[9] The figur "8" was substituted for the figure "7" by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 34(*iv*).

[10] Substituted by Act of 1950.

[11] The word "and" was omitted by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 34(*iv*).

[12] Clauses (*f*1) to (*g*2) were inserted by *ibid.*, s. 34 (*v*).

(*g*1) prescribing the manner in which notices under sub-section (3) of section 35A shall be served or published, as the case may be ;

(*g*2) prescribing the authority to whom any question referred to in sub-section (4) of section 37 shall be submitted for decision;]

(*h*) for the recovery of any sum advanced by the Collector to any person or agency for the carrying out under any of the provisions of this Act of any work of repair or construction and prescribing the rate of interest to be charged on any sum so advanced; [1][and]

[2][(*i*) prescribing the authority to whom an appeal shall lie under sub-section (1) of section 48.]

(3) All rules made under this section shall be published in the [3][official Gazette].

Power to summon and examine witnesses.

41. Any officer empowered by or under this Act to conduct any inquiry may exercise all such powers connected with securing the attendance of, and examining, witnesses and the production of documents as are conferred on civil courts by the Code of Civil Procedure, 1908[4]; and every inquiry in which the evidence of witnesses is recorded formally shall be deemed to be a judicial proceeding. V of 1908.

Penalties.

42. Whoever without proper authority and voluntarily does any of the following acts—

(*a*) interferes with the distribution of water from an irrigation work as entered in the record-of-rights or determined under section 38 or in any other lawful manner ;

(*b*) destroys or moves any level mark or water gauge fixed by the authority of a public servant;

(*c*) makes any dam, weir or other obstruction in any irrigation work;

(*d*) obstructs the construction of any work ordered by the Collector under the provisions of this Act; or

(*e*) constructs an irrigation channel in contravention of the provisions of section 27 or of any order of the Collector under section 30;

shall, in case the offence does not amount to mischief within the meaning of the Indian Penal Code,[5] be punishable with fine which may extend to one thousand rupees, or where the offence is a continuing one to a further fine which may extend to fifty rupees for every day on which the offence continues after the date of the first conviction. XLV of 1860.

---

[1] The word "and" was added to the clause (*h*) by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 34(*vi*).

[2] Clause (*i*) was inserted by *ibid*, s. 34(*vii*).

[3] These words were substituted for the word "Gazette" by paragraph 4 of the Government of India Adaptation of Indian Laws Order, 1937.

[4] Printed in Central Acts, 1908–10, Ed. 1938, p. 8.

[5] Printed in Central Acts, 1834–71, Ed. 1938, p. 235.

Compensation to persons injured by offence.

43. Whenever any person is fined for an offence against this Act, the Magistrate may direct that the whole or any part of the fine shall be paid by way of compensation to any person injured by such offence.

Claim for compensation to include whole loss.

[1][**43A.** Every claim for compensation for any loss resulting from any act done or purporting 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.]

Order to discontinue improper use of water, or the removal of obstructions or work, on conviction.

44. Whenever any person is convicted of an offence referred to in clause (*a*), clause (*c*), clause (*d*) or clause (*e*) of section 42, the Magistrate may, by written order, require him, within a reasonable time to be fixed in the order, to discontinue the improper use of the water, remove the obstruction or work or close the channel, as the case may be ;

and, on the failure of such person to comply with such order within the time fixed therein, the Collector may himself cause the work specified in the order to be carried out, and may recover the cost from the offender as a public demand[2].

Power of [3][State] Government to delegate powers or duties of Collector.

45. The [3][State Government] may, by general or special order,[4] confer and impose on any Deputy Collector or other Revenue officer all or any of the powers or duties of the Collector under this Act.

Power of supervision and control.

46. A general power of supervision and control shall be exercised—

(*a*) by the Board or Revenue, over all orders and proceedings under this Act of the [5] [prescribed authority], the Collector and any other officer on whom any of the Collector's powers or duties have been conferred or imposed thereunder;

(*b*) by the [5][prescribed authority], over all orders and proceedings under this Act of the Collector, and of any officer on whom any of the Collector's powers or duties have been conferred or imposed thereunder ; and

---

[1] Section 43 A was inserted by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 35.

[2] As to the recovery of public demands, *see* the Bihar and Orissa Public Demands Recovery Act, 1914 (B. & O. Act IV of 1914), in Bihar and Orissa Code, Vol. III, 2nd Ed., p. 171.

[3] These words were substituted for the words "Provincial Government" by Adaptation of Laws Order, 1950.

[4] For an order under this section, *see* the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Pt. VII.

[5] These words were substituted for the word "Commissioner" by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 36.

(*c*) by the Collector, over all orders and proceedings under this Act of any officer on whom any of his powers or duties have been conferred or imposed thereunder;

and the Board of Revenue, the [1][prescribed authority] and the Collector, respectively may revise, modify or reverse any order or proceeding which is hereby declared to be subject to its or his supervision and control, whether an appeal is or is not presented against such order or proceeding

Institution of suits to contest Collector's order under section 5 or section 30.

47. (1) Any person aggrieved by an order of the Collector under section 5 or section 30 may, within three months from the date on which the first overt act is taken in pursuance of such order, institute a suit in the civil court which would have jurisdiction to entertain a suit for the possession of any land affected by the order.

[2][(2) Such suit may be instituted on the ground that—

(*i*) the order interferes with the lawful exercise of a right to which the person aggrieved is entitled or infringes a right superior to the right the exercise of which is allowed by the order; and

(*ii*) such person is not entitled to claim under any of the provisions of this Act compensation for any loss which he has sustained or may sustain as a result of such interference or infringement;

and on no other ground.]

Bar of suits and right of appeal.

48. (1) Except as provided in section 47, no suit shall lie in any civil court, regarding any proceedings, under this Act of the Collector or of any officer on whom any of the powers or duties of the Collector have been conferred or imposed under this Act; but from any original order [3][(except an order declaring that any repair to any existing irrigation work shall not be carried out on the ground that the cost will be prohibitive and an order under section 5A)] or award of the Collector or any such officer, or from any order of the Collector, reversing the order of an officer subordinate to him, and in such cases only, an appeal, if made within thirty days, shall lie to the [4][prescribed authority].

(2) Where an order of the [4][prescribed authority] reverses an order of the Collector, or of any officer on whom any of the powers or duties of the Collector have been conferred or imposed under this Act, an appeal, if made within thirty days, shall lie to the Board of Revenue, whose decision shall be final.

Bar to proceedings for act done in good faith.

49. No suit or other proceeding shall lie against any person in respect of anything in good faith done or purporting to be done under or in pursuance of any provision of this Act.

---

[1] These words were substituted for the word "Commissioner" by the Bihar and Orissa Private Irrigation Works (Bihar Amendment) Act, 1939 (Bihar Act X of 1939), s. 36.

[2] Sub-section (2) was substituted for the original sub-section (2) by *ibid.*, s. 37.

[3] These words, brackets, figures and letter in s. 48(1) were inserted by *ibid.*, s. 38(*b*).

[4] These words were substituted for the word "Commissioner" by *ibid.*, s. 38(*a*).

THE CENTRAL PROVINCES IRRIGATION ACT, 1931

Act No. III of 1931

An Act to consolidate and amend the Law relating to Irrigation in the Central Provinces

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to irrigation in the Central Provinces; and whereas the Governor General has given his previous sanction to the passing of this Act as required by sub-section (3) of section 80-A of the Government of India Act;

It is hereby enacted as follows :—

Short title, extent and commencement

1. (1) This Act may be called the Central Provinces Irrigation Act, 1931.

(2) It extends to the whole of the Central Provinces.

(3) It shall come into force* on such date as the State Government may, by notification, direct.

CHAPTER I

DEFINITIONS

Interpretation.

2. (1) Unless there is anything repugnant in the subject or context, any expression used in this Act which is defined or explained in the Central Provinces Land Revenue Act, 1917, or in the Central Provinces Tenancy Act, 1920, shall have the meaning therein assigned to it.

C. P. Act II of 1917.
C. P. Act I of 1920.

(2) Every expression, which is defined or explained in any part of this Act, is used in every part of this Act in conformity with such definition or explanation.

Canal.

3. "Canal" includes—

(*a*) all canals, channels and reservoirs constructed, maintained or controlled by State Government, for the supply or storage of water for irrigation;

(*b*) all works, roads, embankments, structures, supply and escape channels connected with, or constructed for the purpose of facilitating the construction or maintenance of such canals, channels or reservoirs;

(*c*) all uncompleted works which, when completed, will fall within clause (*a*) or (*b*); and

(*d*) all land acquired or set apart for any of the above;

but does not include a water-course.

Water-course

4. "Water-course" means any channel which is supplied with water from a canal but is not maintained at the cost of the Government and all subsidiary works belonging to such channel.

---

*The Act was brought into force on the 15th March 1932, see *Central Provinces Gazette*, dated the 27th February 1932, Part I, page 210, C. P. P. W. D. Notification No. 9-E-A. I., dated the 25th February 1932.

Canal system. **5.** "Canal system" means all canals supplied from one or more common sources or head-works, together with all water-courses supplied therefrom and all lands commanded thereby.

Private irrigation work. **6.** "Private irrigation work" means a work, which is not the property of the Government constructed or maintained for the supply or storage of water for irrigation.

Grant-in-aid irrigation work. **7.** "Grant-in-aid irrigation work" means a private irrigation work constructed or improved by or on behalf of a permanent holder partly or wholly by means of a grant of money from the Government.

Commanded. **8.** Land is said to be commanded by a canal when it may be irrigated from that canal by the flow of water under gravity, and without the need of lifting or pumping the water [1][ ].

Provided that the Executive Engineer, with the previous sanction of the Superintending Engineer, may declare any land to be not commanded if it can be irrigated only by an excessive expenditure of water or by means of a water-course which passes through an area which the Executive Engineer considers it desirable to avoid.

Explanation.—Land which would not otherwise be commanded may become commanded by the construction of a crossing for the passage of water across a natural drainage, channel or ridge.

Wet. **9.** Land is said to be wet—

(*a*) when it is classed in the annual papers of the village under any description which the local Government may, by rules made under this Act, declare to have the meaning of "wet" for the purposes of this definition; or

(*b*) when it has been declared by the Executive Engineer, with the sanction of the Superintending Engineer, to be wet.

Irrigable. **10.** Land is said to be irrigable when—

(*a*) it is commanded by a canal ;

(*b*) it is under cultivation; and

(*c*) it is not wet.

[2]*Explanation.*—Land which has been cultivated with any crop at any time during two years preceding that from which an irrigation agreement has effect shall be deemed to be under cultivation.

Outlet. **11.** An "outlet" is an opening, constructed by [3][State] Government in a canal, through which water is delivered into a water-course or directly on to any land.

---

[1] Omitted by Act LV of 1948.
[2] Sub. by *ibid.*
[3] Sub. by the Adaptation of Laws Order, 1950.

Chak

12. (1) A "chak" is that area of land on one side of a canal, or below a tail, which would be commanded by a single outlet so situated that it would command the greatest possible area of land on that side of the canal in that neighbourhood.

Explanation.—The fact that, in order to secure a more efficient flow of water, two or more outlets are constructed for one chak, does not convert that chak into two or more chaks.

(2) In cases of doubt, the Executive Engineer shall have power to determine the boundaries of chaks; and in all cases he shall have power so to determine them that no single chak shall include land in more than one village.

[1][**12A.** "Compulsorily assessed area" means an area notified as compulsorily assessed to water rate in accordance with rules made under this Act and the expression compulsorily assessed shall be construed accordingly.]

Occupier.

13. An "occupier" of land is any person holding or professing to hold the right to cultivate such land for the time being.

Permanent holder.

14. In the table set out below the person specified in the second column shall be deemed to be the permanent holder of land held by him as specified in the first column :—

Sir land	The proprietor.
Khudkasht land . .	The proprietor.
Malik-makbuza land . . .	The malik-makbuza.
Land held in absolute occupancy tenure.	The absolute occupancy tenant.
Land held in occupancy tenure .	The occupancy tenant
Land comprised in a village service holding.	The village servant.
Land held in raiyat-malik right .	The raiyat-malik.
Land held in raiyatwari right .	The raiyat.
Land held by a corporation .	The corporation.

Explanation.—A thekedar with protected status shall be deemed to be the proprietor of sir and khudkasht land held by him.

Canal revenue.

15. "Canal revenue" includes all sums payable to the Government for the use of, right to use of, or waste of, water from a canal.

Water-rate

16. A "water-rate" is the amount of canal revenue payable for the use of water or for the right to use water for irrigation for a single crop on one acre of land.

Explanation.—A single crop includes two crops of the same product within the same year.

---

[1] Inserted by Act XI of 1945.

CHAPTER II

CANAL OFFICIALS AND THEIR CHARGES AND POWERS

Canal officers.

17. There shall be the following classes of canal officers, namely :—

(*a*) the Chief Engineer;

(*b*) Superintending Engineers;

(*c*) Executive Engineers;

(*d*) Sub-Divisional Officers; and

(*e*) Canal Deputy Collectors.

Canal charges.

18. (1) The State Government may group together into circles areas in which canals have been or are to be constructed; and may divide circles into divisions, and divisions into sub-divisions.

(2) The State Government may at any time form new circles, divisions or sub-divisions, abolish existing circles, divisions or sub-divisions, or alter the limits of existing circles, divisions or sub-divisions.

(3) The State Government shall appoint a Chief Engineer to be in charge of the irrigation department generally, a Superintending Engineer to be in charge of each circle, an Executive Engineer to be in charge of each division, and a Sub-Divisional Officer to be in charge of each sub-division.

(4) The State Government may appoint persons to be additional canal officers in any sub-division, division or circle, and may invest them with any or all of the powers of a Sub-Divisional Officer, Executive Engineer or Superintending Engineer, respectively.

(5) The State Government may invest Superintending Engineers with the power to appoint Sub-Divisional Officers to sub-divisions within their circles.

Subordination of canal officers.

19. The Chief Engineer shall be subordinate to the State Government;

all other canal officers shall be subordinate to the Chief Engineer;

all canal officers in a circle shall be subordinate to the Superintending Engineer; and

all canal officers in a division shall be subordinate to the Executive Engineer.

Canal Deputy Collectors.

20. (1) The State Government may appoint a Canal Deputy Collector to one or more divisions.

(2) A Canal Deputy Collector shall be subordinate to the Executive Engineer of any division to which he is appointed.

(3) The State Government may invest a Canal Deputy Collector with any or all of the powers of a Sub-Divisional Officer under this Act, and may invest a Sub-Divisional Officer with all or any of the powers of a Canal Deputy Collector.

Canal subordinates.

21. (1) The Chief Engineer may, subject to rules made under this Act, divide a sub-division into subordinate charges, may appoint canal subordinates to such charges, and may prescribe the duties of such subordinates.

(2) All canal subordinates in a sub-division shall be subordinate to the Sub-Divisional Officer.

(3) The State Government may, by notification, invest any canal subordinate with any of the powers of a canal officer, except a power to decide appeals.

(4) The Chief Engineer may, subject to rules made under this Act, delegate to Superintending Engineers or to Executive Engineers any or all of his powers under sub-section (1).

Power to allot duties among canal officers.

22. (1) When under this Act any duty is to be performed or power is to be exercised by a canal officer, and the class of canal officer is not specified, rules made under this Act regulating the performance of such duty or exercise of such power may prescribe the class of canal officers by which it is to be performed or exercised.

(2) In addition to the above, rules may be made under this Act prescribing generally the class of canal officer who is to perform any duty or exercise any power which, under this Act, is to be performed or exercised by a canal officer.

(3) When the class of canal officer who is to perform any duty or exercise any power under this Act is not prescribed under sub-section (1) or sub-section (2), such duty shall be performed or such power exercised by the Sub-Divisional Officer.

Appeals.

23. (1) Save as provided for in this Act and the rules made thereunder, no appeal shall lie from an order passed by a Commissioner, Deputy Commissioner, canal officer, or canal subordinate.

(2) The following appeals shall lie—

(*a*) if an order under section 34 is passed by a Deputy Commissioner or canal officer, to the Commissioner;

(*b*) if an order under section 38 is passed by a canal officer subordinate to the Executive Engineer, to the Executive Engineer;

(*c*) if an order under section 44 is passed by a canal officer, to the Deputy Commissioner;

(*d*) if an order under section 47 is passed by a canal subordinate, to the Canal Deputy Collector or Sub-Divisional Officer, and, if it is passed by a Canal Deputy Collector or Sub-Divisional Officer otherwise than on appeal, to the Executive Engineer;

(*e*) if an order under section 56 is passed by a Superintending Engineer, to the Chief Engineer;

(*f*) if an order under sub-section (1) of section 62 is passed by a Deputy Commissioner, to the Commissioner; and

(*g*) if an order under section 73 is passed by an Executive Engineer, to the Superintending Engineer.

No appeal shall lie—

(*a*) to the Commissioner or Chief Engineer, after the expiration of sixty days from the date of the order to which objection is made: or

(*b*) to the Deputy Commissioner, Superintending Engineer or Executive Engineer, after the expiration of thirty days from the date of the order to which objection is made; or

(*c*) to the Canal Deputy Collector or Sub-Divisional Officer, after the expiration of ten days from the date of the communication of the order to which objection is made :

Provided that no appeal shall lie to the Deputy Commissioner against an order passed by an Executive Engineer under section 44 either after the expiration of thirty days from the date of such order or after the cutting of the crop for whose irrigation the water was supplied.

(4) An appeal may be admitted after the period of limitation prescribed therefor if the applicant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.

(5) No appeal to a canal officer shall require to be stamped.

(6) No legal practitioner shall be permitted to appear in any appeal under this Act or under the rules made thereunder except in appeals before the Commissioner.

(7) Rules may be made under this Act providing for appeals from the orders of canal officers and canal subordinates, regulating the procedure to be followed in such appeals, and prescribing periods of limitation therefor.

(8) Such rules may require that specified appeals or classes of appeals shall lie only to a specified revenue officer.

Revision.

24. A Commissioner may, at any time, inquire into the propriety of any order passed by a Deputy Commissioner who is subordinate to him, and any canal officer may, at any time inquire into the propriety of any order passed by a canal officer or canal subordinate who is subordinate to him, and may pass such order in reference thereto as he may think fit :

Provided that he shall not reverse or vary any order so as to affect adversely the rights of any private person without having given to such person an opportunity to be heard.

Power to require attendance of witnesses and production of documents.

25. Any canal officer conducting an inquiry in the discharge of his duties may, by written notice, require—

(*a*) the attendance before him of any person who, in the opinion of such officer, may have knowledge of the subject-matter of such inquiry, and

(*b*) the production before him by any person of a document which, in the opinion of such officer, is relevant to such inquiry.

Such person shall be legally bound to attend or to produce the document, as the case may be, at the place and time specified in the notice, and shall be paid diet-money at such rates as may be prescribed by rules made under this Act.

CHAPTER III

RIGHTS IN WATER

Government's rights in water.

26. 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 Government except to the extent to which rights may have been acquired in water affected by a notification published under section 27 prior to the publication of such notification.

Bar of accrual of rights in water to the detriment of a projected canal.

27. When the State Government proposes to construct a canal, it shall publish a notification declaring its intention and indicating the site of the head-works, and thereupon no rights shall be acquired against Government under section 15 or section 16 of the Indian Easements Act, 1882, in the water of any river, natural stream or drainage channel, lake or other natural collection of water, any of whose waters will supply the canal when constructed.

V of 1882.

Bar of accrual of rights in water to the detriment of an existing canal.

28. No rights shall be acquired against the Government under section 15 or section 16 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, any of whose waters supply a canal existing or under construction at the commencement of this Act.

V of 1882.

Rights to supply of water from a canal.

29. No rights shall be acquired against Government whether under section 15 or section 16 of the Indian Easements Act, 1882, or otherwise, to the supply of water from a canal, save in accordance with the provisions of this Act or under a grant from Government.

V of 1882.

Compensation for damage.

30. (1) No claim for compensation shall lie against Government for any damage arising from—

(*a*) the stoppage or diminution of the percolation or flow of water; or

(*b*) the deterioration of climate or soil; or

(*c*) the stoppage of navigation, or of the means of drifting timber or watering cattle :

Provided that compensation shall be payable where, as a result of the construction of a canal,—

(i) the rent or revenue of any land has been reduced, or

(ii) the supply of water to or from a tank or other constructed work has been diminished.

(2) Claims under this section may be enforced by application made to the Deputy Commissioner within one year from the reduction of the rent or revenue, or the diminution of the supply.

(3) Any person aggrieved by the decision of the Deputy Commissioner under sub-section (2) may, within six months from the date of such decision, institute a suit in a civil court to have such decision set aside or modified.

CHAPTER IV

CONSTRUCTION AND MAINTENANCE OF CANALS

Power to enter and survey, etc.

31. (1) Any canal officer, or any person acting under the general or special order of a canal officer, may—

(*a*) enter upon any lands adjacent to any canal or water-course, or through which any canal or water-course is to be made, and undertake surveys or levels thereon;

(*b*) dig and bore into the sub-soil;

(*c*) make and set up suitable land-marks, level-marks, water-gauges and other apparatus;

(*d*) do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected canal or water-course under the charge of the said canal officer;

(*e*) where otherwise such inquiry cannot be completed, cut down and clear away any part of any standing crop, fence or jungle; and

(*f*) enter upon any land or building for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with canal revenue and of doing all things necessary for the proper regulation and management of any canal :

Provided that, if such canal officer or person proposes to enter into any building or any enclosed court attached to a dwelling-house, he shall give the occupier of such building or court at least three days' notice in writing of his intention to do so.

(2) After entry under this section, the canal officer shall, before, leaving, tender compensation for any damage which may have been caused by any proceeding under this section; and, in case of dispute as to the sufficiency of the amount so tendered, he shall refer the matter for decision by the Deputy Commissioner. Such decision shall be final, and no suit shall lie in a civil court to have it set aside or modified.

Power to enter for repairs and to prevent accidents.

32. (1) In case of any accident happening or being apprehended to a canal, any canal officer or canal subordinate or any person acting under his general or special orders in this behalf, may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

(2) In every such case the Executive Engineer shall tender compensation to the proprietors or occupiers of the said lands for all damage caused thereto. If such tender is not accepted, the Executive Engineer shall refer the matter to the Deputy Commissioner, and compensation for the damage shall be determined as though the State Government had directed the occupation of the land under Part VI of the Land Acquisition Act, 1894.

I of 1894.

Power to prohibit obstructions or to order their removal.

33. Whenever it appears to the State Government that injury to any land or to the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage channel, it may, by notification published in the Gazette, prohibit, within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or modification of such obstruction.

Power to remove obstructions

34. (1) The Deputy Commissioner, or any canal officer authorized by the State Government in this behalf, may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify it within a time fixed in the order.

(2) If, within the time so fixed, such person does not comply with the order, the Deputy Commissioner or said canal officer may remove or modify the obstruction, and the expenses incurred in such removal or modification shall be recoverable as arrears of land revenue.

Government to provide means of crossing canals.

35. (1) In accordance with rules made under this Act a revenue officer and canal officer shall make a joint inspection of the alignment of all canals to be constructed and maintained at the cost of Government, and shall make second joint inspection of all such canals after not less than three years from the completion of such canals and shall report to the Deputy Commissioner, where, in their opinion, means of crossing such canals should be provided for the reasonable convenience of the inhabitants of the adjacent lands.

(2) The State Government shall cause suitable means of crossing such canals to be constructed at the cost of Government at such places as it thinks fit.

(3) If at any time after the second of such inspections five or more of the permanent holders of such lands apply to the Deputy Commissioner for the construction of further means of crossing, he shall cause an inquiry to be made and if he thinks that further means of crossing should be constructed, he shall forward his opinion to the State Government, which shall cause such measures to be taken as it thinks proper:

Provided that, if the local inhabitants deposit half the estimated cost of constructing such a means of crossing for the passage of traffic, the State Government shall cause it to be constructed, such crossing to be the property of the Government and if the estimated cost exceeds the actual cost, State Government shall refund half the difference :

Provided further that, if the Deputy Commissioner has once caused an inquiry to be made under this section, it shall not be necessary for him to cause a second inquiry to be made into the same matter.

(4) No suit shall lie in a Civil Court against the Government to enforce the construction of a crossing of a canal, or to enforce the alteration of a crossing or for compensation for damage arising from the absence or inadequacy of any crossing, or to modify or set aside any scheme framed or order passed under this section.

Explanation.—Suitable means of crossing canals include means for the passage of traffic and of water.

Power to impress labour in emergency.

36. (1) Whenever it appears to the Executive Engineer, or to any Sub-Divisional Officer acting under his general or special orders in this behalf, that, unless some work is immediately executed, such serious damage will happen or continue to any canal as is likely to cause or continue to cause serious public injury or serious interruption of the normal course of irrigation,

and that the 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 Executive Engineer, or any Sub-Divisional Officer acting under the said orders, may, by public proclamation by beat of drum, require every permanent holder and occupier of irrigable land resident in any village within five miles of the place where the work is to be executed, and every agricultural labourer employed by them, to attend in person at such place and to carry out such duties as may be allotted to them.

(2) If, in the opinion of the Executive Engineer, or of any Sub-Divisional Officer acting under the said orders, the amount of labour likely to attend in pursuance of an order under sub-section (1) is not sufficient, he may at any time, in like manner and subject to the same conditions, issue a like order requiring the attendance of all cultivators or of all agricultural labourers, or of both, resident within five miles of the place where the work is to be executed.

(3) The rates of wages to be paid for such work shall exceed those current in the neighbourhood for similar work, and any person attending in compliance with the proclamation shall be paid for the whole period during which he is thereby prevented from following his ordinary occupation.

(4) No person shall be required to carry out any duties under this section for which such person is unfitted by reason of age, sex, bodily infirmity or social position.

CHAPTER V

THE SUPPLY OF WATER FROM CANALS AND CHARGES THEREFOR

Purposes for which water may be supplied.

37. (1) Water may be supplied from a canal—

(*a*) under an irrigation agreement, in accordance with the provisions of Chapter VI;

(*b*) on demand, for the irrigation of specified areas;

(*c*) to supplement a village tank;

(*d*) for industrial, urban or other purposes not connected with agriculture;

[1][(*e*) for the irrigation of compulsorily assessed area].

(2) Charges for the supply of water under clause [2][(*a*), (*b*), (*c*) or (*e*)] of sub-section (1) shall be paid at such rates as may be fixed by the State Government in accordance with rules made under this Act.

Reduction or remission of charges for supply of water.

[3][**37A.** Notwithstanding anything contained in this Act or the rules made thereunder, the State Government may, by noti fication, reduce or remit the whole or any part of the charges for the supply of water under sub-section (1) of section 37.]

Supply of water on demand.

38. (1) Water may be supplied from a canal at any time for the irrigation of specified areas at the discretion of the Executive Engineer.

(2) Water supplied on demand shall be paid for according to the area actually irrigated. In the determination of such area the decision of the Executive Engineer shall be final and shall not be modified or set aside by any civil court.

The water-rates for such supply are called "demand rates".

(3) Rules may be made under this Act regulating the procedure of canal officers in receiving applications for water on demand, in supplying water on demand, and in assessing canal revenue.

Supply of water to supplement village tanks.

39. (1) Water may be supplied at any time to supplement a village tank at the discretion of the Executive Engineer.

(2) Rules may be made under this Act prescribing the conditions on which water may be supplied under this section, and regulating the procedure of canal officers in giving such supply.

Supply of water for industrial, urban or other purposes.

40. The conditions for the supply of water for industrial, urban or other purposes not connected with agriculture, and the charges therefor, shall be as agreed upon between the State Government and the company, firm, private person or local body concerned and fixed in accordance with rules made under this Act.

---

[1] Inserted by Act XI of 1945.
[2] Amended by *ibid.*
[3] Inserted by Act LV of 1948

Supply of water to compulsorily assessed area.

[1][**40-A.** (1) Water may be supplied from a canal at any time to irrigate a compulsorily assessed area in accordance with rules made under this act.

(2) Rules may be made under this act prescribing the conditions on which water may be supplied under this section, and regulating the procedure of canal officers in giving such supply. (*Vide* Amendment Act 1945.)]

Control of supply of water from outlets.

41. Water for the irrigation of land, or to supplement village tanks, or for an industrial, urban or other purpose not connected with agriculture, may be taken only from such outlets as may be determined from time to time by the Executive Engineer for the special needs of such land, system or purpose.

Power of Government with regard to irrigation from private irrigation works.

42. If, as a result of the construction of a canal, the area irrigated from any private irrigation work in its proximity is increased beyond the area recorded as irrigable at the last settlement, the State Government may, without prejudice to its rights, if any, recorded at such settlement, direct that such water-rate as it may deem fit shall be charged on such increase of area :

Provided that no water-rate shall be charged, if on inquiry it is found that the increase in the area has been due to any improvement of the private work since the settlement.

Unauthorized use and waste of water.

43. (1) Water is said to be used in an "unauthorized" manner when its use gives rise to, or may be expected to give rise to, benefits of any kind, and

(*a*) when it is allowed or caused to flow into land, or into a village tank, or into a private system of irrigation, or into any system for the supply of water for an industrial, urban or other purpose not connected with agriculture, so that the owners or occupiers of such land or system thereby obtain for such land or system water to which they are not entitled under the provisions of this Act or of the rules or of any agreement or contract made thereunder; or

(*b*) when it is taken from any canal, outlet or water-course in contravention of any of the provisions of this Act or of the rules made thereunder or of any order by a canal officer passed thereunder.

(2) Water which is allowed or caused to escape from a canal, water-course or field in such a manner that no benefits arise from its consumption is said to be "wasted".

Rates for unauthorized use and waste of water.

44. (1) Cultivated land on which water has been used in an unauthorized manner shall be subject to the payment of water-rates; such rates are called "rates for unauthorized use".

(2) Rates for unauthorized use shall be payable by the occupiers of the land concerned :

[1] Inserted by Act XI of 1945.

Provided that, if such occupiers can prove to the satisfaction of a canal officer that the unauthorized use was due to the act or omission of another person, the canal officer may levy such rates, or a portion thereof, from such other person.

(3) When water is used in an unauthorized manner otherwise than on cultivated land, the Executive Engineer may make an estimate of the volume of water used, and may determine the persons responsible for such use and the persons who have been benefited thereby. Such water may be charged for at bulk rates to be prescribed from time to time by the State Government, and the charges shall be distributed among the persons responsible and the persons benefited by such use at the discretion of the Executive Engineer.

(4) When water is wasted, the Executive Engineer may make an estimate of the volume of water wasted, and may determine the persons responsible for such wastage. Such water may be charged for at bulk rates to be prescribed from time to time by the State Government, and the charges shall be distributed among the persons responsible at the discretion of the Executive Engineer.

(5) The levy of rates for unauthorized use or for waste shall not bar a prosecution for any offence connected with such use or waste.

(6) No suit shall lie in a civil court contesting any decision made by a canal officer under this section or by the Deputy Commissioner on appeal from such decision.

(7) Rules may be made under this Act regulating the procedure of canal officers in imposing liability for, and in assessing, canal revenue payable under this section.

CHAPTER VI

IRRIGATION AGREEMENTS

Power to make irrigation agreements.

45. Agreements may be made in accordance with the provisions of this Chapter between State Government and permanent holders for the supply of water for irrigation for a period of years at special rates.

Such agreements are called "irrigation agreements", and the water-rates payable thereunder are called "agreement rates".

Scope of irrigation agreements.

46. Irrigation agreements—

(*a*) shall be for the irrigation of one or more specified crops, which are called "crops under agreement";

(*b*) shall be made with the permanent holders of all irrigable land in a village, mahal or chak cultivated with the crops under agreement; and

(*c*) when duly made in accordance with the provisions of this chapter, shall be binding, according to the terms of the agreement, on the permanent holders and occupiers of—

[1][(*i*) all irrigable land in the village, mahal or chak under cultivation with the crops under agreement at the time from which the agreement has effect or at any time during two years prior thereto :

Provided that where a scheme of consolidation has been confirmed in respect of any land under the provisions of the Central Provinces Consolidation of Holdings Act (VIII of 1928), the irrigation agreements shall, from the year in which the permanent holders and occupiers, if any, are put into possession of the holdings :— VIII of 1928

(*a*) be binding on the permanent holders and occupiers, if any, of all cultivable land newly received in exchange for land which has ceased to be under cultivation; and

(*b*) cease to be binding on the permanent holders and occupiers, if any, of all land which has ceased to be under cultivation.]

Land on the permanent holders and occupiers whereof an agreement is binding is called "land under agreement".

Main incidents of irrigation agreements.

47. In addition to any incidents applying generally to liability for payment of water-rates, all irrigation agreements shall be subject to the following incidents, namely :—

(*a*) canal revenue payable thereunder shall be payable—

(*i*) if the case falls under clause (*c*) (i) of section 46 for every year on all land under agreement, whether it has been sown or not and irrigated or not, and

(*ii*) if the case falls under clause (*c*) (ii) of section 46 for any year on all land under agreement, which has been sown that year with any of the crops under agreement, whether it has been irrigated or not ;

(*b*) the canal revenue payable on any land for any year shall be collected from the occupier, or, on his default, from the permanent holder of such land;

(*c*) at any time when the amount of water available is deficient, or when damage is anticipated to the canal if a full discharge of water is delivered, its supply may be regulated in such manner as the Executive Engineer may determine;

(*d*) no claim shall arise against the Government for compensation for any loss arising from a failure or shortage in the supply of water for irrigation or from an excess of such supply :

---

[1] Inserted by Act LV of 1948.

Provided that rules may be made under this Act providing for the remission of agreement rates where there has been a failure of crops or a failure to deliver water owing to a defect in the head-works or distribution system.

Consent to agreement where land is in possession of sub-tenant

48. (1) Where the title of an occupier of irrigable land who is not the permanent holder thereof is such that it will lapse on or before the expiry of the agricultural year next following the date of an irrigation agreement applicable to such land, the consent of the permanent holder to such agreement shall be binding on such occupier in respect of such land.

(2) Where the title of an occupier of irrigable land, who is not the permanent holder thereof, is such that it will continue after the expiry of the agricultural year next following the date of an irrigation agreement applicable to such land, the consent of such occupier shall be necessary to the validity of the consent of the permanent holder.

Consent to agreement where land is held jointly by proprietors.

49. (1) Where land is held jointly by two or more co-sharers in the proprietary right of a village, the consent of the lambardar or lambardar-gumashta appointed for such land under section 187 of the Central Provinces Land Revenue Act, 1917, shall be binding on every co-sharer in respect of such land if he has received notice of the proposed agreement and has failed, within a week from the receipt of notice, to lodge an objection in writing with the canal officer taking the agreement.

C. P. Act II of 1917.

(2) Notwithstanding anything contained in sub-section (1), when co-sharers holding not less than two-thirds of the interest in land held jointly by two or more co-sharers in the proprietary right of a village or mahal have given their consent to a proposed agreement in accordance with the provisions of this Chapter, the consent of the co-sharers holding the remaining interest shall be deemed to have been given.

Consent to agreement where land is held by non-resident proprietor.

50. Where land is held by a proprietor of a village, who does not reside in the village, the consent of the lambardar or lambardar-gumashta appointed for such land under section 187 of the Central Provinces Land Revenue Act 1917, shall be binding on such proprietor in respect of such land, if after receiving notice of the proposed agreement he fails, within a week from the receipt of notice, to lodge an objection in writing with the canal officer taking the agreement.

C. P. Act II of 1917.

Special rule when all permanent holders do not consent.

51. When either the permanent holders of not less than two-thirds of, or not less than 95 per cent. of the permanent holders of, all the irrigable land in a village, mahal or chak cultivated, with crops under agreement have given their consent to a proposed irrigation agreement in accordance with the provisions of this Chapter, the proposed agreement, if accepted by Canal Deputy Collector or by an irrigation inspector specially authorized in this behalf by the Executive Engineer, shall be deemed to be an irrigation agreement binding on the permanent holders of all irrigable land in such village, mahal or chak cultivated with crops under agreement :

Provided that no agreement for a mahal or chak shall be accepted without the general or special consent of the State Government or of a canal officers pecially authorized in this behalf by the State Government.

No consent to be presumed without previous notice.

52. (1) The provisions of sections 49, 50 and 51 shall not apply unless a notice has been published in the village concerned by a canal officer that he proposes to take an irrigation agreement in that village.

(2) Such notice shall be posted in writing in some prominent place in the village, and shall be proclaimed by beat of drum at least fourteen clear days before the agreement is finally made.

Inclusion of wet land.

53. The permanent holder of wet land which is commanded by a canal may apply to a canal officer to have his wet land included in an irrigation agreement relating to the village, mahal or chak in which such land is situated, and, if his application is granted, he shall be entitled to the supply of water in accordance with the terms of such agreement, but with such deduction, if any, from the agreement rates as may be prescribed by rules made under this Act.

Inclusion of land irrigated by lift.

54. The permanent holder of land which is not commanded but is capable of being irrigated from a canal or water-course by means of any mechanical contrivance designed to lift the water therein, may apply to a canal officer to have such land included in an irrigation agreement, and, if his application is granted, he shall be entitled to the supply of water in accordance with the terms of such agreement, in so far as they may be applicable, but with such deduction, if any, from the agreement rates as may be prescribed by rules made under this Act.

Cancellation of agreement by mutual consent.

55. (1) An irrigation agreement may be cancelled by mutual consent between State Government and the permanent holders of not less than two-thirds of, or not les than 95 per cent. of the permanent holders of, the land under agreement at the time of such cancellation.

(2) The provisions of sections 48, 49, 50, 51 and 52 shall apply to the cancellation of an irrigation agreement as if consent to the cancellation were consent to the making of such agreement.

Cancellation of agreement for failure to maintain water courses.

56. (1) The Superintending Engineer may at any time, after giving notice, cancel an irrigation agreement if, in his opinion, the permanent holders and occupiers bound thereby persistently fail to maintain their water-courses in proper repair.

(2) An order by the Superintending Engineer under this section shall be in writing, and shall be published in the village concerned by beat of drum.

(3) Thereupon the irrigation agreement shall cease to have effect, and no suit shall lie in a civil court contesting the validity of the Superintending Engineer's order or making any claim whatsoever against the Government by reason of such cancellation.

General power to cancel agreements

57. (1) With the previous sanction of the State Government, the Superintending Engineer may at any time cancel any irrigation agreement; and in such case the measure of damages in respect of any land under agreement shall be double the amount of the canal revenue which would have been payable in respect of such land for the remainder of the period of the agreement.

(2) Rules may be made under this Act regulating the distribution among permanent holders and occupiers of the damages payable by the Government and regulating the procedure of canal officers in making such distribution.

(3) When damages have been distributed and paid or tendered in accordance with the provisions of this section and the rules made thereunder, no suit shall lie in a civil court contesting the validity of the cancellation, or making any claim whatsoever against Government by reason of such cancellation.

Power to make rules.

58. In addition to any rules for which provision is made in this Chapter, rules may be made under this Act—

(*a*) prescribing the periods and the crops for which irrigation agreements may be made;

(*b*) prescribing the forms of irrigation agreements, and providing for the inclusion therein of incidents and conditions in addition to but consistent with those contained in this Act; and

(*c*) regulating the procedure of canal officers in carrying out their duties under this Chapter.

CHAPTER VII

COLLECTION OF CANAL REVENUE

Dates of payment of canal revenue.

59. (1) Canal revenue payable under an irrigation agreement, or for the supply of water on demand, or for the supply of water [1][or for the supply of water to compulsorily assessed areas] to supplement a village tank shall fall due on such dates as may be prescribed in this behalf by rules made under this Act.

(2) Canal revenue payable for the supply of water for industrial, urban or other purposes, not connected with agriculture, shall fall due on the dates specified in the agreement relating thereto.

(3) Canal revenue payable for the unauthorized use of, or for the waste of, water shall fall due on the date on which demand is made for the payment thereof.

Definition of arrear.

60. Any sum payable as canal revenue which remains unpaid on the day following the date on which it is due is an arrear of canal revenue.

Mode of recovery of arrears.

61. Arrears of canal revenue shall be recoverable as arrears of land revenue.

[1] Inserted by Act XI of 1945.

Irrigation panchayats.

62. (1) In accordance with rules made under this Act, [1][and at the discretion of the Deputy Commissioner for a mahal or chak] an irrigation panchayat shall be established for every village in which the permanent holders of land have entered into an irrigation agreement [2][or which comprises a compulsorily assessed area]. Such panchayats shall consist of a sarpanch and two or more members elected by the permanent holders and occupiers other than sub-tenants, [3][of land under agreement or compulsorily assessed area] from amongst themselves. Such elections shall be subject to the approval of the Deputy Commissioner who shall have power to nominate one member to any panchayat, and, for reasons to be recorded in writing, to dismiss any member, and to dissolve any panchayat, subject to an appeal to the Commissioner.

(2) Irrigation panchayats shall—

(*a*) [4][ ] ;

(*b*) assist the officer of the irrigation department in detecting and preventing encroachments on canal lands, prevent damage to irrigation works, and report any wilful damage caused to irrigation works;

(*c*) assist the officers of the irrigation department in arranging for the construction of water-courses, in recording and checking irrigation, and in making measurements and settling disputes;

(*d*) collect irrigation revenue and remit it to the treasury; and

(*e*) arrange for the repair of water-courses.

(3) They shall have power to accept from any person, against whom a reasonable suspicion exists that he has committed an offence specified in rules made under this Act, a sum not exceeding ten rupees by way of compensation for such offence.

(4) Money collected by a panchayat under sub-section (3) shall be expended by the panchayat, subject to the control of the Deputy Commissioner, on any work of public utility in the village.

(5) A member of such panchayat shall be deemed to be a public servant for the purposes of the Indian Penal Code.

Power to make rules for assessment and collection.

63. Rules may be made under this Act regulating the procedure of canal officers and canal subordinates in assessing canal revenue and in applying to revenue officers for the collection of arrears of canal revenue and the procedure of revenue officers in collecting canal revenue.

Mode of recovery of miscellaneous revenue.

64. All sums due to Government for the right to cut grass, to graze cattle, to fish, to cultivate land, or to do other acts on land or in water under the charge of the irrigation department shall be re-coverable as arrears of land revenue.

---

[1] Amended by Act LV of 1948.

[2] Amended by Act XI of 1945.

[3] Amended by *ibid.*

[4] Omitted by Act LV of 1948.

CHAPTER VIII

CONSTRUCTION AND MAINTENANCE OF WATER-COURSES

Power to make water-course contracts.

65. Contracts may be made in accordance with the provisions of this Chapter whereby State Government undertakes to construct water-courses and to bear the cost of construction and the permanent holders of irrigable land undertake to maintain them and to bear the cost of maintenance. Such contracts are called "water-course contracts".

Scope of water-course contracts.

66. Water-course contracts—

(*a*) shall relate to the construction of water-courses for the irrigation of all irrigable land in a village, mahal or chak cultivated with one or more specified crops; and

(*b*) shall be made with the permanent holders of all such land in a village, mahal or chak :

Provided that, when not less than one-half of such permanent holders, holding not less than two-thirds of all such land, have given their consent to a water-course contract in accordance with the provisions of this Chapter, the proposed contract, if accepted by State Government, shall be deemed to be a water-course contract made with the permanent holders of all irrigable land in the village, mahal or chak cultivated with such crop or crops.

Consent in certain cases.

67. The provisions of sections 48, 49, 50 and 52 shall apply to water-course contracts as if such contracts had been irrigation agreements.

Water-course to be property of Government.

68. Water-courses constructed under a water-course contract shall be the property of the Government.

Constructions of water-courses for irrigation of compulsorily assessed area.

[1][**68-A.** Water-courses may be constructed by the State Government for the irrigation of a compulsorily assessed area. Such water-courses shall be the property of of the Government but they shall be maintained by the permanent holders of land comprised in the compulsorily assessed area for the irrigation of which they are constructed by such other permanent holders as may actually make use of them for irrigation purposes.]

[2][**68-B.** (1) Where in a chak not less than half a mile long or 80 acres in area, the State Government considers it expedient to construct water-courses, it may, notwithstanding anything in section 66, construct such water-courses for such chak.]

[3][(2) Water-courses constructed under sub-section (1) shall be the property of the Crown, but they shall be maintained by the permanent holders of the chak for the irrigation of which such water-courses are constructed and by such

---

[1] Inserted by Act IX of 1945.
[2] Inserted by Act XXV of 1949.
[3] Inserted by C. P. & B. Act XXV of 1949.

other permanent holders as may actually make use of them for irrigation purposes.]

Irrigation Panchayats to be responsible for maintenance of water-courses.

[1][**69.** Subject to the provisions of sections 68-A and 68-B (1), the Irrigation Panchayat shall, in accordance with rules made under this Act be responsible for the proper maintenance of all water-courses constructed for that village, mahal or chak, as the case may be, and may call upon the permanent holders and occupiers of all land whether under an agreement or within a compulsorily assessed area which is ordinarily irrigated or may be irrigated through a water-course to render assistance in maintaining it, and in case of default to pay such sums as may be assessed by the Executive Engineer.]

Power to construct water-courses at cost of permanent holders.

70. (1) Notwithstanding anything contained in the foregoing provisions of this Chapter, Government may, subject to rules made under this Act, enter into a contract with one or more of the permanent holders of irrigable land in a village, mahal or chak whereby Provincial Government undertakes to construct water-courses and the permanent holders undertake to bear the cost of construction and maintenance.

(2) When land not held by a permanent holder bound by such contract is required for the construction of a water-course, it shall be deemed to be required for a public purpose and shall be acquired in accordance with the provisions of the Land Acquisition Act, 1894. I of 1894.

Water-courses to be an improvement.

71. (1) A water-course constructed under section [2][68-A] [3][or section 68-B or section 70] shall be deemed to be an improvement affecting all the land for whose irrigation the water-course was constructed, within the meaning of clause (5) of section 2 of the Central Provinces Tenancy Act, 1920. C. P. Act I of 1920.

(2) When any village servant, who has entered into a water-course contract in respect of any land in his village service holding, acquires the rights of an occupancy tenant under the provisions of section 48 of the Central Provinces Tenancy Act, 1920, he shall be deemed to have held the rights of an occupancy tenant under section 52 of the said Act at the time he entered into the contract. C. P. Act I of 1920.

Power to require raiyats in raiyatwari village to maintain water-courses.

72. Where Government has constructed water-courses in a raiyatwari village, it may require raiyats holding irrigable land in that village to maintain such water-courses when, in the opinion of Provincial Government, such raiyats are in a position to do so.

Power to have water-courses repaired.

73. If at any time the Executive Engineer considers that a water-course, which has been constructed under agreemen [4][or under section 68-A] [5][or section 68-B] or which the raiyats in a raiyatwari village have been required to maintain, is not in proper repair—

(*a*) he may, by public proclamation in the villages require that the repairs be made to his satisfaction on or before a specified date; and

---

[1] Substituted by Act XI of 1945.
[2] Amended by Act XXV of 1945.
[3] Amended by Act XXV of 1949.
[4] Inserted by Act XXV of 1945.
[5] Amended by Act XXV of 1949.

(*b*) if the repairs are not made to his satisfaction by such date, he may stop the supply of water to the water-course; or

(*c*) he may cause the repairs to be made and may collect a sum not exceeding twice the cost thereof from the permanent holders or occupiers in proportion to the areas held by them in the land which is ordinarily irrigated or may be irrigated under an agreement through such water-courses :

Recovery of sums due to Government.

[1][Provided that where a village, mahal or chak has ceased to be under an agreement or any area has ceased to be compulsorily assessed to water-rate, the State Government shall not require the maintenance of water-courses therein until such village, mahal or chak again comes under agreement or such area is again compulsorily assessed.]

Power to make rules.

74. All sums recoverable by State Government under any of the provisions of this Chapter or recoverable by irrigation panchayats under section 69 may be recovered as arrears of land revenue.

75. Rules may be made under this Act—

(*a*) prescribing the forms of water-course contracts ;

(*b*) regulating the procedure of canal officers in discharging their duties under this Chapter, [2][ ];

[3][(*bb*) determining under section 68-B the liability of permanent holders and the manner in which it shall be discharged ;]

(*c*) prescribing the liabilities of permanent holders and occupiers of land under section 69 ;

[4][(*d*) prescribing the circumstances in which the assessment in compulsorily assessed area may be cancelled.]

CHAPTER IX

Construction and Maintenance of Private Irrigation Works

Power to make grants or loans for construction of private irrigation works.

76. Subject to rules made under this Act, the State Government may make a grant or loan of money to a permanent holder towards the cost of the construction or improvement of a private irrigation work.

Grant of permission to permanent holder to construct dam, etc., in any river, natural stream, etc.

[5][**7-6A.** (1) Any permanent holder desiring to construct a dam or any other work of a similar nature in any river, natural stream, natural drainage channel, natural lake or other natural collection of water as part of a private irrigation work or a grant-in-aid irrigation work, may apply in writing in the prescribed form to the State Government through the Deputy Commissioner for permission to construct such dam or work.

---

[1] Amended by Act XI of 1945.
[2] Omitted by *ibid.*
[3] Inserted by Act XXV of 1949.
[4] Inserted by Act XI of 1945.
[5] Inserted by Act L of 1949.

(2) If, after making such inquiry as the Deputy Commissioner thinks fit, he is satisfied that the application is in order he shall cause public notice of such application to be given at convenient places in the village and to be published in such newspapers as he considers necessary.

(3) Such notice shall state the prescribed particulars and shall require all persons having interest in such waters to appear personally or by agent before the Deputy Commissioner at a time and place therein mentioned (such time not being earlier than thirty days after the date of publication of notice) and to state the nature of the respective interests in the waters in respect of which permission is sought and objections, if any. The Deputy Commissioner may, in any case, require such statements to be made in writing and signed by the party or his agent.

(4) On the day so fixed, or on any other day to which the inquiry may be adjourned, the Deputy Commissioner shall enquire into the respective interests of the persons who appear before him and the objections made to the grant of permission, if any.

(5) After completing such inquiry, the Deputy Commissioner shall forward to the State Government the application together with the papers of the inquiry and his report. The State Government may, thereupon, either refuse the application or grant the necessary permission in the prescribed form subject to such conditions, as it may deem fit, including the condition, where necessary, regarding payment to the person who in the opinion of the State Government is entitled to it, for the water likely to be appropriated by the permanent holder at a rate not exceeding the rate which the permanent holder would have been required to pay if the same quantity of water had in similar circumstances been given to the permanent holder from any canal maintained by Government.

(6) The decision of the State Government, granting or refusing such application or imposing conditions including the condition regarding the rate at which payment for water likely to be appropriated by the permanent holder is to be made shall be final and conclusive.

(7) Where the State Government decides to impose a condition regarding payment for the water likely to be appropriated by the permanent holder, the payment of the amount fixed under such condition to the person declared by the State Government to be entitled to it shall be a full discharge of the State Government and the permanent holder from all liability in respect of such payment, but shall not prejudice any rights in respect of the right to receive such payment to which any other person may be entitled by due process of law to enforce against the person to whom payment is made as aforesaid.

(8) Any sum payable under any condition attached to the permission under this section which remains unpaid on the day following the day fixed in that behalf shall be recoverable as arrears of land revenue.

(9) No claim for compensation shall lie against the [1][Government] in respect of anything done by the State Government under this section and no claim for compensation shall lie against the permanent holder in respect of any action taken in accordance with the permission received by him except as provided in sub-section (5) of section 90.]

Power to enforce maintenance of grant-in-aid irrigation works.

77. Where any grant-in-aid irrigation work has been constructed or improved by or on behalf of a permanent holder he and his representatives in interest shall, in accordance with rules made under this Act, keep such work fit for the purpose for which it was constructed or improved. If such work is at any time or in any manner rendered unfit or appears likely to be rendered unfit for such purpose, the permanent holder or his representatives in interest shall at once report the matter to the Executive Engineer and shall carry out such repairs as the Deputy Commissioner, on consideration of the Executive Engineer's report, may prescribe. If the permanent holder or his representatives in interest fails to make such a report or to comply with the Deputy Commissioner's order, within such time as the Deputy Commissioner may specify, the grant received from State Government for that work may be recovered from the permanent holder or his representatives in interest in such instalments and with such interest as may have been agreed upon between the permanent holder and State Government at the time when such grant was received by him. Any sum so due which remains unpaid after the date fixed for its repayment shall be recoverable as an arrear of land revenue.

Applications for acquisition of land for grant-in-aid irrigation works.

78. Any permanent holder who desires to construct a private irrigation work, towards the construction of which State Government has sanctioned a grant or loan of money, and to acquire for such purpose the land of another may apply in writing to the State Government through the Deputy Commissioner, stating—

(*a*) that he has endeavoured unsuccessfully to acquire the land; and

(*b*) that he desires the Deputy Commissioner, on his behalf and at his cost, to acquire the land for him under this Act.

Demarcation of land required for grant-in-aid irrigation works and estimate of cost.

79. (1) If the Deputy Commissioner, after making such inquiry as may be prescribed by rules under this Act, considers that the application should be granted, he shall require the applicant to deposit, within such time as the Deputy Commissioner may specify, the estimated cost of the demarcation of the land which in his opinion it will be necessary to occupy for the construction of the work, and, when such deposit has been made, the Deputy Commissioner shall proceed to demarcate such land and frame a preliminary estimate of the cost of acquiring it under this Act.

[1] Sub. by the Adaptation of Laws Order, 1950.

(2) If such deposit is not made within the specified time the Deputy Commissioner may dismiss the application.

Power of Government to direct acquisition of land for grant-in-aid irrigation works.

80. The Deputy Commissioner shall report the result of his inquiry to the State Government which may, on receipt of such report, either refuse the application or direct that the land demarcated be acquired by the Deputy Commissioner.

Acquisition of land for grant-in-aid irrigation works.

81. If the State Government directs acquisition of the land, the Deputy Commissioner shall proceed to acquire the land under the Land Acquisition Act, 1894, as if the State Government had directed the Collector to take order for the acquisition of the land under section 7 of that Act. I of 1894.

Applications for acquisition of land for private irrigation works.

82. Any permanent holder who desires to construct a private irrigation work for which no grant or loan has been sanctioned by State Government and to acquire for such purpose the land of another person may apply in writing to the State Government through the Deputy Commissioner, stating—

(*a*) that he has endeavoured unsuccessfully to acquire the land ;

(*b*) that he desires the Deputy Commissioner, on his behalf and at his cost, to acquire the land for him under this Act;

(*c*) that he is willing and in a position to deposit, when so required, all costs involved in the acquisition of the land; and

(*d*) that he is in a position to meet the cost of construction of the work he desires to undertake.

Inquiry to be made by Deputy Commissioner.

83. (1) The Deputy Commissioner shall, thereupon, fix a date (of which the person to whom the land belongs shall receive not less than a month's notice) for holding an inquiry and shall publish a notice of the application and the date fixed for the inquiry in the village or villages concerned.

(2) At such inquiry the Deputy Commissioner shall determine—

(*a*) whether the proposed improvement is of sufficient importance to justify action under this act;

(*b*) whether the most suitable situation or alignment for the proposed work necessitates the acquisition of the land;

(*c*) whether the execution of the work is likely to cause damage to land belonging to other permanent holders; and whether any such land should be acquired;

(*d*) whether the statements in the application mentioned in section 82 are true; and

(*e*) generally, whether the application should be granted

Demarcation of land required for private irrigation works and estimate of cost.

84. (1) If the Deputy Commissioner considers that the application should be granted he shall require the applicant to deposit, within such time as the Deputy Commissioner may specify, the estimated cost of demarcation of the land which in his opinion it will be necessary to occupy for the

construction of the work, and, when such deposit has been made, the Deputy Commissioner shall proceed to demarcate such land and frame a preliminary estimate of the cost of acquiring it under this Act.

(2) If such deposit is not made within the specified time the Deputy Commissioner may dismiss the application.

Power Government to direct acquisition of land for private irrigation works.

85. The Deputy Commissioner shall report the result of his inquiry to the State Government which may, on receipt of such report, either refuse the application or direct that the land demarcated be acquired by the Deputy Commissioner.

Acquisition of land for private irrigation works.

86. (1) If the State Government directs acquisition of the land, the Deputy Commissioner shall require the applicant to deposit, within such time as the Deputy Commissioner may specify, the cost of acquisition as estimated under section 82, and when such deposit has been made, shall proceed to acquire the land under the Land Acquisition Act, 1894, as if the State Government had directed the Collector to take order for the acquisition of the land under section 7 of that Act.

I of 1894.

(2) If such deposit is not made within the specified time the Deputy Commissioner may, if he thinks fit, take no further proceedings.

Conditions of delivery of occupation to applicant.

87. (1) If the final cost of acquisition is less than the amount deposited by the applicant under section 86, the balance shall be returned to him, but if it is greater, he shall be required to deposit the deficit within a time to be specified by the Deputy Commissioner. If the applicant fails to do so, the Deputy Commissioner shall quash all proceedings hitherto taken and return the amount deposited under section 86 after deducting a tenth part thereof or the actual expenditure already incurred, whichever is greater.

(2) When the final cost of acquisition does not exceed the amount deposited by the applicant under section 86, or when the deficit in the said amount has been duly deposited by the applicant under sub-section (1), he shall be placed in occupation of the land acquired.

(3) Thereafter the applicant and his representatives in interest shall construct and maintain, to the satisfaction of the Deputy Commissioner, all works which, in the opinion of the Deputy Commissioner, are required for the passage of water or traffic across the aforesaid land of water-courses existing previous to the construction of the work for which such land was acquired, and of drainage intercepted by such work, and for affording proper communications across it for the convenience of the neighbouring lands.

Delegation of powers by State Government.

88. The State Government may delegate any of its powers under this Chapter to the Commissioner, in which case references to the State Government shall be construed as references to the Commissioner.

Result of applicant's failure to construct work or comply with conditions.

89. (1) If an applicant or his representative in interest fails—

(*a*) to construct the work for the purpose for which the land has been acquired under this Act, or

(*b*) to construct and maintain the necessary works in accordance with the conditions stated in sub-section (3) of section 87 to the satisfaction of the Deputy Commissioner

within a time to be specified by the Deputy Commissioner or within such further time as the Deputy Commissioner may from time to time allow, the person who owned the land at the date of acquisition or his representative in interest may, within one year of the expiry of the period mentioned above, claim in the court of the Deputy Commissioner the return of the land on payment of the compensation paid to him after deduction therefrom of the amount paid under sub-section (2) of section 23 of the Land Acquisition Act, 1894, and any other sum which may be awarded by the Deputy Commissioner for depreciation in the value of the land subsequent to acquisition. I of 1894

(2) An order of the Deputy Commissioner for the return of the land shall operate to re-vest the land in the person to whom it belonged before the acquisition or in his representative in interest, as the case may be, subject to all the rights of other persons existing at the time of acquisition.

Compensation for damage.

90. (1) No claim for compensation shall lie against any permanent holder for any damage arising from—

(*a*) the stoppage or diminution of the percolation or flow of water; or

(*b*) the deterioration of climate or soil; or

(*c*) the stoppage of navigation, or of the means of drifting timber or watering cattle :

Provided that compensation shall be payable where, as a result of the construction of a private irrigation work,

(i) the rent or revenue of any land has been reduced, or

(ii) the supply of water to or from a tank or other constructed work has been diminished.

(2) Claims under this section may be enforced by application made to the Deputy Commissioner within one year from the reduction of the rent or revenue, or from the diminution of the supply.

(3) Any person aggrieved by the decision of the Deputy Commissioner under sub-section (2) may, within six months from the date of such decision, institute a suit in a civil court to have such decision set aside or modified.

Power to make rules.

91. In addition to any rules for which provision is made in this Chapter, rules may be made under this Act prescribing—

(*a*) the conditions on which grants or loans of money may be made under section 76 ;

(*b*) the manner in which State Government may enforce the proper construction and maintenance of grant-in-aid irrigation works;

(*c*) the circumstances in which applications under section 78 or 80 may be granted; and

(*d*) the procedure in any inquiry or proceeding under this Chapter.

---

[1]CHAPTER IX-A

REQUISITIONING OF TANKS, ETC.

Commencement of Chapter.

91-A. This Chapter shall be deemed to have come into force on the 27th February 1948 and shall remain in operation for a period of five years from that date.

Requisitioning of tanks, etc.

91-B. (1) Whenever it appears to the State Government that it is necessary so to do for the purpose of providing better facilities for irrigation of land in the proximity of any tank, not being the property of the Government, it may by order published in the Gazette, requisition such tank and any canal or water-course or other construction connected therewith. Every such order shall contain sufficient particulars of the property to be requisitioned.

(2) From the date of the publication of the said order such property shall be at the disposal of the State Government. The State Government may thereafter use such property as a canal system from such date as may be notified.

(3) The State Government may declare any part of land commanded by the tank comprised in the requisitioned property as a compulsorily assessed area in the manner provided in section 12-A and thereupon all provisions of this Act applicable to compulsorily assessed area shall apply to all such lands :

Provided that no water-rate shall be payable by the owner of the tank in respect of any parcel of land of which he is a permanent holder and which was being irrigated from the tank on the 27th February 1948.

Payment of Compensation.

91-C. (1) Whenever in pursuance of sub-section (1) of section 91-B, any property is requisitioned, there shall be paid compensation determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(*a*) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(*b*) where no such agreement can be reached, the State Government shall appoint as arbitrator the District Judge or the Additional District Judge or any Civil Judge having jurisdiction over the area in which the requisitioned property is situated ;

(*c*) no compensation shall be payable to any person other than a person who, in the opinion of the State Government or the arbitrator, owns or has an interest in the tank requisitioned;

---

[1] Inserted by section 2 of C. P. & Berar Act, XIX of 1948.

(*d*) during the period the tank remains under requisition, the amount of compensation payable annually to the person owning or having an interest in such tank shall not exceed the average annual income of such person during the three years immediately preceding the requisition calculated after deducting the expenditure incurred on the maintenance of such tank from—

(i) irrigation dues ;

(ii) use of the tank for growing singhara, fishing or any other purpose of like nature whether by the person aforesaid himself or his lessee;

(iii) sale of grass from the embankment of the tank.

(2) The decision of the arbitrator in an arbitration proceeding under this section shall be final and conclusive and save as provided in this section nothing in any law for the time being in force shall apply to an arbitration under this section.

(3) The payment of compensation under this section to the person, who, in the opinion of the State Government or the arbitrator, as the case may be, owns or has an interest in the tank requisitioned shall be a full discharge of the State Government from all liability in respect of such compensation, but shall not prejudice any rights in respect of the said tank to which any other person may be entitled by due process of law to enforce against the person to whom compensation has been paid as aforesaid.

Preparation of list of all land commanded by a tank.

91-D. (1) There shall be prepared a list of all land commanded by a tank requisitioned under sub-section (1) of section 91-B as soon after its requisition as possible.

(2) Every such list shall show the name of the occupier of each parcel of land and whether water was being given to him for the irrigation of his land from the requisitioned tank and the water-rate paid by him, if any, to the owner of the tank.

(3) Every such list shall be published in the manner laid down by rules made under this Chapter and thereupon such list shall be conclusive record of the facts stated therein.

Release from requisition.

91-E. (1) Where any requisitioned property is to be released from the requisition, the State Government may, after making such inquiry, if any, as may be considered necessary, specify by order in writing the person to whom possession of the property shall be given.

(2) The delivery of possession of the property as aforesaid to the person specified in an order made under sub-section (1) shall be a full discharge of the State Government from all liability in respect of such delivery but shall not prejudice any rights in respect of the property to which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is so delivered.

(3) Where the person to whom possession of any requisitioned property is to be given cannot be found and has no agent or other person empowered to accept delivery on his

behalf, the State Government shall cause a notice declaring that the land is released from requisition to be affixed on some conspicuous part of the property and publish the notice in the Gazette.

(4) When a notice referred to in sub-section (3) is published in the Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the State Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

91-F. (1) Subject to the provisions of sub-section (3) the State Government may at any time when any requisitioned property continues to be subject to requisition under sub-section (1) of section 91-B, acquire such property by publishing in the Gazette a notice to the effect that the Government has decided to acquire such property in pursuance of this section.

(2) When a notice, as aforesaid, is published in the Gazette, the requisitioned property shall on and from the beginning of the day on which the notice is so published vest absolutely in the State Government free from all encumbrances and the period of requisition of such property shall end.

(3) No requisitioned property shall be acquired under this section except in the following circumstances namely :—

(*a*) where any canals, water-courses or other works connected with such tank have during the period of requisition been constructed wholly or partly at the expenses of the State Government and the State Government decides that the value of, or the right to use such canals, water-courses or works should be preserved or secured for the purposes of the State Government or the owner declines to reimburse the State Government the expenditure incurred on the construction of such canals, water-courses or works or any improvement made to the tank; or

(*b*) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the State Government be excessive having regard to the value of the property at that time and the owner declines to accept the release from requisition of the property without payment of further compensation from the State Government.

(4) Any decision or determination of the State Government under sub-section (3) shall be final, and shall not be called in question in any court.

(5) In respect of any acquisition of requisitioned property, the amount of compensation payable shall be ten times the amount of compensation fixed under section 91-C or a sum equal to the market value of the requisitioned property on

the date of notice under sub-section (1) whichever is less; and such amount shall be determined and paid in accordance with the provisions contained in clause (a) or clause (b) of sub-section (1) and sub-section (2) of section 91-C.

(6) The payment of compensation under this section to the person who, in the opinion of the State Government or the arbitrator, as the case may be owns or has an interest in the tank acquired shall be a full discharge of the State Government from all liability in respect of such compensation, but shall not prejudice any rights in respect of the said tank to which any other person may be entitled by due process of law to enforce against the person to whom compensation has been paid as aforesaid.

Explanation :—For the purposes of clause (a) of sub-section (3) "works" includes any buildings, constructions, improvements of every description and planting of any mechanical contrivance designed to lift water from a tank.

Limitation for claims against the Government.

91-G. No claim for compensation payable under this Act shall lie against the Government if it is not preferred within a period of two years from the date on which a tank is requisitioned or acquired.

Power to remove difficulty.

91-H. (1) If any difficulty arises in giving effect to the provisions of this chapter the State Government may by an order published in the Gazette amend any provision of this Act other than that contained in this Chapter for the purpose of removing the difficulty.

(2) Any amendment made by an order published under sub-section (1) shall have effect as if enacted in this Act.

Rules.

91-I. (1) The State Government may by notification make such rules as appear to it to be necessary or expedient for carrying out the provisions of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for the following matters, namely—

(*i*) the procedure to be followed in arbitration under section 91-C,

(*ii*) the principles to be followed in apportioning the costs of proceedings before the arbitrator.

Delegation of power.

91-J. The State Government may by notification delegate all or any of its powers under this Chapter, except the powers specified in sections 91-H and 91-I to any authority which it thinks fit.

Interpretation.

91-K. For the purposes of this Chapter :—

(*i*) the defininion of canal in section 3 shall be construed as if for the words "by the State Government" occurring in clause (a) of that section, the words "whether by the State Government or any other person" had been substituted therein.

(*ii*) the expression "requisitioned property" means "property requisitioned under sub-section (1) of section 91-B".

CHAPTER IX-B

91-L. The State Government may by notification apply this Act with or without any modifications, to any area in Berar. Application of the Act to Berar.

CHAPTER X

RULES, OFFENCES AND REPEALS

92. (1) All rules for which provision is made in this Act shall be made by the State Government and shall be consistent with this Act. General provisions regarding rules.

(2) A rule may be general for all canal systems or for all canal systems not expressly exempted from its operation, or may be special for the whole or any part of one or more canal systems, as the State Government may direct.

(3) Except the rules provided for in sections 21 and 22, all rules shall be subject to the condition of previous publication.

(4) Where rules are subject to the condition of previous publication a copy of the draft of the proposed rules shall be laid on the table of the Central Provinces Legislative Council. The State Government shall give the Council an opportunity of discussing them, and shall take into consideration any resolution concerning the same which may be passed by the Legislative Council before finally publishing them in the *Central Provinces Gazette*.

(5) In making any rule the State Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach has been persisted in.

93. In addition to any power specially conferred by this Act, the State Government may make rules— Power to make rules.

(*a*) prescribing the manner in which irrigation panchayats shall be constituted and dissolved, conferring on them further powers and allotting to them further duties, regulating their procedure and providing for their remuneration ;

[1]["(*a*-1) regulating the control and distribution of irrigation beyond the outlet, prescribing the authority controlling and distributing such irrigation and providing for all matters connected with such control and distribution including the levy and recovery of charges for the purpose of remunerating such authority.]

---

[1] Inserted by Act LV of 1948.

(*b*) prescribing the rates at which diet-money shall be paid to persons required to attend an inquiry under this Act; and

(*c*) generally, for the purpose of carrying into effect the provisions of this Act.

Offences and penalties.

94. Whoever, without proper authority, does any of the following acts, that is to say,—

(*a*) damages, alters, enlarges or obstructs any canal;

(*b*) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal;

(*c*) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal;

(*d*) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner;

(*e*) receiving water in his fields for irrigation, neglects to take proper precautions for the prevention of waste of such water ;

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

(*g*) being a permanent holder, occupier, cultivator or agricultural labourer, resident in a village in which a proclamation under section 36 has been made, neglects to attend at the place appointed or refuses or neglects to carry out the duties allotted to him;

(*h*) destroys, injures, defaces or moves any land-mark, level-mark, water-gauge or other apparatus, fixed by the authority of a canal officer ;

(*i*) causes animals or vehicles to pass on or across any of the works, banks or channels of any canal after such passage has been prohibited by a canal officer;

(*j*) causes or knowingly and wilfully permits animals to graze or to be tethered upon the bank or border of any canal after such grazing or tethering has been prohibited by a canal officer;

(*k*) removes or injures any tree, bush, grass or other vegetation growing on any canal; or

(*l*) cases himself on the banks or in the channel of a canal,

shall, on complaint made by a canal officer, be punishable with imprisonment which may extend to one month or with fine which may extend to one hundred rupees or with both, and, when the offence is a continuing one, with an additional fine not exceeding twenty rupees for every day after the first during which the offence has been persisted in.

Compensation to private persons.

95. Whenever any magistrate imposes a fine upon any person for an offence under this Act, he may direct that the whole or any part of such fine shall be paid by way of compensation to any person injured by such offence.

Power to order repairs to be done.

96. When any person is convicted of an offence under section 94, or of the offence of mischief under the Indian Penal Code in relation to any canal, the court may order him to remove the obstruction or repair the damage or replace or repair the land-mark, level-mark, water-gauge or apparatus, in respect of which the offence was committed, within a period to be fixed in such order; and, if such person neglects or refuses to obey such order within the period so fixed, the Executive Engineer may carry out the work in accordance with such order, and the cost thereof shall be recoverable from such person by the Deputy Commissioner as arrears of land revenue.

Power to remove person causing mischief.

97. Any canal officer or canal subordinate may remove or cause to be removed from any canal any person who in his view commits or is about to commit any of the offences mentioned in clause (*a*), (*b*), (*c*), (*h*) or (*l*) of section 94.

Power to arrest person causing mischief.

98. (1) Any canal officer or canal subordinate may take into custody without warrant any person who in his view commits any of the offences mentioned in clause (*a*), (*b*) or (*c*) of section 94, and shall forthwith release him on bail, or, if he fails to furnish bail take him, or cause him to be taken, to the nearest magistrate having jurisdiction to try the offence :

Provided that if there be no such magistrate within a distance of five miles, the canal officer or canal subordinate making the arrest shall take the offender, or cause him to be taken, to the nearest police station, and the officer in charge of such police station may cause him to be taken before the nearest magistrate having jurisdiction to try the offence, or may take sufficient security for his appearance before such magistrate.

(2) The custody of any person to whom an offender may be made over under sub-section (1) shall be deemed to be lawful custody.

Composition of offences.

99. (1) Any canal officer may accept from any person, against whom a reasonable suspicion exists that he has committed an offence punishable under this Act or the rules made thereunder, a sum of money not exceeding fifty rupees, by way of composition for such offence.

(2) On payment of such sum of money, the suspected person, if in custody, shall be discharged, and no further proceedings shall be taken against him in regard to the offence so compounded.

(3) Rules may be made under this Act regulating the procedure of canal officers in compounding offences.

Repeals and savings.

100. (1) The Northern India Canal and Drainage Act, 1873, is hereby repealed in its application to the Central Provinces. VIII of 1873.

(2) The Central Provinces Canal Management Act, 1919, and the Central Provinces Canal Management (Amendment) Act, 1923, are hereby repealed. C. P. Act I of 1919. C. P. Act IV of 1923.

(3) But charges created, powers vested, rules, orders, appointments, agreements and contracts made, and suits instituted and proceedings taken under any of the said Acts shall, as far as may be, be deemed to have been respectively duly created, vested, made, instituted and taken under this Act.

THE MYSORE IRRIGATION ACT, 1932 (AS AMENDED BY ACT, VII OF 1938)

Act I of 1932

WHEREAS it is expedient to make adequate provision for the proper regulation and control of the supply of water from irrigation works, for the regulation of customary labour and for certain other matters pertaining to irrigation; It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

Short title.

1. This Act may be called the Mysore Irrigation Act, 1932.

Extent and commencement.

2. The Government may, by notification in the official Gazette, extend this Act, or any portion thereof, to any local area or to any irrigation work or class of irrigation works, and may also by a like notification subsequently exclude any portion of such local area or any such irrigation work or class of irrigation works from the operation of this Act, from such date as may be specified therein.

All existing Acts, rules, orders or usages having the force of law, in so far as they are inconsistent with any of the provisions of this Act and the rules made thereunder in the areas and with respect to the irrigation works or classes of irrigation works to which this Act is extended, are repealed to the extent to which they are so inconsistent :

Provided that nothing herein contained shall be deemed to affect any acts done or liabilities incurred under the said Acts, rules, orders or usages having the force of law.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Irrigation Work" includes—

Irrigation Work.

(*a*) all reservoirs, tanks, anicuts, canals, channels, *thalapariges* and pipes constructed, maintained or controlled wholly or mainly by the Government for the supply or storage of water ;

(*b*) all works, embankments, structures, supply and escape channels, connected with such reservoirs, tanks, anicuts, canals, channels, *thalapariges* or pipes and all roads constructed for the purpose of facilitating the construction or maintenance of such reservoirs, tanks, anicuts, canals, channels, *thalapariges*, or pipes ;

(*c*) all water-courses and drainage works as hereinafter defined ;

(*d*) all lands occupied by the Government for the purposes of such reservoirs, tanks, anicuts, canals, channels, *thalapariges*, pipes and all buildings, machinery, lences, gates and other erections, occupied by or belonging to the Government upon such lands ;

'New Irrigation Work.' (2) "New Irrigation Work" means any work of irrigation as defined in clause (1), constructed or completed after this Act comes into force and includes extensions of irrigation works made after this Act comes into force ;

'Water-course'. (3) "Water-course" (*hikkal*) means any channel or pipe which is supplied with water from an irrigation work, but which is not maintained at the cost of the Government, and includes all subsidiary works connected with any such channel or pipe except the sluice or outlet through which water is supplied to such channel or pipe ;

'Drainage Work' (4) "Drainage Work" includes channels, either natural or artificial, for the discharge of waste or surplus water, and all works connected with or auxiliary to such channels and escape channels from an irrigation work, dams, weirs, embankments, sluices groins and all works for the protection of lands from flood or from erosion formed or maintained by the Government either wholly or in part ;

'Deputy Commissioner.' (5) "Deputy Commissioner" includes any officer appointed by the Government to exercise all or any of the powers of a Deputy Commissioner under this Act ;

'Irrigation Officer.' (6) "Irrigation Officer" means any officer not below the rank of an Assistant Commissioner or an Assistant Engineer appointed by the Government to exercise all or any of the functions of an Irrigation Officer under this Act;

'Amildar (7) "Amildar" includes a Deputy Amildar ;

'Owner.' (8) "Owner" includes every person having an interest in the ownership of the thing specified ;

'Occupier (9) "Occupier" means, in respect of any land any person who has an interest in the land and cultivates the land himself or by his servants, or by hired labour and includes a tenant ;

Magistrate.' (10) "Magistrate" means a Magistrate of the first or second class and includes a Magistrate of the third class specially empowered by the Government to try offences under this Act.

Appointment of officers. **4.** The Government or, subject to such rules as may be made under this Act, any officer whom the Government empowers in this behalf, may declare by notification in the official Gazette, the officers by whom and the local limits within which all or any of the powers or duties hereinafter conferred or imposed on the Deputy Commissioner and the Irrigation Officer, shall be exercised or performed.

CHAPTER II

OF THE CONTROL OF WATER AND OF IRRIGATION WORKS

Power to enter upon land for purposes of inspection, etc.

5. Any Irrigation Officer appointed in this behalf and any person acting under the general or special orders of such Irrigation Officer may enter upon any land, building or water-course, for the purpose of inspecting or regulating the use of water, of measuring the land irrigated thereby, and of doing anything necessary for the proper regulation, maintenance and management of any irrigation work.

Powers for repairing or preventing damage to an irrigation work.

6. On any damage happening or being apprehended to any irrigation work or in any other emergency, any Irrigation Officer and any person acting under his general or special orders in this behalf, may at any time enter upon any lands adjacent to, or in the neighbourhood of, any irrigation work, and may repair any existing work, construct any new work, or take and utilise any material and take any measure or do anything that may, in his opinion, be necessary to prevent such accident or to save loss or damage to any property or to repair any damage done.

Notice of intended entry on private property to be given in certain cases.

7. When an Irrigation Officer, or any person acting under his general or special orders in this behalf, proposes under the provisions of section 5 or section 6 to enter into any building or enclosed court or garden attached to a dwelling house into which water does not flow from any irrigation work, he shall previously give to the occupier of such building, court or garden such reasonable notice as the urgency of the case may allow. Such notice shall be in writing except in a case of emergency.

CHAPTER III

OF WATER-COURSES

Construction, extension, improvement or alteration of a water-course on the application of person interested.

8. (1) Any person desiring the construction, extension, improvement, or alteration of a water-course may apply in writing to the Irrigation Officer and the said officer may, after giving such notice and causing such enquiries as may be prescribed by rules framed by the Government for the purpose, either permit the applicant to construct, extend, improve or alter the said water-course or, if the applicant so desires, have it constructed, extended, improved or altered through Government agency on such terms and conditions as regards payment of costs, mode of execution and time of completion, facilities to be afforded by the applicant to safeguard other interests or to benefit other lands whose owners may apply for the same, and other matters as may be relevant in each case, or may reject the application.

From the order of the Irrigation Officer an appeal shall lie within thirty days from the date of the service of the said order, to the Deputy Commissioner of the District and from his decision, a second appeal shall lie within ninety days from the date of the service of such appellate order to the Revenue Commissioner whose decision thereon shall be final.

(2) If it is necessary to acquire any land for the purposes of sub-section (1) the Deputy Commissioner may proceed to acquire the same under the provisions of the Land Acquisition Act, 1894.

Explanation.— Notwithstanding anything contained in the proviso to section 6(1) of the Land Acquisition Act, 1894, the acquisition of any land under sub-section (2), shall be deemed to be for a public purpose.

No alteration of water-course except with consent of Irrigation Officer.

9. No water-course constructed, extended, improved, or altered under the provisions of section 8 shall be altered without the consent of the Irrigation Officer.

Obligations of owners of land receiving supply from water-course.

10. Every owner or occupier of land which receives a supply of water from a water-course shall be bound—

(*a*) to maintain such water-course in a fit state of repair;

(*b*) to allow the use of it to any person entitled to the same by reason of an order passed under section 8 or otherwise.

Enforcement of said obligations.

11. (1) If any owner or occupier of land which receives a supply of water from a water-course fails to fulfil any obligation imposed on him by sub-clause (*a*) of section 10, the Irrigation Officer may require him by notice to execute the necessary work or repair within such period, not less than five days from the date of service of notice, as may be prescribed therein, and in case of his default, may execute the same on his behalf.

(2) The expenses incurred by the Irrigation Officer on any work or repair under sub-section (1) shall be recoverable from the defaulter as an arrear of land revenue.

Settlement of disputes concerning water-course.

12. 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 water-course, or among joint owners of a water-course as to their respective shares of the expense of constructing or maintaining such water-course or as to the amount severally contributed by them towards such expense, or as to failure on the part of any owner to contribute his share, any person interested in the matter of such dispute may apply in writing to the Irrigation Officer stating the matter in dispute.

Such officer shall thereupon proceed to make a summary enquiry into the matter in the manner prescribed in the Mysore Land Revenue Code, 1888, and pass his decision thereon.

From the decision of the Irrigation Officer an appeal shall lie within thirty days from the date of the service of the said decision to the Deputy Commissioner of the District whose order thereon shall remain in force, until set aside by a decree of a Civil Court.

CHAPTER IV

REGULATION OF IRRIGATION

Regulation of water supply from irrigation work.

13. (1) The Deputy Commissioner of the District or any other officer specially empowered by the Government in this behalf may regulate in respect of any irrigation work for each year 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 the supply, and

(iii) the quantity of the supply,

after holding such enquiry as may be provided for by rules framed by the Government.

(2) From the order of an officer other than the Deputy Commissioner under sub-section (1), an appeal shall lie to the Deputy Commissioner of the District within thirty days from the date of such order and from the original or appellate order of the Deputy Commissioner, an appeal shall lie to the Revenue Commissioner, within ninety days of such order :

Supply of water from a new irrigation work.

14. (1) Every person desiring the supply of water from a new irrigation work shall submit a written application to that effect to the Irrigation Officer in such form as may be prescribed by the Government.

If the supply of water is desired for irrigation, it may be granted for such period and on such terms as may be prescribed by rules framed by the Government.

(2) Notwithstanding anything contained in sub-section (1), the rates leviable for the supply of water for irrigation from a new irrigation work constructed at an outlay of less than one lakh of rupees and not falling under Chapter VI of this Act shall be fixed in conformity with the provisions of the Mysore Land Revenue Code, 1888, and the rules thereunder:

Provided that when such work is itself an extension of a new irrigation work constructed at a cost of not less than one lakh of rupees, the provisions of sub-section (1) shall apply irrespective of the cost of the work.

(3) If the application is for the supply of water for purposes other than those of irrigation, the Irrigation Officer may, with the sanction of the Government, permit water to be taken for such purposes subject to such special conditions and restrictions as the Government may impose in each case.

Supply of water not to be stopped except under certain circumstances.

15. The supply of water to any water-course or to any person who is entitled to such supply shall not be stopped except in the circumstances and subject to the limitations specified below, namely,—

(*a*) whenever and so long as it is necessary to stop such supply—

(i) for the purpose of executing any work ordered by competent authority; or

(ii) in order to supply in rotation the legitimate demand of other persons entitled to water ;

(*b*) whenever and so long as any water-course by which such supply is received is not maintained in such repair as to prevent the wasteful escape of water therefrom ;

(*c*) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water;

(*d*) within the periods fixed from time to time by an Irrigation Officer acting under section 16, of which reasonable notice shall be given.

Power of Irrigation Officer to determine the irrigable area and grant remission of assessment.

16. (1) An Irrigation Officer specially empowered by the Government, in this behalf, may in any year, having regard to the quantity of water available in any irrigation work under his control determine the portion of the wet lands in the irrigable area of such irrigation work to be cultivated with wet crops, or with dry or semi-dry crops, and regulate the supply of water for irrigation accordingly.

(2) If, in accordance with a decision of the Irrigation Officer under sub-section (1), any land assessed as wet is not supplied with water for raising wet crops, the holder of such land shall be entitled to remission of one-half of the assessment of such land.

From the order of the Irrigation Officer under this section, an appeal shall lie within thirty days from the date of the service of the said order, to the Deputy Commissioner of the District, and from this decision a second appeal shall lie within ninety days from the date of the service of such appellate order, to the Revenue Commissioner whose decision shall be final.

Right to the supply of water passes with the property entitled to the supply.

17. (1) All rights to the supply of water from an irrigation work to any land, building or other immovable property shall be presumed to have passed to the transferee with the transfer of such land, building or other immovable property whenever such a transfer has been rejected.

(2) No person entitled to the use of any irrigation work or land appertaining to any irrigation work or to use the water of any irrigation work shall sell or sub-let or otherwise transfer his right to such use without the permission of the Irrigation Officer duly empowered to grant such permission except when such right is transferred with the land, building or other immovable property having such right.

CHAPTER V

Of the Award of Compensation

Compensation awardable for damage.

18. Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained at the time of awarding such compensation :

Provided that no compensation shall be so awarded in respect of any damage arising from—

(*a*) deterioration of climate or soil;

(*b*) stoppage of navigation or of the means of floating timber or of watering cattle; or

(*c*) stoppage or diminution of the supply of water of any river or stream flowing in a natural channel or of any lake or natural collection of still water by the application of such supply for the purposes of a new irrigation work or otherwise, except in so far as a right to the use of such supply may be established ; or

(*d*) failure or stoppage of the water in a channel, when such failure or stoppage is due to:—

(1) any cause beyond the control of Government,

(2) the execution of any repairs, alterations or additions to the channel, or

(3) any measures considered necessary by any Irrigation Officer duly empowered in this behalf for regulating the proper flow of water in the channel, or for maintaining the established course of irrigation, or under section 15 ;

but any person who suffers loss from any stoppage or diminution of his water-supply due to any of the causes named in clause (*d*) of the proviso under this section, shall be entitled to such remission of the water-rate payable by him as may be authorised by the Government. Remission of water-rates when allowable.

19. No claim for compensation under this Act for any damage shall be entertained after the expiration of one year from the time when the damage complained of commenced, unless the Deputy Commissioner is satisfied that the claimant had sufficient cause for not making the claim within such period. Limitation of claims.

20. In every case of entry upon any land or building or the utilisation of materials under sections 5 and 6, the Irrigation Officer or the person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building or other property, and the value of the materials taken or utilised, Compensation for damage caused by entry on land, etc.

and within one month from the date of such entry compensation shall be tendered by the Irrigation Officer to the landholder or owner of the property.

21. If such tender is not accepted, the Irrigation Officer shall forthwith refer the matter to the Deputy Commissioner for the purpose of making enquiry as to the amount of compensation and deciding the same. Enquiry as to compensation.

Claims to be preferred to the Deputy Commissioner.

22. All claims for compensation under this Act other than claims of the nature provided for in section 20, shall be made to the Deputy Commissioner having jurisdiction over the local area wherein the land or part thereof in respect of which damage is alleged to have been caused is situate.

Deputy commissioner to determine the amount of compensation.

The Deputy Commissioner shall enquire into all such claims and determine the amount of compensation, if any, which should be awarded.

Appeal.

23. An appeal shall lie to the Revenue Commissioner from the decision of the Deputy Commissioner under either of the two preceding sections as to the amount of compensation to be awarded within ninety days from the date of such decision and the decision of the Revenue Commissioner thereon shall be final.

Compensation when due.

24. All sums of money payable for compensation awarded under this chapter shall become due three months after the final award has been made;

and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

CHAPTER VI

Of the Construction and Improvement of Irrigation Works on Special Terms

Preliminary enquiry to be held when the levy of acreage contribution or water-rate or both is necessary for undertaking construction or improvement of an irrigation work.

25. Whenever it appears to the Government that the construction or improvement of an irrigation work in any local area cannot be undertaken unless, on the lands irrigable by such work, payment of a specified acreage contribution or water-rate or both, is guaranteed, the Government shall direct the Deputy Commissioner or any other officer appointed by it in this behalf to hold an enquiry in the manner hereinafter provided.

The Government may by notification in the Official Gazette declare that the provisions of this section shall not apply to the construction or improvement of any irrigation work or any class of irrigation works.

Explanation.—"Improvement" in this chapter means only such improvement of an irrigation work as will materially enhance the supply of water available therein for irrigation.

Procedure in holding the enquiry.

26. The Deputy Commissioner or other officer appointed to make the enquiry shall publish a notice in the village or villages concerned specifying the place at which and the date (which shall not be earlier than thirty days after the last date of such publication) on which the enquiry will be held. The notice shall set forth the general scheme of the

proposed construction or improvement, and estimate of the capital and recurring expenditure involved, the area which will be benefited by the scheme (hereinafter called the benefited area) and the rates at which it is proposed to levy contribution or water-rate or both in respect of the lands within the benefited area, and shall invite the holders of such lands to submit any obejctions or suggestions that they may desire to make on or before the date prescribed in the notice and to produce evidence, if any, in support of such objections or suggestions on the date appointed for the holding of the enquiry.

Report of the enquiring officer.

27. If the Deputy Commissioner or other officer appointed to make the enquiry after considering any objections or suggestions duly submitted and the evidence, if any, produced and taking such further evidence as he thinks necessary, finds that the holders of at least two-thirds of the land within the benefited area give their consent in writing to such construction or improvement and to the payment of the proposed contribution or water-rate or both, he shall embody his proceedings in a report, and submit the same to the Government together with a statement of objections and suggestions presented to him and any remarks he may desire to make in respect of them.

Government may abandon or proceed with the scheme.

28. Upon receipt of the report submitted under section 27, the Government may, after such further enquiry, if any, as it may make, either abandon the scheme, or proceed with the scheme in the original form or with such modifications as it may consider necessary; provided that where the modifications involve a substantial increase in the benefited area or in the acreage contribution or water-rate to be imposed, the provisions of sections 26 and 27 shall apply to the altered scheme.

Publication of the scheme as finally approved by the Government.

29. (1) The scheme as finally approved by the Government shall be published in the official Gazette, and it shall embody the following particulars :—

(*a*) a specification of the work which it is proposed to construct or improve and an estimate of the capital and recurring expenditure involved thereby;

(*b*) the estimated time required for the completion of the work;

(*c*) a description of the benefited area;

(*d*) the rates at which contribution will be recovered in respect of the lands in the benefited area and terms of such recovery;

(*e*) the rates at which water-rates will be imposed on the lands in the benefited area; and

(*f*) the fact that the consent of the holders of such land has been obtained as provided in this Chapter.

(2) The contribution referred to in clause (*d*) of sub-section (1) shall in no case exceed one-third of the difference between the value of the wet and dry lands in the locality.

(3) The water-rate referred to in clause (*e*) of sub-section (1) shall be liable to revision after the expiry of a period of ten years and thereafter at intervals of not less than fifteen years.

(4) The publication under sub-section (1) of a scheme as approved by the Government shall be conclusive proof that any consent recorded therein has been duly obtained.

Levy of contribution and water-rate on lands within the benefited area.

30. After the scheme has been carried out, the Deputy Commissioner may, subject to such rules as may be prescribed by the Government in this behalf, levy from the holders of land within the benefited area in addition to the assessment fixed under the provisions of section 112 of the Mysore Land Revenue Code, 1888, contribution or water-rate or both at the rates referred to in section 29. Such contribution or water-rate shall be recoverable as a revenue demand:

Provided that the Deputy Commissioner may exempt from the whole or any part of this liability any land in the benefited area on the ground that the benefit from the irrigation work does not reach such land:

Provided further that when a water-rate is levied from the holder of any land under this section, no such rate shall be leviable in respect of such land under the provisions of section 53 of the Mysore Land Revenue Code, 1888.

CHAPTER VII

OF OBTAINING LABOUR IN EMERGENCIES.

Impressment of labour for urgent works or repair, etc.

31. (1) Whenever it appears to an Irrigation Officer, or in his absence the Amildar of the taluk that unless some work or repair is immediately executed, an irrigation work would sustain such serious damage as to cause sudden and extensive public injury,

or that unless some clearance of an irrigation work which is necessary in order to maintain the established course of irrigation or drainage is immediately executed, serious public loss would occur,

and that the labourers necessary for the proper execution of such work, repair or clearance cannot be obtained in the ordinary manner in time to prevent such injury or loss,

it shall be lawful for such officer to require the patel or patels of the village or villages in the vicinity to call upon all or any of the able-bodied male persons who reside or hold land in or near the locality where such work, repair or clearance has to be executed to assist in the execution of the same by their labour, as such officer or other person authorised by him in this behalf may direct.

(2) Every person so authorised shall be deemed to be a public servant within the meaning of the Indian Penal Code.

An order made under the section shall be immediately reported to the Deputy Commissioner. Report to be made by Irrigation Officer.

32. All persons labouring or detained for the purpose of labouring by day in compliance with a requisition made under section 31 shall, as soon as may be reasonably practicable and in any case within fifteen days from the date of such impressment, be paid by the Irrigation Officer or the Amildar, as the case may be, for their labour and detention at twenty-five per cent in excess of the rates for the time being prevailing in the neighbourhood. If the persons are required to work or are detained at night, they shall be paid at double such rates. Payment for labour impressed.

33. Any person who does not accept the amount tendered in payment under section 32, may appeal within thirty days from the date of such tender, to the Deputy Commissioner, whose decision shall be final. Appeals against orders under section 32.

CHAPTER VIII

Of Customary Labour

34. The provisions of this Chapter shall apply to tanks, river and spring channels, feeder channels connected with tanks, and other irrigation works which have been brought up to standard and handed over to the raiyats for upkeep. Works for which customary labour is enforceable.

[1][**34A.** For the purposes of this Chapter, an irrigation work includes such work in an inam village, though it is not constructed, maintained or controlled wholly or mainly by Government.]

35. (1) Every occupier of land, irrigated or served by any irrigation work, as well as the inhabitants of the village or villages and all others who derive any benefit, directly or indirectly, from the work, shall perform, in respect of such work, without payment, the following customary labour:— Nature of, and person liable to perform customary labour and the levy of cash contribution in lieu of labour.

(*a*) filling up gullies, cracks, ruts and holes in the earth work ;

(*b*) removing any rank growth or pernicious weed;

(*c*) clearing such underwood as may be considered by the Irrigation Officer to be injurious;

(*d*) clearing sand or silt from sluices and branch channels and repairing the earth work of petty and branch channels and clearing the accumulation in sluices and in all channels issuing from tanks, which obstruct the flow of water to the fields;

(*e*) maintaining the bund to the standard level and with the slopes specified ;

(*f*) keeping in order the feeder channels of tanks;

(*g*) watching the bunds during rainy weather, turfing the parts acted on by the waves, helping in opening and closing the sluices, and generally performing minor duties of this nature in order to prevent breaches and other accidents.

[1]Added by Act VII of 1938.

Explanation.—All land forming part of the registered or recognised *atchkat* of an irrigation work shall be deemed to be land irrigated by this work, within the meaning of this section.

(2) The Government may, by an order, direct in respect of all or any of the aforesaid works in any locality that the customary labour to be performed under this section need not be performed either wholly or in part, or that in lieu of such labour, a contribution in cash at such rates as may be fixed under rules made in this behalf be levied from the persons bound to perform the same; provided that no such order of commutation shall be made except with the consent of two-thirds of the number of persons bound to perform such labour. Such order may at any time, be cancelled or modified by the Government.

Village patel responsible for due performance of customary labour.

36. It shall be the duty of the patel of every village [1][and the inamdar in the case of an inam village to] see that in respect of any irrigation work situated in the village or villages in his charge the customary labour specified in section 35 is duly performed and the work maintained in an efficient condition.

Execution of work with hired labour on failure of customary labour.

37. If any person, who under this chapter is bound to contribute labour towards any irrigation work, neglects or refuses to do so, the patel, [1][the inamdar in the case of an inam village] or other officer empowered by Government in this behalf, may get the work performed by hired labour after giving notice by beat of drum in the villages in which the persons bound to do the work ordinarily reside or the land served by such irrigation work is situate, requiring such persons to carry out the work by a specified date and on their failure to comply with the requisition within the appointed time.

Determination of quantum of labour to be contributed.

38. The quantum of labour which each person liable under section 35 is bound to contribute, and the proportionate share of labour for each village where an irrigation work serves more than one village, shall be determined in accordance with rules framed by the Government in this behalf.

Penalty for failure to perform customary labour.

39. Whenever any person who is bound to contribute labour under section 35, neglects or fails to do so without sufficient and reasonable cause, the Irrigation Officer may levy from such person a sum equivalent to the value of the labour which such person is bound to contribute, and such amount shall be recoverable as an arrear of land revenue.

From the order of the Irrigation Officer, an appeal shall lie, within thirty days from the date of service of the order to the Deputy Commissioner, whose decision shall be final.

[1]Added by Act VII of 1939.

CHAPTER IX

OF IRRIGATION PANCHAYETS AND BOARDS

Constitution of an Irrigation Panchayet.

40. Subject to such general or special rules as the Government may make in this behalf, the Deputy Commissioner may, when he is satisfied that a demand exists, constitute an Irrigation Panchayet for a village.

Such Panchayet shall consist of the patel and the shanbhog of the village who shall be *ex-officio* members and of not less than five and not more than seven other members who shall be elected in accordance with rules made under this Act, by and from among occupiers of land who are interested by reason of such occupation in the proper maintenance of such work.

The elected members shall hold office for a period of three years, but shall be eligible for re-election. Provided that an elected member shall be deemed to have vacated his office if he ceases to possess the aforesaid qualification, or if he absents himself without reasonable or sufficient cause from three consecutive meetings.

Constitution of an Irrigation Board.

41. Subject to such general or special rules as the Government may make in this behalf, the Deputy Commissioner may constitute an Irrigation Board consisting of two or more Panchayets or delegates therefrom in respect of an irrigation work irrigating more than one village.

The appointment of delegates to Irrigation Boards shall be made in accordance with rules framed under this Act and every delegate shall hold his office only for such time as he continues to be a member of the Panchayet of which he is a delegate.

42. The provisions of the following sections as regards panchayets shall also apply as far as possible to Irrigation Boards.

43. The Government may, by rules to be framed in this behalf—

(*a*) prescribe the functions of an Irrigation Panchayet;

(*b*) prescribe the procedure to be adopted by an Irrigation Panchayet; and

(*c*) delegate to any Irrigation Panchayet any of the powers vested in the Government or in a Deputy Commissioner or in an Irrigation Officer under this Act.

Dissolution of Panchayet.

44. If in the opinion of the Deputy Commissioner, any Panchayet persistently makes default in the performance of the duties imposed upon it by this Act or rules thereunder or exceeds or abuses its powers, such Deputy Commissioner may, after giving an opportunity to the members of the Panchayet to be heard in their defence, order the Panchayet to be dissolved.

45. An appeal shall lie to the Revenue Commissioner against the order of the Deputy Commissioner under section 44 and the order on such appeal shall be final.

CHAPTER X

PENALTIES AND PROCEDURE

Offences under the Act.

46. Whoever voluntarily and without proper authority –

(*i*) damages, alters, enlarges or obstructs any irrigation work;

(*ii*) interferes with, increases, or diminishes the supply of water in, or the flow of water from, through, over, or under any irrigation work or does any act which renders such irrigation work less useful than is intended for the purpose for which it was constructed ;

(*iii*) opens, shuts or obstructs, or attempts to open, shut or obstruct, any sluice in any irrigation work ;

(*iv*) corrupts or fouls the water of any irrigation work so as to render it less fit for the purpose for which it is ordinarily used;

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

(*vi*) destroys, tampers with, or removes any apparatus, or part of any apparatus, for controlling, regulating or measuring the flow of water in any irrigation work;

(*vii*) causes any animal or vehicle to pass on or across any of the works, banks or channels of an irrigation work contrary to rules made under section 56 after he has been required to desist therefrom ;

(*viii*) causes or permits any animal to graze or be tethered upon the bank or border of any irrigation work;

(*ix*) removes or injures any tree, bush, grass or other vegetation intended for the protection of any irrigation work ;

(*x*) puts up a dam across or otherwise obstructs the free course of water, the right to which vests in the Government ;

(*xi*) violates any rule made under section 56, the breach whereof is declared to be an offence punishable under this section; and whoever

(*xii*) being responsible for the use and maintenance of a water-course, neglects to take proper precautions 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 prevents or interferes with the lawful use of such water-course by any person authorised to use the same, under section 8 ;

shall be deemed to commit an offence under this Act and shall, on conviction before a magistrate, be punished for each such offence as is mentioned in sub-sections (i) to (vi), (x) and (xii) of this section with fine which may extend to one hundred rupees and for each such offence as is mentioned in sub-sections (vii), (viii), (ix) and (xi) with fine which may extend to fifty rupees.

Penalty.

47. Any person who, being duly called upon by the patel of his village to assist by his labour in the execution of any work under section 31, refuses or neglects to comply with such call without sufficient and reasonable cause shall, on conviction before a magistrate, be punished with fine which may extend to fifty rupees.

Persons convicted under section 46 liable to repair the damage, etc.

48. When any person is convicted of an offence under section 46, the convicting magistrate may order that the said person shall remove the obstruction or repair the damage or replace or repair the land-mark, level-mark, water-gauge or apparatus in respect of which conviction has taken place within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed any Irrigation Officer may carry out the work in accordance with such order and the cost thereof shall be recoverable from such person by the Deputy Commissioner as an arrear of land revenue.

Recovery of cost of repairing damage when the offender is unascertainable.

49. When the person causing any damage, alteration, enlargement or obstruction to any irrigation work without proper authority cannot, after such enquiry as the Deputy Commissioner may deem sufficient, be ascertained or identified, the Deputy Commissioner may, on the recommendation of the Irrigation Board or the Irrigation Panchayet concerned with the work, after giving not less than one month's notice to the occupiers of all lands benefited thereby, and after hearing their representations, if any, recover from them, as an arrear of land revenue, the cost of repairing such damage, or of removing such alteration, enlargement or obstruction, in such proportion as he thinks fit.

Punishment under other laws not barred.

50. Nothing herein contained shall prevent any person from being prosecuted under any other law for the time being in force for any act or omission made punishable by this Act :

Provided that no person shall be punished twice for the same act or omission.

Power to remove obstruction or damage to works.

51. Any person in charge of or employed upon any irrigation work, may remove from the lands or buildings 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—

(1) wilfully damages, obstructs or fouls any irrigation work, or

(2) without proper authority interferes with the supply or flow of water, in or from any irrigation work so as to endanger, damage, or render less useful any irrigation work.

CHAPTER XI

MISCELLANEOUS

Power of revision.

52. The Government or the Revenue Commissioner may call for and examine the records of the proceedings under this Act of a Deputy Commissioner or any Irrigation Officer subordinate to it or him for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any decision or order passed and the regularity of the proceedings of such officer.

When on examining the records of any case, the Government or the Revenue Commissioner considers that the order of decision of such officer should be revised, it or he may reverse or alter such order or decision or pass such other order as it or he may think fit. The Government alone shall be competent to revise under this section any decision or order which is declared by this Act to be final.

Power to summon and examine witnesses.

53. Any officer empowered under this Act to conduct any enquiry, may exercise all such powers connected with the summoning and examining the witnesses and the production of documents as are conferred on Civil Courts by the Code of Civil Procedure, 1911, and every such enquiry shall be deemed a judicial proceeding.

Manner of serving notices.

54. Service of any notice under this Act shall be made in accordance with the provisions of the Code of Civil Procedure, 1911.

Jurisdiction of Civil Courts barred.

55. No Civil Court shall take cognizance of any suit filed in respect of any matter dealt with under the provisions of Chapter V, Chapter VI, Chapter VII or Chapter VIII.

Power to make rules.

56. (1) The Government may, after due publication, make rules not inconsistent with this Act to carry out all or any of the provisions of this Act.

(2) The rules made under this section shall be published in the official Gazette and shall thereupon have effect as if enacted under this Act.

THE COCHIN IRRIGATION REGULATION, 1935

Regulation No. VIII of 1111 (1935)

[*Passed by His Highness the Maharaja on the 15th day of Vrischigam, 1111, corresponding to the 1st day of December 1935.*]

WHEREAS it is expedient to provide for the construction, repair and maintenance of Irrigation Works and for the conservation and distribution of water for purposes of irrigation, it is enacted as follows :— Preamble.

PART I

Preliminary

1. This Regulation may be called "The Cochin Irrigation Regulation, VIII of 1111" and it shall come into force at once. Short title and commencement.

2. In this Regulation unless there is something repugnant in the subject or context ,— Definitions.

(1) "Irrigation Work" shall include—

(*a*) all canals, channels, reservoirs, tanks which are or may be used for the supply and storage of water for agricultural purposes ;

(*b*) all works, embankments, structures, supply and escape-channels, connected with such canals, channels, reservoirs or tanks ;

(*c*) all water-courses which are supplied with water from such canal, channel, reservoirs or tank;

(*d*) all drainage works, *i.e.*, canals, channels, escape-channels from a canal, channel, reservoir or tank, dams, weirs, embankments, sluices, groins or other works for the protection or benefit of agricultural lands; and

(*e*) all lands occupied by the Government for the purposes of such canals, channels, tanks, reservoirs and all buildings, machinery, fences, gates, and other erections occupied by or belonging to the Government upon such lands.

(2) "Major Irrigation Work" means and includes all works irrigating or useful for the drainage or protection of an extent of over 200 acres of agricultural lands.

(3) "Petty Irrigation Work" means and includes all works irrigating or useful for the drainage or protection of an extent of not over 10 acres.

(4) "Minor Irrigation Work" means and includes all irrigation works other than major and petty works as defined above.

(5) "Irrigation Officer" means any Officer not below the rank of a Revenue Inspector or an Overseer of the Public Works Department, or a Panchayat Overseer of the Panchayat Department, appointed by the Government to exercise all or any of the functions of an Irrigation Officer under this Regulation.

(6) "Proprietor" means the owner of the land and includes also Kanomdars and Panayamdars when the Panayam is akin to kanom, and others holding under favourable tenures.

(7) "Majority of proprietors" means proprietors of more than one-half of the acreage benefited by an Irrigation Work.

(8) "Irrigation". The term 'Irrigation' with its grammatical variations shall include drainage with its corresponding variations.

(9) "New Irrigation Work" means any Irrigation Work as defined in clause (1) constructed or completed after this Regulation comes into force.

(10) "Occupier" means in respect of any land any person who has an interest in the land and cultivates the land himself or by his servants or by hired labour.

Publication of names of Irrigation Works.

3. The Government may, as soon as this Regulation comes into force and at any time, by a notification in the Government Gazette, publish the names of all the existing Irrigation Works classed under 'Major', 'Minor' and 'Petty' Irrigation Works and by similar notification publish the names of all New Irrigation Works and the provisions of this Regulation shall apply to such works.

Appointment of Irrigation Officer.

4. The Government may, by a notification in the Government Gazette, appoint an officer or officers of the State as defined in clause (5) of section 2 by name or by virtue of office, as the Irrigation Officer and declare the local limits within which such officer or officers shall have jurisdiction and by a similar notification cancel or modify such notification.

PART II

Petty and Minor Irrigation Works

Construction, repair and maintenance of Petty Irrigation Works to devolve upon Proprietors benefited.

5. The construction, repair and maintenance of Petty Irrigation Works shall devolve upon the proprietors of the lands benefited by such works.

Application to the Panchayat to have the repair of such work carried out by Government.

6. If the proprietors of lands benefited by a Petty Irrigation Work are unable to combine and carry out any repair or other work in connection with such work, or if, for any other reason, they desire to have such repair or work done by Government, it shall be lawful for any of the proprietors to apply to the Panchayat having local jurisdiction to have such repair or other work carried out by Government. The application shall specify the name of the Irrigation Work, the work proposed to be done to it, the area of lands to be benefited by it and any other particulars which the Government may prescribe from time to time.

When the Panchayat may carry out the work.

7. On receipt of the application referred to in the last section, the Panchayat may, after satisfying itself by making such enquiry as it may deem fit that the application is *bona fide* and is agreed to by the majority of the proprietors or should be complied with in the general interests of the proprietors, cause an estimate to be prepared and have the work carried out with the previous sanction of the Government.

Construction, repair and maintenance of Minor Irrigation Works to devolve upon Government.

8. (*a*) The construction, repair and maintenance of all Minor Irrigation Works shall devolve upon the Government.

Power of Government to levy cess.

(*b*) (1) The Government may levy a cess on any area benefited by a new Minor Irrigation Work.

(2) Such cess shall be fixed upon an acreage basis and so as to ensure to the Government, a return of 3 per cent. on the capital outlay, after making provision for depreciation and maintenance :

Provided that nothing in this section shall apply to the construction, maintenance or repair of bunds and other structures put up for purposes of Kole cultivation.

Procedure of the Panchayat on application for Minor Irrigation Works.

9. In any local area it shall be competent for the Panchayat having local jurisdiction on the application of any proprietor interested in a new Minor Irrigation Work to satisfy itself after making such enquiry as it may deem necessary that the work mentioned in the application should be executed in the interests of the majority of proprietors, and, if so satisfied, to cause a plan and estimate of the work and a specification of the lands which will be benefited thereby to be prepared.

Notice to put in objections.

10. The plan, estimate and specification made under the last section shall be forwarded to the Registrar of Village Panchayats and an abstract of the estimate and of the specification of the lands likely to be benefited shall be published in the Gazette, with a notice calling upon all persons concerned who may have any objection to the work being done to put in their objection before the Registrar of Village Panchayats within a time to be specified therein. Such notice shall also be served upon the proprietors concerned. The Registrar of Village Panchayats shall hear and record the objections, if any, which may be put in and forward the same to the Diwan [1] with his opinion.

---

[1] Presumably this now refers to the Chief Minister of Travancore-Cochin.

When Government may carry out the work.

11. If no objections have been put in or if the majority of proprietors agree to the work, the estimate may be sanctioned and the work carried out. In any case in which majority of proprietors do not agree, if it be found after duly considering their objections that the work proposed should be executed in the interests of the proprietors the Diwan may order the work to be carried out.

Accident to any Petty or Minor Irrigation Work.

12. If, in the case of any accident being apprehended or happening to any Petty or Minor Irrigation Work, any work in the nature of an urgent repair is needed, failure to carry out or delay in carrying out which is likely to cause serious damage, the Registrar of Village Panchayats or the Chief Engineer or the Diwan Peishkar may, notwithstanding anything contained in sections 6 and 8 to 10, order the execution of such work at the cost of the Government and with their sanction.

Irrigation Officer to report periodically on condition of such works.

13. It shall be the duty of the Irrigation Officer to periodically inspect all the Petty and Minor Irrigation Works falling under the preceding sections and report to the Registrar of Village Panchayats the condition of these works. If the Registrar finds that any work is to be executed for the satisfactory maintenance of any Minor Irrigation Work, he may execute it at Government cost and with their sanction and he may on being satisfied from such report or from other reliable information that in case of any Petty Irrigation Work the proprietors concerned have failed to maintain the work or have maintained it unsatisfactorily, publish a notice calling upon the proprietors of lands benefited by the work and also serve it upon them to carry out the necessary work within a prescribed period or to show cause why they should not do so. The publication of the notice shall be by beat of tomtom in the village in which the Irrigation Work is situate and by posting copies thereof in some conspicuous places in such village and in the village and taluk offices.

Necessary works may be carried out at Government cost on proprietor's failure.

14. If, as required by the notice mentioned in the last section, the proprietors fail or refuse to execute or satisfactorily execute the work or satisfy such officer that such work should not be carried out, the Registrar of Village Panchayats may, subject to such rules as may be issued by the Government in regard to the funds and the agency to execute such works, cause the work to be carried out at Government cost.

Cost of works executed under sections 7, 12 and 14 to be first charge on lands benefited.

15. The amounts due from the proprietors for any work executed under sections 7, 12 and 14 shall be first charge on the lands benefited by such work and shall be recovered *pro rata* from such land as arrears of public revenue in such equal yearly instalments or otherwise as may be fixed by the Government from time to time.

The Government may remit, in whole or in part, the cost of any Petty Irrigation Work, recoverable under the first para. of this section.

PART III

Major Irrigation Works

Construction, repair and maintenance of Major Irrigation Works to devolve on Government.

16. The construction, repair and maintenance of all Major Irrigation Works shall devolve on the Government.

Procedure on construction of Major Irrigation Work.

17. If, in any local area, the Diwan Peishkar or the Chief Engineer is satisfied on the application of any proprietor or otherwise, that any new Major Irrigation Work should be constructed or repaired, such officer may cause a plan and an estimate of the work and a specification of the lands which will be benefited thereby.

Investigation of objections, if any.

18. The plan, estimate and specification made under the last section shall be forwarded to the Diwan and an abstract of the estimate and the specification of the lands likely to be benefited shall be published in the Gazette with a notice calling upon all persons concerned who may have any objection to the work being done to put in their objections before the Diwan Peishkar within a time to be specified therein. The Diwan Peishkar shall hear and record the objections, if any, which may be put in and forward the same to the Diwan with his opinion.

When the Government may carry out the work.

19. If it be found after duly considering the objections that the work proposed should be executed in the interests of the proprietors the Diwan may order the work to be carried out at the cost of the Government.

Power to Government to levy cess.

20. (*a*) Notwithstanding anything hereinbefore contained, the Government may levy a cess on any area benefited by a new Major Irrigation Work constructed, restored or repaired, after the passing of this Regulation.

(*b*) Such cess shall be fixed upon an acreage basis and so as to ensure to the Government a return of 3 per cent. on the capital outlay after making provision for depreciation and maintenance.

Irrigation Officer to report periodically on condition of Major Irrigation Works.

21. It shall be the duty of the Irrigation Officer to periodically inspect all the Major Irrigation Works and report to the Chief Engineer the condition of these works and he may, on being satisfied from such report or from other reliable information that any work is to be executed for the proper maintenance of the work, execute the same at Government cost.

PART IV

Private Irrigation Works

Application for construction of a new Irrigation Work.

22. Any person desiring the construction of a new Irrigation Work for irrigating his lands may apply in writing to the Diwan Peishkar stating—

(1) that he has been unable to come to terms with the owners of the land on which such work has to be constructed or through which it will pass,

(2) that he desires the Irrigation Officer, in his behalf and at his cost to do all things necessary for acquiring a right to so much of the said land as will be necessary for such Irrigation Work, and

(3) that he is able to defray all costs involved in acquiring such land and constructing such work.

Procedure of the Diwan Peishkar thereupon.

If the Diwan Peishkar considers—

(*a*) that the construction of such work is necessary,

(*b*) that the statements in the application are true,

he shall call upon the applicant to make such deposit as he considers necessary of any compensation which he may consider likely to become due, and upon such deposit being made he shall, after due enquiry, mark out the land which in his opinion it will be necessary to acquire for the construction of the work and shall give notice of the same to the owners of such land. The notice shall also be published in the Gazette and in the village in which the land is situate.

Objection to construction to be made to Diwan Peishkar.

Within 30 days from the date of the above notice, the owner or any other person interested in the land or in the Irrigation Work to which the notice refers shall apply to the Diwan Peishkar by petition stating his objections to the construction for which application has been made. The Diwan Peishkar shall consider the objection and such evidence as may be adduced by both parties or as he may himself call for, and pass an order in writing stating the grounds of such order.

If the order be that the application is reasonable and should be granted, the land marked out may, with the previous sanction of the Diwan, be acquired under the Land Acquisition Regulation.

Note.—For the purposes of this section, the construction, extension, improvement or alteration of any Irrigation Work though executed solely at the expense of a private person shall be deemed to be a public purpose under section 3 of the Land Acquisition Regulation.

Conditions to be complied with previous to giving occupation of land.

23. No such applicant shall be placed in occupation of such land until he had paid to the person named by the officer assuming the land, the amount of compensation awarded and any damage occasioned by the marking out and occupation of such land together with all expenses incidental to such occupation.

If such amount is not paid, the same may be recovered as if it were an arrear of land revenue.

Conditions binding to secure continuance of occupation.

24. When any such applicant is placed in occupation of any land the following conditions shall be binding on him:—

(1) The land shall not be used for any purpose other than such Irrigation Work, except with the special sanction of Government.

(2) The work shall be completed to the satisfaction of the Diwan Peishkar within such period after the occupation of the land as may be determined by such officer.

(3) The applicant or his representative in interest shall pay the tax due on such land.

(4) In case the Irrigation Work is a water-course, the applicant shall maintain all works necessary for the passage across such water-course of any public road or irrigation or drainage work in use at the time of its construction and of the drainage intercepted by it.

If any of these conditions is not complied with, the right of the applicant or his representative in interest to occupy such land or work shall cease absolutely. Provided that the liability to pay tax shall continue until the applicant or his representative-in-interest has restored the land to its original condition, unless the Diwan Peishkar decides otherwise.

Land for the extension of Irrigation Work to be obtained under same procedure.

25. The provisions of sections 22 to 24 shall, so far as may be, apply to applications for extension or improvement of an existing Irrigation Work.

———

PART V

Obtaining materials in Emergencies

Impressment of materials for urgent works or repair, etc.

26. (1) Whenever it appears to an Irrigation Officer that unless some work or repair is immediately executed any irrigation or drainage work would sustain such serious damage as to cause sudden and extensive public injury, such officer or other person authorised by him in this behalf may enter upon or into any immovable property in the neighbourhood of any such irrigation or drainage work and take possession of, appropriate and remove any trees and any timber, bamboos, mats, ropes, straw, earth, stones or other materials found in or upon such property, and use the same for the purpose of such work, repair or clearance.

(2) Every person so authorised shall be deemed to be a public servant within the meaning of the Cochin Penal Code.

Payment for the materials taken.

27. All persons whose materials may be taken under section 26 shall, as soon as may be reasonably practicable and in any case within 15 days from the date of such improvement, be paid by the Irrigation Officer for such materials at 25 per cent. in excess of their prevailing market rate.

Compensation for damage done in taking materials.

28. Whenever as a result of the removal under section 26 of any trees, bamboos, earth, stone or other materials, any damage over and above the price payable for such materials results directly to any person, the Irrigation Officer shall pay to such person, a reasonable amount of compensation for such damage, subject to such rules as may be framed in this behalf by the Government.

Appeals against orders under section 28.

29. Against any order under section 28, an appeal shall lie to the Diwan Peishkar whose decision shall be final.

PART VI

Regulation of Water Supply

Distribution of water of works constructed at Government cost to be regulated by Government.

30. The distribution of the water of all Irrigation Works constructed, repaired or maintained by Government at their cost, whether wholly or partly, shall be regulated, by such rules or orders as may be prescribed or issued by the Government, from time to time.

PART VII

Penalties and Procedure

Acts punishable under the Regulation.

31. Whoever without proper authority does any of the following acts, that is to say,—

(1) injures, alters, enlarges, or obstructs any Irrigation Work;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any Irrigation Work;

(3) interferes with or alters the flow of water in an Irrigation Work so as to endanger, injure or render less useful any such work;

(4) being responsible for the maintenance of or using an Irrigation Work, causes, or occasions waste of the water in such Irrigation Work or interferes with the authorised distribution of the water therefrom or uses such water in an unauthorised manner ;

(5) corrupts or fouls the water of any Irrigation Work so as to render it less fit for the purposes for which it is ordinarily used;

(6) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant,

shall be liable, on conviction before a Magistrate, to a fine not exceeding Rs. 50 or to imprisonment of either description for a period not exceeding one month or to both.

Nothing in this section or sections shall apply to acts done in respect of Irrigation Works which are exclusively owned by private individuals.

Suit or application for the issue of an injunction.

32. Except where otherwise provided or where an order or decision is declared to be final, all claims in respect of anything done under this Regulation may be tried by the Civil Courts; but no such court shall entertain a suit or application for the issue of an injunction to restrain the exercise of any powers conferred by this Regulation upon the Government or any person or body of persons or any officer except where the result of the exercise of such power is solely to adjudicate the rights between private parties.

Period of limitation.

33. The period of limitation for an appeal under this Regulation shall be thirty days from the date of the order appealed against.

PART VIII

Miscellaneous

Power to Government to make rules.

34. The Government may, from time to time and after hearing objections, if any, by persons interested, make rules consistently with the provisions of this Regulation to regulate the following matters :—

(1) the proceedings of any officer who, under the provisions of this Regulation, is required or empowered to take action in any matter;

(2) the cases in which, and the officers to whom, and the conditions subject to which orders and decisions given under any provisions of the Regulation shall be appealable;

(3) the persons by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Regulation shall be done and generally to carry out the provisions of this Regulation; and

(4) the number of instalments in which the cost of Petty Irrigation Works when carried out by Government may be recovered and the circumstances under which remission of such cost may be granted.

Such rules shall, when published in the Gazette, have the force of law.

Bar of action against Government.

35. No action shall lie against the Government for not complying with the application of ryots for the construction, repair, improvements or restoration of any Irrigation Work.

Rate of cess to be fixed by Government under sections 8 and 20 to be final and not liable to be questioned by any Civil Court

36. The rate of cess fixed by the Government under sections 8 and 20 shall be final and shall not be liable to be questioned by any Civil Court.

Constitution of Irrigation Boards, their functions, ; power to make rules.

37. (1) The Government may, by a notification in the Government Gazette, constitute Boards for any local area for regulating the distribution of water of any Irrigation Work or any part thereof in repair and for other purposes, as may, from time to time, be prescribed by Government by rules made under this Regulation.

(2) The Government may, by a like notification, dissolve any Board constituted under sub-section (1).

(3) For the discharging of its functions, any Board constituted under sub-section (1) may, with the previous sanction of the Government, levy a cess on the lands benefited.

(4) The Government may, from time to time, make rules as to—

(*a*) the number of elected and nominated members for each Board;

(*b*) the term of office of the members of the Board;

(*c*) the qualification and registration of electorate, the time and mode of election and any other matter connected with election;

(*d*) the dissolution or supersession of Boards and the consequences of such dissolution or supersession;

(*e*) the powers and duties of the Boards;

(*f*) the conduct of business of their meetings;

(*g*) the appointment and punishment of their servants;

(*h*) the rates at which the cess may be levied;

(*i*) the mode of realising such cess;

(*j*) the purposes for which the money collected may be utilised;

(*k*) the relations between two or more Boards; and

(*l*) all other matters necessary for carrying out generally the purposes of this Regulation.

(5) All such rules shall be published in the Government Gazette and thereupon they shall have the force of law.

THE MADRAS IRRIGATION WORKS (REPAIRS IMPROVEMENTS & CONSTRUCTION, ACT, 1943) (AMENDED BY ACT IV OF 1945)

Act No. XVIII of 1943

An Act to provide for the repair or improvement of private irrigation works, the construction of new irrigation works, on private lands and the supply of water from Government to private irrigation works, in the Province of Madras.

[5*th October* 1943.]

WHEREAS it is expedient to empower the Provincial Government to repair or improve private irrigation works, to construct new irrigation works on private lands, to supply water from Government irrigation works to private irrigation works, and to recover the cost of doing so in the cases aforesaid;

[1]It is hereby enacted as follows :—

[2][* * * *]

1. (1) This Act may be called the Madras Irrigation Works (Repairs, Improvement and Construction) Act, 1943. Short title and extent.

(2) It extends to the whole of the State of Madras.

2. If, in the opinion of the State Government, it is necessary or expedient so to do (*vide* Amendment in Act VII of 1948) they may— Power to repair, improve and construct irrigation works and to supply water from Government irrigation works.

(*a*) execute or cause to be executed, repairs to any irrigation work in private ownership which is not working at maximum efficiency;

(*b*) improve or cause to be improved, any irrigation work in private ownership ;

(*c*) construct or cause to be constructed, a new irrigation work on land [3][situated in an estate as defined in the Madras Estates Land Act, 1908];

[4][(*cc.*) acquire in accordance with the provisions of the Land Acquisition Act, 1894, any land in an estate as defined in the Madras Estates Land Act, 1908, necessary for the purpose of constructing a

[1] Substituted by Act VIII of 1948.

[2] Omitted by *ibid.*

[3] Amended by Act IV of 1945.

[4] Inserted by *ibid.*

new irrigation work, if the work is intended to serve lands situated in two or more estates as so defined or partly lands situated in such estate or estates and partly lands in ryotwari tracts and construct or came to be constructed irrigation work on the land which has been acquired.]

(*d*) provide for the supply of water from any Government irrigation work to any irrigation work in private ownership.

Recovery of the cost and of fees.

3. (1) The State Government shall—

(*a*) meet in the first instance the cost of the measures referred to in clauses (*a*), (*b*) or (*c*) of section 2;

(*b*) determine the amount of such cost after the execution of the said measures;

[1][(*c*) * * * *].

[2][(1A) In the cases referred to in clauses (*a*) & (*b*) of section 2 the State Government shall be entitled to recover in a lump sum the amount determined under clause (*b*) of sub-section (1) from the land holder or other person who by any law or custom is bound to keep the irrigation work in repair.

(1B) In the case referred to in clause (*c*) of section 2, the State Government shall be entitled to recover in a lump sum from the landholder on whose land the new irrigation work has been constructed—

(i) if the irrigation work is intended to serve exclusively lands situated in the estate, the cost of the measure as determined under clause (*b*) of sub-section (1);

(ii) if the irrigation work is intended to serve partly lands situated in such estate and partly lands in ryotwari tracts, such proportion of the cost of the measure as determined under clause (*b*) of sub-section (1) as the extent of the lands in the estate served by the irrigation work bears to the total extent of the lands served by the work :

Provided that the amount recoverable under this sub-section shall not exceed the value capitalized at four per cent. of the average net additional annual income estimated by the State Government as likely to be derived by the landholder as a result of the construction of the irrigation work.

(1C) (*a*) On the expiry of five fasli years after the completion of the irrigation work, the State Government shall determine the value capitalized at four per cent. of the actual amount of the average net additional annual income derived by the landholder as a result of the construction of the irrigation work during the said fasli years.

---

[1] Omitted by Act IV of 1945.

[2] Inserted by *ibid.*

[3] Inserted by *ibid.*

(*b*) If the value determined under clause (*a*) exceeds the amount recovered from the landholder under sub-section (1B), the difference shall be recovered from him and if such value is less than the amount recovered from him, the difference shall be refunded to him.

(1D) The irrigation work referred to in clause (ii) of sub-section (1B) shall be maintained by the landholder and the cost of maintenance shall be shared between the landholder and the State Government in the proportion in which the cost of the work has been shared.]

(2) In the cases referred to in clauses (*b*) and (*c*) of section 2, where the person liable under sub-section [1][(1A) or sub-section (1B)] to pay the cost of the measures is the landholder of an estate as defined in the Madras Estates Land Act, 1908, he shall be entitled to apply under clause (ii) of section 30 of the said Act for an enhancement of the rent payable by the ryots benefited by such measures.

Madras Act I of 1908.

Explanation.—It shall not be open to any ryot to refuse a supply or an improved supply of water which may result from the measures aforesaid.

[2][(2A) In the case referred to in clause (*c*) of section 2, the State Government shall be entitled to—

(*a*) fix the area to be irrigated from such work in the estate and in ryotwari tracts, if any; and

(*b*) charge fees for the water supplied from the irrigation work to the lands situated in ryotwari tracts, if any, at such rates as they deem fit and recover the fees from such persons, at such times and on such terms and conditions, as may be specified in accordance with the rules made under this Act.]

(3) In the case referred to in clause [3][(*cc*) and (*d*)] of section 2, the State Government shall be entitled to charge fees for the water supplied by them at such rates as they deem fit, and the fees so charged shall be recovered from such persons, at such times and on such terms and conditions as may be specified in accordance with rules made under this Act.

Cost and fees payable on issue of written notice of demand.

4. (1) Any cost or fee recoverable by the State Government under section 3 shall become payable to them, on the person concerned being served with a written notice of demand issued by such Government and in accordance with the terms thereof.

(2) Such cost or fee shall carry interest, from the date on which it becomes payable, at such rate as may be notified by the State Government in that behalf.

---

[1] Substituted by Act IV of 1945.
[2] Inserted by *ibid.*
[3] Substituted by *ibid.*

Cost and fees recoverable as an arrear of land revenue.

5. Any cost or fee which has become payable under section 4—

(*a*) may be recovered as if it were an arrear of land revenue from the person by whom it is payable; and

(*b*) shall be a charge on the interest of such person in lands served by the irrigation work concerned.

Powers of entry and inspection.

6. The District Collector or any officer appointed by him in this behalf may, for the purposes of this Act, at all reasonable times, enter upon and inspect any land including the irrigation work, if any, situated therein.

Delegation of the powers of the Provincial Government.

7. (1) The State Government may, by notification in the *Fort St. George Gazette*, delegate all or any of their powers under this Act except those conferred upon them by this section and section 11, to any person or authority subordinate to the State Government, and may in like manner withdraw any powers so delegated.

(2) The exercise of any powers delegated under sub-section (1) shall be subject to such restrictions, limitations and conditions, and to control and revision by such authority or authorities, as may be specified in the notification.

Jurisdiction of courts ousted in certain cases.

8. Any action taken or thing done under section 2, 3 or 4 shall, subject to the provisions of sub-section (2) of section 7, be final, and shall not, save as otherwise provided in any rules made under this Act, be liable to be called in question in any court of law; nor shall any court of law issue an injunction in regard to any action or thing proposed to be taken or done under section 2, 3 or 4.

Bar of certain proceedings.

9. (1) No suit, prosecution or other proceeding shall lie against any officer or servant of the State Government, for any act done or purporting to be done under this Act, without the previous sanction of the State Government.

(2) No officer or servant of the State Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

Limitation for certain proceedings.

10. No suit shall be instituted against the [1][Government] and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the State Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.

Power to make rules.

11. (1) The State Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide—

(*a*) for any matter required or allowed by this Act to be regulated by rules ;

[1] Sub. by the Adaptation of Laws Order, 1950.

(*b*) for the proceeding to be adopted under this Act;

(*c*) for determining and adjusting the rights and liabilities of the landholders and ryots, where the irrigation work concerned serves two or more estates as defined in the Madras Estates Land Act, 1908 ;

Madras Act I of 1908.

(*d*) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the State Government, necessary for giving effect to the purposes of this Act.

(3) All rules made under this section shall be published in the *Fort St. George Gazette* and upon such publication shall have effect as if enacted in this Act.

Act to override other enactments.

12. The provisions of this Act and of any rules, orders, proceedings, action or other thing made, taken or done thereunder shall have effect, notwithstanding anything inconsistent therewith contained in any other enactment or law for the time being in force.

THE BIHAR PUBLIC IRRIGATION AND DRAINAGE WORKS ACT, 1946

Act X of 1947

An Act to provide for the construction, improvement and maintenance by the Provincial Government of Irrigation, Drainage and other Works intended to improve the condition of Lands.

Preamble.

WHEREAS it is expedient to provide for the construction, improvement and maintenance by the Provincial Government of irrigation, drainage and other works intended to improve the condition of lands;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Bihar Public Irrigation and Drainage Works Act, 1946.

(2) It extends to the whole of the State of Bihar.

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

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Chief Engineer" means the Chief Engineer of the Public Works Department of the State Government, and includes any person appointed by the Governor, by notification to the Chief Engineer for the purposes of this Act either generally or in respect of any proposed work or sanctioned work specified in such notification ;

(*b*) "drainage work" means any work intended to remove water from any land;

(*c*) "Executive Engineer" means the officer appointed by the Governor to be Executive Engineer in any area, and includes any person appointed by the Governor, by notification, to be Executive Engineer for the purposes of this Act either generally or in respect of any proposed work or sanctioned work specified in such notification;

(*d*) "person having an interest" means,—

(1) in relation to any land for which rent is paid in kind, the landlord and the tenant of such land;

(2) in relation to any land, other than land referred to in sub-clause (3), for which rent is paid in cash or for which no rent is paid, the person in immediate possession of such land or, if such

person is an under-*raiyat* having no right of occupancy in the land, the *raiyat* of such land; and

(3) in relation to any land the rent of which is remitted under any law for the time being in force on the ground that it has become unfit for cultivation and which subsequently becomes fit for cultivation as the result of any action taken under this Act, the landlord and the tenant of such land;

Explanation.—In this clause "landlord" does not include a village headman or a *raiyat*; and "tenant" does not include an under-*raiyat*.

(*e*) "prescribed" means prescribed by rules made by the State Government under this Act;

(*f*) "proposed work" means any work specified in section 3 in respect of which a direction that it shall be executed has not been issued under sub-section (1) of section 5;

(*g*) "public irrigation work" means any work of irrigation, or any system of such works, natural or artificial, of which the construction, alteration or maintenance by the State Government appears to that Government unsuitable for application of the provisions of the Bengal Irrigation Act, 1876, and includes—

Ben. Act III of 1876

(1) any work, embankment, structure, or supply or escape channel connected with a public irrigation work;

(2) any head-work, dam, weir, outlet, escape or sluice; and

(3) any part of any public irrigation work;

(*h*) "Revenue Officer" means any officer whom the Governor may by notification appoint to discharge all or any of the functions of the Revenue Officer under this Act; and

(*i*) "sanctioned work" means a proposed work in respect of which a direction that it shall be executed has been issued under sub-section (1) of section 5.

CHAPTER II

Initiation of Proceedings and Preparation of Scheme

3. (1) Whenever the State Government shall decide whether on a report of an officer of Government or on an application by any person, that it is necessary that any of the following works, namely,— **Initiation of proceedings and hearing of objections.**

(*i*) any public irrigation work,

(*ii*) any drainage work for the improvement or reclamation of agricultural lands,

(*iii*) any drainage work for the improvement of public health in any locality, or

(*iv*) any work for the prevention or control of flood,

should be constructed, improved, repaired or maintained, the State Government shall publish in the prescribed manner a description of the proposed work indicating the situation of the proposed work the arrears of land likely to be benefited or adversely affected by the proposed work, and any other particulars that may be prescribed, together with a notice specifying—

(*a*) a period which shall not be less than thirty days from the date of such publication, during which any person whose interests are likely to be affected by the proposed work, may present in writing to the prescribed authority any objection to the proposed work; and

(*b*) a date, which shall not be less than one week after the expiration of the period mentioned in clause (*a*), on which the prescribed authority shall hear any objection received during the period mentioned in clause (*a*) relating to the proposed work.

(2) Every petition of objection under clause (*a*) of sub-section (1) shall be accompanied by the prescribed fee, and any such petition not accompanied by the prescribed fee shall be summarily rejected.

(3) The prescribed authority shall, on the day appointed for the hearing of objections or on any subsequent day to which the hearing may be adjourned, hold such enquiry as it thinks fit.

Forwarding of report by prescribed authority to the State Government.

4. After holding the enquiry referred to in sub-section (3) of section 3, the prescribed authority shall forward a report on the objections raised to the State Government.

Consideration of the report of the prescribed authority by State Government and orders of State Government thereon.

5. (1) The State Government may, after considering the report of the prescribed authority submitted under section 4, by notification, direct that the proposed work shall not be executed or that it shall be executed with such modification, if any, as the State Government may specify.

(2) If the State Government directs that the proposed work shall not be executed, no further action shall be taken in respect of such work.

(3) If the State Government directs that the proposed work shall be executed with or without any modification, it shall cause a detailed plan and estimate of costs of such work to be prepared.

Particulars to be contained in and documents accompanying detailed plan and estimate.

6. The detailed plan and estimate prepared under sub-section (3) of section 5 shall be accompanied by such documents as may be prescribed and shall contain the following particulars, namely :—

(*a*) the area likely to be benefited by the work;

(*b*) the estimated cost of the work, including—

(*i*) the estimated cost of the construction of the work;

(*ii*) the estimated cost of the acquisition of land and payment of compensation; and

(*iii*) the estimated cost of preparing a register under Chapter VII; and

(*c*) such other particulars as may be prescribed.

Orders of State Government modifying sanctioned work.

7. At any time after the publication of a notification under sub-section (1) of section 5 directing the execution of a proposed work, the State Government may, by notification, direct that such work shall be executed with such modification or further modification as may be specified in the notification :

Provided that when the State Government propose to make any modification which in its opinion will adversely affect the interest of any person, it shall publish in the prescribed manner particulars of such modification together with a notice appointing a day, not less than thirty days after the date of such publication, as the day on which objections, if any, to such modification shall be heard, and the provisions of sub-sections (2) and (3) of section 3 and section 4 shall apply to such objection as if it were an objection to a proposed work notified under sub-section (1) of section 3 and the State Government shall consider the report of the prescribed authority on the objection.

CHAPTER III

Powers of Officers preparing Plans or Executing Works

Powers of officers and compensation for damage caused by the exercise of such powers.

8. (1) For the purpose of investigating any proposed work, or for the purpose of preparing plans and estimates or for the purpose of executing any work, the Collector or the Executive Engineer or the Chief Engineer, or any person authorised in this behalf by the Executive Engineer or the Chief Engineer or the State Government may,—

(*a*) enter upon, survey and take levels of any land;

(*b*) dig or bore into the sub-soil of any land;

(*c*) do all other acts necessary to ascertain whether the land is suitable for any of the purposes of the proposed work or the sanctioned work;

(*d*) set out the boundaries of the lands likely to be benefited by the proposed work or the sanctioned work and the intended line of the work;

(*e*) mark such boundaries, levels and lines by placing marks or cutting trenches; and

(*f*) if the survey cannot otherwise be made, cut down and clear away any standing crop, tree, fence or jungle or any part thereof :

Provided that no person shall, except with the consent of the occupier thereof, enter any building or upon any enclosed court or garden attached to a dwelling house, without previously giving such occupier at least thirty-six hours' notice in writing of his intention to do so.

(2) When any damage or loss is caused to any person by the exercise of any of the powers conferred by sub-section (1), such person shall, on an application to the Collector, be entitled to receive from the State Government such compensation as the Collector may by an order determine.

(3) Payment of the compensation shall be made by the Collector in accordance with the order made by him under sub-section (2).

(4) Any person aggrieved by an order passed by the Collector under sub-section (2) may, within sixty days of the date of such order, appeal to the prescribed authority.

CHAPTER IV

ACQUISITION OF LAND

Acquisition of land.

9. Any land or interest in land, which, in the opinion of the State Government, it is necessary to acquire for any sanctioned work, shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1894. I of 1894.

Power of Collector to take immediate possession of land.

10. (1) Notwithstanding anything to the contrary contained in this Act or in the Land Acquisition Act, 1894, or I of 1894 in any other law or anything having the force of law, at any time after the publication of a notification under sub-section (1) of section 4 of the Land Acquisition Act, 1894, relating I of 1894 to any land needed for any sanctioned work, the Collector may, with the previous approval of the State Government take possession of such land, and such land shall thereupon vest absolutely in the Government free from all encumbrances :

Provided that, before or at the time of taking possession of any land under this section, the Collector shall offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any damage sustained by them which is caused by such sudden dispossession and not excepted in section 24 of the Land Acquisition Act 1894, and, if such offer is not accepted, the value of such I of 1894. crops and trees and the amount of such other damage shall be allowed in awarding compensation for the land under the provisions of the said Act.

(2) When the Collector takes action under sub-section (1), the requirements of section 5A of the Land Acquisition Act, 1894, shall be dispensed with.

Modification of the Land Acquisition Act, 1894.

11. For the purposes of the acquisition of any land referred to in section 8 or 9, the Land Acquisition Act, 1894, shall have effect subject to the modification that the market value of the land shall be deemed to be the market value on the date on which the notice referred to in sub-section (1) of section 3, in respect of the work for which such land is needed, is published under the said sub-section.

I of 1894.

CHAPTER V

EXPENDITURE ON PROPOSED WORKS AND SANCTIONED WORKS

Expenditure in connection with proposed work to be borne by State Government.

12. (1) All expenses incurred in connection with a proposed work shall be borne initially by the State Government.

(2) For the purposes of sub-section (1), the following shall be deemed to be expenses incurred in connection with a proposed work, namely :—

(*a*) the cost of preparing under the orders of the State Government a rough plan and estimate of cost, if any, of the proposed work; and

(*b*) the cost of any action taken in accordance with the provisions of sub-section (1) of section 8 before the issue of an order under sub-section (1) of section 5 directing that the proposed work shall be executed and all sums paid to any person as compensation under sub-section (2) of section 8.

Expenditure in connection with sanctioned work.

13. (1) All expenses incurred in connection with a sanctioned work shall be borne in the first instance by the State Government and shall be recoverable in whole or to such extent as may be determined by the State Government from the persons having an interest in the lands benefited by the said work.

(2) (*a*) The expenses mentioned in sub-section (1) shall be recoverable in accordance with the provisions of Chapters VII and VIII :

Provided that if benefits begin to accrue to any lands from any portion of a sanctioned work before the whole of such work is completed, the persons having an interest in such lands shall be liable to pay, from the date on which such benefits begin to accrue, the expenses incurred in connection with the said portion and recoverable under sub-section (1).

(*b*) If any doubt arises as to the amount of the expenses incurred in connection with any portion of a sanctioned work, the decision of the State Government in the matter shall be final.

(3) For the purposes of this section and of Chapters VII and VIII, the following shall be deemed to be expenses incurred in connection with a sanctioned work, namely :—

(*a*) all the expenses specified in clauses (*a*) and (*b*) of sub-section (2) of section 12 incurred in respect of the said work before the issue of an order under sub-section (1) of section 5 directing that the said work shall be executed;

(*b*) the cost of preparing a detailed plan and estimate of the said work under sub-section (3) of section 5;

(*c*) all sums paid as compensation under the proviso to sub-section (1) of section 10;

(*d*) all sums paid as compensation under Chapter VI of this Act;

(*e*) all sums awarded as compensation for any land acquired under the Land Acquisition Act, 1894, I of 1894. for the purposes of the said work ;

(*f*) the expenses incurred by the State Government in the construction of the said work;

(*g*) the cost of making a survey and preparing a register under Chapter VII; and

(*h*) interest calculated at the rate and in the manner specified in section 22 on the amount of the expenses mentioned in clauses (*a*) to (*g*).

Power of State Government to make modifications in the estimated cost of work.

14. At any time before the publication of a draft of the register under section 19, the State Government may make such modifications in the estimated cost of the sanctioned work as may appear to be necessary, and the estimated cost of the work, as so modified, shall be deemed to be the expenses of the work to be recovered from the persons liable to pay the same under the provisions of Chapters VII and VIII.

CHAPTER VI

COMPENSATION

Compensation for consequential damage.

15. (1) Whenever any land other than the land acquired under the Land Acquisition Act, 1894, or otherwise for the I of 1894. purposes of this Act, or any right of fishery, right of drainage, right to the use of water or other right of property, is injuriously affected by any act done or any work executed under this Act, the person in whom such land or right is vested may prefer a claim by a petition to the Revenue Officer for compensation :

Provided that no person shall be entitled to claim compensation—

(*a*) for any damage sustained by him which, if caused by a private person, would not render such person liable to a suit; or

(*b*) for any damage caused by—

(*i*) any stoppage or diminution of percolation or of floods,

(*ii*) any deterioration of climate or soil,

(*iii*) any stoppage of navigation or of the means of rafting timber or watering cattle.

(2) No claim for compensation shall be entertained unless it is made within three years after the date when the act was done or the work executed by reason of which the land or right in respect of which compensation is claimed was injuriously affected.

Determination of compensation.

16. (1) The Revenue Officer shall consider all claims made under sub-section (1) of section 15 and shall make to the Collector his recommendation as to the amount of compensation, if any, which should be paid and the person to whom such amount should be paid.

(2) In making his recommendation under sub-section (1), the Revenue Officer shall take into consideration the following matters and no other matter :—

(*a*) the market value of the land or right injuriously affected at the time when the act was done or the work executed ;

(*b*) the damage sustained by the claimant by reason of such act or work injuriously affecting the land or right ;

(*c*) the consequent diminution of the market value of the land or right injuriously affected, when the act was done or the work executed; and

(*d*) whether the claimant has derived or is likely to derive any benefit from the act or work in respect of which the compensation is claimed, or from any work connected therewith, in which case the estimated value of such benefit, if any, shall be set off against the compensation which would otherwise be paid to such person.

Award by Collector and subsequent proceedings.

17. (1) The Collector shall, after considering the recommendation made by the Revenue Officer under section 16 make an award determining the compensation, if any, to be paid and the person to whom it shall be paid.

(2) In addition to the market value of the land or right as above provided, the Collector shall in every case award a sum of fifteen *per centum* of such market value.

(3) Any person who has not accepted an award made by the Collector under sub-section (1) may proceed under section 18 of the Land Acquisition Act, 1894, and thereupon the provisions of sections 19 to 34 of the said Act shall, so far as may be, apply. I of 1894.

(4) Payment of the amount awarded as compensation under this section shall be made by the Collector in accordance with the award.

CHAPTER VII

PREPARATION OF REGISTER AND ASSESSMENT OF RATES

Order for survey and preparation of register.

18. (1) When the construction of any work has been sanctioned under sub-section (1) of section 5, the State Government may, by notification, direct that after making a survey, if necessary, a register shall be prepared by the Revenue Officer in respect of the lands which may appear to the State Government to be benefited or likely to be benefited by the said work.

(2) Every such survey shall be made and register prepared in the prescribed manner, and the register shall contain in addition to the prescribed particulars, a statement of the recommendations of the Revenue Officer as to the rates at which the expenses incurred in connection with the work or such portion thereof, as may be determined by the State Government under sub-section (1) of section 13 to be recoverable, may be recovered from the persons having an interest in the lands mentioned in such register and benefited or likely to be benefited by the said work, together with a statement showing the amount payable by each such person.

Preliminary publication of register.

19. (1) The Revenue Officer shall publish in the prescribed manner and for the prescribed period the draft of the register prepared under sub-section (2) of section 18 and shall receive during the period of publication any objection which may be made to any entry therein or to any omission therefrom and shall consider all such objections, if any.

(2) When such objections have been considered, the Revenue Officer shall forward the said draft together with his own recommendations to the Collector, and the Collector shall, after considering the said recommendations, forward them with his own opinion to the prescribed authority for orders.

(3) Any person aggrieved by an order of the Revenue Officer passed on any objection made under sub-section (1) may, within thirty days of the date of such order, appeal to the prescribed authority and the decision of the prescribed authority on any such appeal shall be final.

Final publication of register and statement of amounts to be recovered from landlords and tenants.

20. When all appeals under sub-section (3) of section 19, if any, have been disposed of and when the prescribed authority mentioned in sub-section (2) of the said section has passed orders on the rates at which the expenses incurred in connection with the work or such portion thereof as may be determined by the State Government under sub-section (1) of section 13 to be recoverable shall be recovered from the persons liable to pay such expenses, the Revenue Officer shall, in the prescribed manner, finally publish the register, and the publication shall be conclusive evidence that the register has been duly made under this Chapter.

Alteration of amounts entered in finally published statement.

21. (1) If it appears to the State Government at any time after the final publication of the register under section 20 that any alteration in the entries in such register, including any entry of the amount payable by any person, is necessary for any reason which the State Government deems sufficient, the State Government may, by notification, declare its intention to alter the said entries in the manner specified in such notification.

(2) The Collector shall publish such notification in the prescribed manner and for the prescribed period, shall receive during the period of such publication any objections which may be made to the alterations proposed in the notification and shall consider all such objections, if any, in the prescribed manner.

(3) When such objections have been considered, the Collector shall forward a report on such objections, together with his own recommendations to the State Government, and the State Government may, after considering the said report and recommendations, by notification, order that the entries in the register finally published under section 20 shall be altered in the manner specified in the order, and the register shall thereupon be deemed to have been amended accordingly.

CHAPTER VIII

RECOVERY OF THE COST OF SANCTIONED WORK

Recovery of cost of sanctioned work and interest on such cost.

22. (1) The amount entered against the name of any person in a register finally published under Chapter VII, together with the interest on such amount at the rate of four *per centum* per annum or such other rate not exceeding five *per centum* per annum as may be prescribed by the State Government, calculated in the manner specified in sub-section (2) from the date of the completion of the work, shall, save where the provisions of section 24 are applied, be recovered from the said person in such number of annual instalments, not exceeding ten as the Collector thinks fit.

(2) The interest due from any person on each date of payment shall be calculated on the whole amount entered against such person in a register, or, where any portion of such amount has already been paid, on the whole of such amount less the portion so paid.

Recovery of cost of maintenance.

23. The State Government may at any time order that the cost already incurred in maintaining a sanctioned work and the amount calculated to be sufficient to cover the future cost of maintenance shall, save where the provisions of section 24 are applied, be recovered from the persons having an interest in the lands benefited by the said work and entered in a register finally published under Chapter VII, in such manner and in such instalments as the State Government may, by notification, direct :

Provided that the amount to be recovered under this section from a person entered in a register finally published under Chapter VII shall bear the same proportion to the total amount calculated to be sufficient to cover the cost of maintenance as the amount entered against such person's name in the register finally published under Chapter VII bears to the total expenses incurred in connection with a sanctioned work.

Recovery of interest and cost of maintenance by a cess.

24. (1) Instead of recovering costs as provided in sections 22 and 23, the State Government may direct that a cess be levied, as provided in this section, for the recovery of interest at the rate of four *per centum* per annum or such other rate, not exceeding five *per centum* per annum, as the State Government may prescribe on the expenditure incurred in connection with any sanctioned work, and of the annual cost of maintenance.

(2) The cess in respect of any work shall be charged on the lands entered in the register prepared under Chapter VII with reference to the said work at such rate or rates as may be determined by the State Government.

(3) Such cess shall be payable annually, or at such intervals of less than one year, as the State Government may by general or special order, direct.

Explanation.—In this section "expenditure incurred in connection with the sanctioned work" includes the items specified in clauses (*a*) to (*g*) of sub-section (3) of section 13 but does not include the item specified in clause (*h*) thereof.

Payment of dues and recovery of arrears.

25. (1) All sums due from any person under this Act shall be paid by such person to the prescribed authority, in the prescribed manner and on the prescribed date.

(2) Any sum due under this Act shall, if it is not paid on or before the prescribed date, be recoverable from the person from whom it is due or from his successors-in-interest as a public demand payable to the Collector.

CHAPTER IX

MISCELLANEOUS

Works to be constructed and maintained by State Government.

26. Every sanctioned work and every modification of any sanctioned work shall be constructed and maintained by the State Government.

State Government or its officers not liable for loss or damage.

27. No suit shall lie against the State Government or any servant of the [1][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 mentioned in sub-section (1) of section 3 owing to any cause whatsoever, 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.

Bar of suit in Civil Courts in respect of orders and proceedings.

28. No suit shall lie in any Civil Court to vary or set aside any order passed or proceeding taken under this Act or under any rule made under this Act.

No suit in respect of acts done in good faith.

29. No suit or proceeding shall lie against any person in respect of anything in good faith done or purported to be done under this Act or under any rule made under this Act.

Claim for compensation to include claim for every loss.

30. Every claim for compensation for any loss resulting from any 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.

Power to make rules.

31. (1) The State Government may, after previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, the State Government may make rules—

(*a*) to prescribe—

(*i*) the authority to whom objections referred to in clause (*a*) of sub-section (1) of section 3 shall be presented and who shall enquire into such objections under sub-section (3) of that section and make a report on the objections to the State Government under section 4; and

(*ii*) the manner of publication and the particulars that may be prescribed under the said sub-section;

---

[1]Sub. by the Adaptation of Laws Order, 1950.

(*b*) to prescribe the fee to be paid on an objection made under clause (*a*) of sub-section (1) of section 3 or under section 7;

(*c*) to prescribe the documents and the particulars referred to in section 6 ;

(*d*) to prescribe the manner in which the particulars of any modification of a sanctioned work shall be published under section 7;

(*e*) to prescribe the authority to whom appeals under sub-section (4) of section 8 shall lie;

(*f*) to prescribe the manner in which a survey shall be made and a register prepared under sub-section (2) of section 18 and the particulars which such register shall contain ;

(*g*) to prescribe the manner in which and the period for which a draft register shall be published under sub-section (1) of section 19 ;

(*h*) to prescribe the authority to whom the Collector shall forward his recommendations under sub-section (2) of section 19;

(*i*) to prescribe the authority to whom appeals under sub-section (3) of section 19 shall lie;

(*j*) to prescribe the manner in which a register shall be finally published under section 20;

(*k*) to prescribe the manner in which a notification issued under sub-section (1) of section 21 shall be published and the period for which it shall be published under sub-section (2) of the said section;

(*l*) to prescribe the manner in which objections made under sub-section (2) of section 21 shall be considered;

(*m*) to prescribe the rate of interest, if any, under sub-section (1) of section 22;

(*n*) to prescribe the rate of interest under sub-section (1) of section 24 ;

(*o*) to prescribe the authority to whom, the manner in which and the date on which sums due from any person shall be paid under sub-section (1) of section 25;

(*p*) to regulate the supply of water from any public irrigation work; and

(*q*) to regulate the grant of remission of cess when the supply of water from any public irrigation work is insufficient for the lands entered in a register with reference to such work.

Powers to be cumulative.

32. 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 that Government apart from this Act.

Repeal of Bihar Act XI of 1939.

33. The Bihar Public Irrigation Works Act, 1939, is hereby repealed. [Bihar Act XI of 1939.]

THE MALABAR IRRIGATION WORKS (CONSTRUCTION AND LEVY OF CESS) ACT, 1947 (AMENDED BY ACT XVIII OF 1947)

Act No. VII of 1947

An Act to provide for the construction of irrigation works and the levy of water-cess by the Government in the district of Malabar.

WHEREAS the Government propose to undertake the construction of large and important irrigation works in the district of Malabar ;

AND WHEREAS the Government should have power to construct irrigation works and regulate the supply of water therefrom notwithstanding that such construction or regulation may interfere with private rights in water-courses;

AND WHEREAS it is also necessary that payment of water-cess should be made obligatory in respect of lands the irrigation of which is permitted under this Act, whether water is actually taken for the cultivation of such lands or not;

It it hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Malabar Irrigation Works (Construction and Levy of Cess) Act, 1947.

(2) It extends to the whole of the district of Malabar.

(3) It shall come into force on such date as the Government may, by notification in the *Fort St. George Gazette*, appoint.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context—

(*a*) 'cultivator" means a person who cultivates lands solely by his own labour, or with the help of the labour of the members of his tarwad or family or of hired labourers or of both ;

(*b*) "Government" means the State Government;

(*c*) Irrigation work includes—

(*i*) all canals, channels and reservoirs constructed, maintained or controlled by the Government for the supply or storage of water for purposes of irrigation ;

(*ii*) all dams, embankments, weirs, sluices groins and other works connected with such canals, channels and reservoirs ;

(*iii*) all supply, escape or drainage channels connected with such canals, channels and reservoirs ;

(*d*) "permit" means a permit issued under this Act;

(*e*) "prescribed" means prescribed by rules made under this Act;

(*f*) "water-course" means a river, stream, natural channel, lake or natural collection of water and includes any tributary or branch of any river, stream or channel.

Construction of irrigation works.

3. It shall be lawful for the Government on any land belonging to them or acquired by them for the purpose, to construct an irrigation work of any kind, for utilizing the water in any water-course for the purpose of irrigation, notwithstanding that such construction may interfere with the right of any person or persons to take water from such water-course for the purpose of irrigating his or their lands, or for any other purpose.

Acquisition of lands for construction of irrigation work.

4. All lands required for the construction of an irrigation work shall be acquired in accordance with the provisions of the Land Acquisition Act, 1894, subject to the following modifications :— Central Act I of 1894.

(1) It shall be open to the Government to make and publish a declaration under section 6 of the said Act without following the procedure laid down in sections 4 (1) and 5-A of that Act.

(2) On the publication of a declaration [1][in which case, references in that Act to the date of the publication of the notification under section 4(1) thereof shall be construed as references to the date of the publication of the declaration under section 6 thereof].

(3) If any land acquired is or forms part of the bed of a water-course, the compensation to be awarded for such land under the said Act shall not exceed the value of an equivalent extent of land on either bank adjoining the land acquired and situated within such limits as may be prescribed.

Explanation.—For the purpose of this clause, the expression "land on either bank" shall not include land covered by buildings or structures.

Consequences of construction of irrigation works.

5. (1) Notwithstanding any law, custom of usage to the contrary, whenever the Government construct an irrigation work for utilizing the water in a water-course—

(*i*) all the water in such water-course and all tributaries and branches thereof shall become the property of the Government and the Government shall be entitled to utilize and distribute such water in any manner they think fit ;

(*ii*) it shall be lawful for the Government to lead the water for the purpose of irrigation through such water-course or through any other water-course with which it is or may be connected, although the bed of either water-course may not belong to them;

[1] Inserted by Act XVIII of 1948.

(*iii*) no person shall, without the sanction of the District Collector or any officer authorized by him in that behalf, do anything which obstructs or interferes or is likely to obstruct or interfere with the flow of water in such water-course or in any other water-course with which it is or may be connected;

(*iv*) no person shall, except in accordance with the provisions of this Act, take water for the purpose of irrigation from any such water-course or any other water-course with which it is or may be connected.

(2) The provisions of sub-section (1) shall also apply to any water-course utilized by the Government for leading water for purposes of irrigation from a tank constructed by them.

Compensation.

6. (1) Any person who, by reason of the construction of an irrigation work or exercise of the powers conferred on the Government by or under this Act, is deprived of the right which he had of taking water from a water-course for the purpose of irrigating his land or any other purpose, or suffers material diminution in the supply of water which he has been accustomed to get for any such purpose, shall be entitled to compensation for such deprivation or diminution, as the case may be.

(2) The compensation payable under sub-section (1), shall be assessed—

(*i*) in case water was being used for the purpose of irrigating a land, at fifteen times the reduction in the net annual profits of the land caused or likely to be caused by such deprivation or diminution;

(*ii*) in case water was being used for any other purpose, at twelve times the net annual loss suffered by such deprivation or diminution.

(3) Every claim for compensation shall be preferred in the prescribed form, to such authority, as the Government may direct—

(*a*) in the case of deprivation of the right referred to in sub-section (1), within one year from the date on which a notification is published in the District Gazette intimating the completion of the irrigation work ;

(*b*) in the case of diminution in the supply of water, within one year from the date thereof.

(4) Such authority shall place the claim before, or forward it to, the Special Court constituted under section 7.

(5) The Special Court shall inquire into the claim and if it finds that compensation is payable, assess the same in accordance with the provisions of sub-section (2). If two or more persons are interested in the amount of the compensation so assessed such amount shall be apportioned in such manner as the Special Court may determine.

Constitution of the Special Court and appointment of assessors.

7. (1) The Government shall constitute a Special Court for the disposal of claims for compensation preferred under section 6 and appoint a District Judge as Judge of that Court.

(2) The Judge of the Special Court shall conduct the inquiry with the aid of two assessors appointed by the Government for the purpose, either generally or for any particular case.

(3) One of the assessors shall be an officer of the Revenue Department not below the rank of Deputy Collector and the other shall be an officer of the Public Works Department not below the rank of Executive Engineer.

(4) The assessors appointed under sub-section (2) shall attend throughout the inquiry. At the conclusion of the inquiry, the Judge shall ascertain and record the opinions of the assessors. He shall after taking into consideration the opinions of the assessors pronounce his decision, but he shall not be bound by their opinions.

(5) If, in the course of the inquiry with the aid of assessors, any assessor is prevented from attending the inquiry or absents himself and it is not practicable to secure his attendance, the inquiry shall proceed with the aid of the remaining assessor. If both the assessors are prevented from attending or absent themselves, the inquiry shall be held with the aid of fresh assessors appointed by the Government.

Powers and procedure of the Special Court.

8. (1) The Special Court shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters:— Central Act V of 1908

(*i*) enforcing the attendance of any person and examining him on oath ;

(*ii*) compelling the production of documents; and

(*iii*) issuing commissions for the examination of witnesses.

(2) The Special Court shall also have such further powers as may be prescribed.

(3) Every inquiry by the Special Court shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code. Central Act XLV of 1860.

Appeals.

9. (1) From every decision of the Special Court as regards the amount of compensation or its apportionment, an appeal shall lie to the High Court.

(2) Subject to the decision of the High Court in cases in which an appeal is preferred under sub-section (1), the decision of the Special Court shall be final and shall not be liable to be questioned in any court of law.

Permits.

10. (1) Permits shall be issued in respect of all lands the irrigation of which is allowed by or under the orders of the Government from any irrigation work.

(2) Every such permit shall be issued by such authority and shall be in such form and subject to such conditions, as may be prescribed; in particular, the permit shall specify the period in every fasli during which the land may be irrigated and the source from which water may be taken for irrigation thereof :

Provided that where the Government, by notification in the District Gazette so direct, a permit shall not be issued under this sub-section in respect of any land after the date fixed in that behalf in the notification, except on payment of such fee, by such authority, and on such terms, as may be specified therein.

(3) Every permit shall be served on, or tendered to, the cultivator of the land in respect of which it is issued, in such manner as may be prescribed.

(4) The cultivator may, within two months from the date of service or tender of the permit, apply to the Revenue Divisional Officer for the cancellation or modification of the permit on the ground that it is not advantageous for him to use the water for irrigating his land or any specified portion thereof. The Revenue Divisional Officer may, after such enquiry as he thinks fit, by order in writing, cancel or modify or refuse to cancel or modify the permit.

(5) Against any order of the Revenue Divisional Officer under sub-section (4), the cultivator may, within two months from the date on which the order is served on, or tendered to, him appeal to the District Collector who shall, after giving him an opportunity of being heard, pass such order on the appeal as he thinks fit.

(6) The cultivator shall not be entitled to call in question the permit issued to him except in the manner provided for in sub-section (4) or sub-section (5).

(7) Any authority empowered by the Government in this behalf may, at any time, for reasons to be recorded in writing, by order, cancel or modify the permit.

(8) Every permit issued under sub-section (1), with such modifications, if any, as may be made therein under the foregoing provisions, shall remain in force until it is cancelled under this section and be binding on the cultivator for the time being of the land.

Power to cut off or restrict supply of water.

11. The grant of a permit shall not confer any enforceable right against the Government and they may, if circumstances so require, cut off or reduce the supply of water or restrict the extent of the land which may be irrigated with such water.

Levy of water-cess.

12. It shall be lawful for the Government to levy every fasli, water-cess on all lands in respect of which a permit has been issued under this Act and is in force, in accordance with such conditions and at such rates, as may be prescribed, whether the lands are actually irrigated from the irrigation work or not.

Water-cess to be a first charge.

13. The water-cess payable by any person under this Act shall be a first charge upon his interest in the land and the crops raised thereon.

Enhancement of rent or renewal fee prohibited.

14. Any increase in the yield of the land or in the extent of land cultivated by reason of the supply of water from any irrigation work shall not entitle a landlord as defined in the Malabar Tenancy Act, 1929, to claim any enhancement of the rent or renewal fee payable to him nor shall such increase be taken into account in determining "fair rent" under that Act. Madras Act XIV of 1930.

Levy of water-cess under Madras Act VII of 1865.

15. Where any water is taken or used otherwise than under and in accordance with the conditions of a permit in force issued under this Act, the Government may levy water-cess under the Madras Irrigation Cess Act, 1865. Madras Act VII of 1865.

Control of navigation.

16. The Government shall have power to prohibit or regulate by licences or otherwise, navigation in any water-course to which section 5 applies.

Power of entry, inspection, etc.

17. (1) Any officer of the Revenue Department not below the rank of Revenue Inspector or of the Public Works Department not below the rank of Supervisor may, with or without assistants or workmen, enter upon any land in order to make any inspection, test, examination, survey or measurement for the puprose of executing any work in connection with the construction or maintenance of an irrigation work.

(2) In case of any damage to an irrigation work due to accident or otherwise or in case of apprehended danger to any such work, any officer aforesaid may, with or without assistants or workmen, enter upon any land adjacent to such work and execute works necessary for the purpose of repairing such damage or the prevention of danger to the irrigation work.

(3) In every case in which action is taken under this section, the officer aforesaid shall tender compensation to the proprietors or occupiers of the lands concerned for all damage done to the same. If such tender is not accepted, the officer shall refer the matter to the District Collector who shall proceed to award compensation for the damage as though the Government had directed the temporary occupation of the lands under section 35 of the Land Acquisition Act, 1894. Central Act I of 1894.

Penalties.

18. (1) Whoever does any act in contravention of clause (iii) of sub-section (1) of section 5 or that clause read with sub-section (2) of that section shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever contravenes an order of the Government prohibiting navigation in a water-course or does any act in contravention of a rule regulating navigation in a water-course shall be punished with fine which may extend to one hundred rupees.

Bar of suits and proceedings.

19. (1) No suit or other legal proceeding shall lie against the Government, at the instance of any person—

(*a*) in respect of any act done or purporting to be done under this Act, or

(*b*) on the ground that an irrigation work interferes or is likely to interfere with his rights in any manner:

Provided that the liability of any person to pay water-cess under this Act may be questioned in a Civil Court on the ground that he is not the cultivator of the land in respect of which the cess has been levied.

(2) No suit, prosecution or other legal proceeding shall lie against any officer or servant of the Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

Power to make rules.

20. (1) The Government may, by notification in the *Fort St. George Gazette* make rules to carry into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for—

(*a*) any matter required or allowed by this Act to be prescribed;

(*b*) regulating the practice and procedure of the Special Court;

(*c*) regulating the navigation in water-courses, the grant of licences for navigation and the levy of fees therefor;

(*d*) the fees to be paid on applications under this Act.

(3) All such rules shall be laid before both Chambers of the State Legislature.

THE MADHYA BHARAT IRRIGATION ACT, 1950

Act XXXIX of 1950

An Act to regulate Irrigation in the United State of Gwalior, Indore and Malwa (Madhya Bharat)

WHEREAS it is expedient to provide for the use and control, for public purposes, of the water of all rivers and streams flowing in natural channels and of all lakes and other natural collection of still water in the United State of Gwalior, Indore and Malwa (Madhya Bharat); it is hereby enacted as follows:—

PART I

PRELIMINARY

Title, extent and commencement.

1. (1) This Act may be called "The United State of Gwalior, Indore and Malwa (Madhya Bharat) Irrigation Act, Samvat 2006".

(2) It extends to the whole of the United State of Gwalior, Indore and Malwa (Madhya Bharat) and applies to all lands whether permanently settled or temporarily settled or free from revenue.

(3) It shall come into force immediately on its publication in the Government Gazette of the said United State.

Interpretations.

2. In this Act unless there be something repugnant in the subject or context—

(1) "Canal" includes:—

(*a*) all canals, channels, reservoirs and tanks, constructed, maintained or controlled by the Government for the supply and storage of water;

(*b*) all works, embankments, structures, supply and escape channels connected with such canals, channels or reservoirs;

(*c*) all water-courses as defined in the second clause of this section ;

(*d*) any part of a river, stream, lake or natural collection of water, or natural drainage channel, to which the Government has applied the provisions of Part II of this Act;

(2) "Water-course" means any channel which is supplied with water from a canal, but which is not maintained at the cost of the Government, and all subsidiary works belonging to any such channels;

(3) "Drainage work" includes escape channels from canals, dams, weirs, embankments, sluices, groins, and other works for protection of land from flood or from erosion and water logging formed or maintained by the Government, under the provision of Part VI of this Ordinance, but does not include works for the removal of sewage from towns;

(4) "Suba" means the head Revenue Officer of a District and includes any other Officer appointed under this Ordinance to exercise all or any of the powers of a Suba;

(5) "Canal Officer" means an Officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof;

(6) "Superintending Engineer, Irrigation" means an Officer exercising general control over all the irrigation works;

(7) "Executive Engineer, Irrigation" means an Officer exercising control over a Division of canal;

(8) "Assistant Engineer, Irrigation" means an Officer exercising control over an Irrigation District;

(9) "Sub-divisional Officer, Irrigation" means an Officer exercising control over a sub-division of a canal;

(10) "District" means a District as fixed for revenue purposes;

(11) "Division" means a territory as fixed for the irrigation purpose;

(12) "Covenanting State" means a State which has covenanted to form the United State and has subsequently merged into it or a State which may become merged in future in the said United State;

(13) "United State" means the United State of Gwalior, Indore and Malwa (Madhya Bharat);

(14) "Government" means the Government of the United State;

(15) "Official Gazette" means the Government Gazette of the United State.

Power of Government to declare officers by whom, and local limits within which powers or duties shall be exercised or performed.

3. The Government may from time to time declare by Notification in the official Gazette, the officers by whom and the local limits within which all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

All officers mentioned in section 2, clauses (6) and (7), shall be respectively subject to orders of such officers as the Government from time to time directs.

PART II

OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES

Notification to issue when water supply is to be applied for public purposes.

4. Whenever it appears expedient to the Government that the water of any river or stream flowing in a natural channel or of any lake or other natural collection of still water should be applied or used by the Government for the purpose of any existing or projected canal or drainage-work the Government may by notification in the official Gazette, 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.

Powers of Canal Officer.

5. At any time after the day so named any Canal Officer, acting under the orders of the Government in this behalf, may enter on any land and remove any obstructions and do any other thing necessary for such application or use of the said water.

Notice as to claim for compensation.

6. As soon as practicable after the issue of such notification the Suba shall cause public notice to be given in or at convenient places, stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of matters mentioned in section 8 may be made before him.

Damage for which compensation shall not be awarded.

7. No compensation shall be awarded for any damage caused by :—

(*a*) percolation of any water or stoppage or diminution of floods;

(*b*) deterioration of climate or soil ;

(*c*) displacement of labour.

Matters in respect of which compensation shall be awarded.

8. Compensation shall be awarded in respect of any of the following matters :—

(*a*) Stoppage or diminution of supply of water through any natural channel to any defined artificial channel whether above or underground, in use at the date of the said notification;

(*b*) Stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification;

(*c*) Stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification;

(*d*) Damage done in respect of any right to a watercourse or the use of any water to which any person is entitled under the relevant Law or Regulations in force, if any;

(*e*) Any other substantial damage not falling under any of the above clauses (*a*), (*b*) and (*c*) of section 7 and caused by the exercise of the powers conferred by this Ordinance, which is capable of being ascertained and estimated at the time of awarding such compensation.

In determining the amount of such compensation, regard shall be had to the diminution in the market value, at the time of awarding compensation, of the property in respect of which compensation is claimed, and where such market-value is not ascertainable, the amount shall be reckoned at fifteen times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clause (*a*), (*b*) or (*c*) of this section, in respect of a work or channel not in use at the date of notification shall be acquired as against the Government except by grant or under the relevant Law in force, if any.

And no right to any of the advantages referred to in clauses (*a*) and (*b*) of this section shall be acquired as against the Government under the same relevant Law in force, if any.

Limitation of claims.

9. No claim for compensation for any such stoppage, diminution or damage shall be made after the expiration of one year from such stoppage, diminution or damage unless the Suba is satisfied that the claimant had sufficient cause for not making the claim within such period.

Inquiry into claims and amount of compensation.

10. The Suba shall proceed to inquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant, and respective sections of the Land Acquisition Act in force at the time shall apply to such inquiries.

Abatement of rent on interruption of water-supply

11. Every tenant holding under an unexpired lease or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water-supply in respect of which compensation is allowed under section 8 takes place, may claim an abatement of rent previously payable by him for the said land on the ground that the interruption reduces the value of the holding.

Enhancement of rent on restoration of water-supply.

12. If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before abatement.

Such enhancement shall be on account only of the restored water-supply and shall not affect the liability of the tenant to enhancement of rent on any other ground.

Compensation when due.

Interest.

13. All sums of money payable for compensation under this part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of, and simple interest, at the rate of six per cent. per annum, shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same.

PART III

Of the Construction and Maintenance of Works

Power to enter and survey, etc.

14. Any Canal Officer or other person acting under the general or special order of a Canal Officer, may enter upon any lands adjacent to any canal or through which any canal is proposed to be made and undertake surveys or levels thereon;

and dig and bore into the subsoil;

and make and set up suitable land-marks, level-marks; and water-gauges;

and do all other acts necessary for the proper prosecution of an inquiry relating to any existing or projected canal under the charge of the said Canal Officer;

Powers to clear land.

and where otherwise such inquiry cannot be completed such officer or other person may cut down and clear away any part of any standing crop, fence or jungle;

Power to inspect and regulate water supply.

and may also enter upon any land, building or water-course on account of which any water rate is chargeable, for the purpose of inspecting or regulating the use of water supplied, or of measuring the lands irrigated thereby or chargeable with water rate and of doing all things necessary for the proper regulation and management of such canal:

Notice of intended entry into houses.

Provided that, if such Canal Officer or 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, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

Compensation for damage caused by entry.

In every case of entry under this section the Canal Officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section; and in any case of dispute as to the sufficiency of the amount so tendered he shall forthwith refer the same for decision by the Suba and such decision shall be final.

Powers to enter for repairs and to prevent accidents.

15. In case of any accident, happening or being apprehended to a canal; a Divisional or District Canal Officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Compensation for damage to land.

In every such case, such Canal Officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the Canal Officers shall refer the matter to the Suba concerned, who shall proceed to award compensation for the damage as though the Government had directed the occupation of the land under the provision of the Land Acquisition Act in force at the time.

Application by persons desiring to use canal water.

16. Any person desiring to use the water of any canal may apply with the plan showing the area and fields to be irrigated by their water-course, in writing to the Divisional or District Canal Officer of the division or sub-division of the canal from which the water-course is to be supplied requesting such officer to construct or improve a water-course at the cost of the applicants.

The application shall state the works to be undertaken, their approximate cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional or District Canal Officer and how the payment is to be made. Contents of application.

When the assent of the Superintending Engineer, Irrigation, is given to such application, all the applicants shall after the application has been duly attested be jointly and severally liable for the cost of such works to the extent mentioned therein. Liability of applicants for cost of works.

Any amount becoming due under the terms of such application, and not paid to the Divisional or District Canal Officer or the person authorised by him to receive the same, before the date on which it becomes due, shall on the demand of such officer be recoverable as if it were an arrear of land revenue. Recovery of amount due.

17. There shall be provided, at the cost of Government, suitable means of crossing canals constructed or maintained at the cost of Government, at such places as the Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands. Government to provide means of crossing canals.

On receiving a statement in writing, signed by not less than five of the owners of such lands to the effect that suitable crossings have not been provided on any canal the Suba shall cause enquiry to be made into the circumstances of the case and if he thinks that the statement is established, he shall report his opinion thereon for consideration of the Government and the Government shall cause such measures in reference thereto to be taken as it thinks proper.

18. The Divisional or District Canal Officers may issue an order to the persons using any water-course to construct suitable bridges, culverts or other works for the passage of the water of such water-course across any public road, canal or drainage-channel in use before the said water-course was made or to repair any such works. Persons using water course to construct works for passing water across roads, etc.

Such order shall specify a reasonable period within which such construction or repairs shall be completed;

and if after the receipt of such order the persons to whom it is addressed do not, within the said period, construct or repair such works to the satisfaction of the Canal Officer, he may with the previous approval of the Superintending Engineer, Irrigation, himself construct or repair the same;

and if the said persons do not when so required pay the cost of such construction or repairs as declared by the Divisional or District Canal Officer, the amount shall, on demand of the Divisional or District Canal Officer, be recoverable from them as if it were an arrear of land revenue.

19. If any person, jointly responsible with others for the construction or maintenance of a water-course or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance or to execute his share of any work necessary for such Adjustment of claims between persons jointly using water-courses.

construction or maintenance, the Divisional or District or Sub-divisional Canal Officer on receiving an application in writing from any person injured by such neglect or refusal shall serve notice on all the parties concerned that on the expiration of a fortnight from the service, he will investigate the case accordingly, and make such order thereon as to him seems fit.

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

Recovery of amount found due. Any sum directed by such order to be paid within a specified period may if not paid within such period and if the order remains in force, be recovered from the person directed to pay the same as if it were an arrear of land revenue.

Obligation of owners of water-course. **20.** Every owner or owners of a water-course shall be bound :—

(*a*) to maintain the water-course owned by him or them in a fit state of repairs for conveyance of water;

If he fails he may be prosecuted. if he fails or they fail to maintain the water-course in fit state of repairs and if by his or their action the water conveyed through his or their water-course goes waste, the Canal Officer is authorised to prosecute him or them under this Act;

(*b*) to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under provisions of section 21

Application for right to use water-course owned by others. **21.** Any person desiring to have supply of water through a water-course not owned by him, but passing across or by the side or through such place as may be within easy reach of the land in his occupation, may apply in writing to the Divisional or District Canal Officer stating :—

(1) that he has endeavoured unsuccessfully to acquire from the owner or owners of such water-course, from which he desires to get supply of water, right to get supply of water through such water-course;

(2) that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for acquiring such rights;

(3) that he is able to defray all costs involved in acquiring such right and share the expenses made by the owner in the construction of the water-course.

Canal Officer after enquiry may authorise supply or declare applicant to be joint owner. **22.** On receipt of such application the Divisional or District Canal Officer shall serve notice to show cause why such authority should not be granted or such declaration should not be made, and if no objection be raised shall either authorise the applicant to use the water-course, or declare him to be joint owner thereof on such conditions as to the payment of compensation or rent or otherwise as may appear to him equitable.

Supply of water through intervening water-course.

23. Whenever application is made to a Divisional or District Canal Officer for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to the persons responsible for the maintenance of such water-course to show cause on a day not more than 14 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 or District Canal Officer shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

When such officer determines that a supply of canal water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Engineer, Irrigation, be binding on the applicant and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expenses of any alteration of such water-course necessary in order to his being supplied through it and also such share of the first cost of such water-course as the Divisional or District Canal Officer or the Superintending Engineer, Irrigation, may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

Application for construction of new water-course.

24. Any person desiring the construction of a new water-course may apply in writing to the Divisional or District Canal Officer stating:—

(1) that he has endeavoured unsuccessfully to acquire, from the owners of thel and through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;

(2) that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for acquiring such right;

(3) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

Procedure of Canal Officer therein.

25. If the Divisional or District Canal Officer considers:—

(*a*) that the construction of such water-course is expedient; and

(*b*) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional or District Canal Officer considers necessary to defray the cost of the preliminary proceedings and the amount of any compensation which he considers likely to become due under section 31;

and upon such deposit being made he shall cause inquiry to be made into the most suitable alignment for the said water-course and shall mark out the land which, in his opinion, will be necessary to occupy for construction thereof and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Suba of every district in which any part of such land is situate.

Application for transfer of existing water-course.

26. Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Divisional or District Canal Officer stating :—

(1) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;

(2) that he desires the said Canal Officer in his behalf and at his cost to do all things necessary for procuring such transfer;

(3) that he is able to defray the cost of such transfer.

Procedure thereupon

If the Divisional or District Canal Officer considers:—

(*a*) that the said transfer is necessary for the better management of the irrigation from such water-course; and

(*b*) that the statements in the application are true;

he shall call upon the applicant to make such deposit as the Divisional or District Canal Officer considers necessary to defray the cost of the preliminary proceedings and the amount of any compensation that may become due under provisions of section 31 in respect of such transfer;

and, upon such deposit being made he shall publish a notice of the application in every village and shall send a copy of the notice to the Suba of every district through which such water-course passes.

Objections to construction or transfer applied for.

27. Within 30 days from the publication of a notice under section 25 or section 26, as the case may be, any person interested in the land or water-course to which the notice refers may apply to the Suba by petition, stating his objection to the construction or transfer for which application has been made.

The Suba may either reject the petition or may proceed to inquire into the validity of the objection giving previous notice to the Divisional or District Canal Officer of the place and time at which such inquiry will be held.

The Suba shall record in writing all orders passed by him under this section and the grounds thereof.

When applicant cannot be placed in occupation.

28. If no such objection is made or (where such objection is made) if the Suba overrules it, he shall give notice to the Divisional or District Canal Officer to that effect and shall proceed forthwith to place the said applicant in occupation of the land marked out or the water-course to be transferred, as the case may be.

Procedure when objection is held valid.

29. If the Suba considers any objection made as aforesaid to be valid he shall inform the Divisional or District Canal Officer accordingly; and if such officer sees fit, he may, in the case of an application under section 24, alter the boundaries of the land so marked out and may give fresh notice under section 25; and the procedure hereinbefore provided shall be applicable to such notice and the Suba shall thereupon proceed as before provided.

Procedure when canal Officer disagrees with Suba.

30. If the Canal Officer disagrees with the Suba, the matter shall be referred for decision to the Superintending Engineer, Irrigation.

Such decision shall be final and the Suba, if he is so directed by such decision, shall, subject to the provisions of section 31, cause the said applicant to be placed in occupation of the land so marked out or the water-course to be transferred, as the case may be.

Expenses to be paid by applicant before receiving occupation.

31. No such applicant shall be placed in occupation of such land or water-course, until he has paid to the person named by the Suba, such amount as the Suba determines to be due as compensation for the land or water-course so occupied or transferred and for any damage caused by the marking out or occupation of such land together with all expenses incidental to such occupation or transfer.

Procedure in fixing compensation.

In determining the compensation to be made under this section the Suba shall proceed under the provision of the Land Acquisition Act, in force at the time, but he may, if the person to be compensated so desires, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred.

Recovery of compensation and expenses.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered as if it were an arrear of land revenue, and shall, when recovered be paid by him to the person entitled to receive the same.

Conditions binding on applicant placed in occupation.

32. When any such applicant is placed in occupation of land or of a water-course as aforesaid the following rules and conditions shall be binding on him and his representative in interest :—

First.—All works necessary for the passage across such water-course, or water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional or District Canal Officer.

Second.—Land occupied for a water-course under the provisions of section 24 shall be used only for the purpose of such water-course.

Third.—The proposed water-course shall be completed to the satisfaction of the Divisional or District Canal Officer within one year after the applicant is placed in occupation of the land.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge.

Fourth.—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Suba when the applicant is placed in occupation.

Fifth.—If the right to occupy the land ceases owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition or until he has paid by way of compensation for any injury done to the said land, such amount and to such persons as the Suba determines.

Sixth.—The Suba may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation. If the amount be not paid by the applicant or his representative in interest the Suba may recover the amount with interests thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land revenue and shall pay the same when recovered to the person to whom it is due.

If any of the rules and conditions prescribed by this section are not complied with,

or if any water-course constructed or transferred under this Act is disused for three years continuously,

the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

Procedure applicable to occupation for extensions and alterations.

33. The procedure hereinbefore provided for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course, and for deposit of soil from water-course clearances.

PART IV

Of the Supply of Water

In absence of written contract, water supply to be subject to rules.

34. In the absence of written contract or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the Government in respect thereof.

35. Such contracts and rules must be consistent with the following conditions :— Condition to be consistent.

(*a*) the Divisional or District Canal Officer may not stop the supply of water to any water-course or any person except in the following cases :— Power to stop water-supply.

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by the competent authority and with previous sanction of the Government;

(2) whenever and so long as any water-course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom;

(3) within periods fixed from time to time by the Divisional or District Canal Officer;

(*b*) no claim shall be made against the Government 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 Government, 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 irrigation which the Divisional or District Canal Officer considers necessary; but the person suffering such loss may claim such remission of ordinary charges payable for the use of the water as is authorised by the Government; Claims to compensation in case of failure or stoppage of supply.

(*c*) if the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Suba for any loss arising from such interruption, and the Suba may award to the petitioner reasonable compensation for such loss; Claims on account of interruption from other causes.

(*d*) when the water of a canal is supplied for irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to such crops, but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year; Duration of supply.

(*e*) unless with the permission of the Superintending Engineer, Irrigation, no person entitled to use the water of any canal, or any works, building or land appertaining to any canal shall sell or sublet or otherwise transfer his right to such use : Provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a water-course for irrigation of the land held by such tenant. Sale or sub-letting of right to use canal-water.

Transfer with land of contracts for water.

But all contracts, made between Government and the ownor or occupier of any immovable property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place;

No right acquired by the user.

(*f*) no right to the use of the water of a canal shall be, or be deemed to have been acquired under the relevant Limitation Act in force at the time, nor shall Government be bound to supply any person with water, except in accordance with the terms of a contract in writing.

PART V

Of Water Rates

Liability when person using unauthorisedly cannot be identified.

36. If water supplied through a water-course be used in an unauthorised 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, all the persons chargeable in respect of the water supplied through such water-course, shall be liable, or jointly liable, as the case may be, to the charges made for such use.

Liability when water runs to waste.

37. If water supplied through a water-course be suffered to run to waste, and if after enquiry by the Divisional or District 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 water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

Charges recoverable in addition to penalties.

38. All charges for the unauthorised use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

Decisions of questions under sections 36 and 37.

All questions under sections 36 and 37 shall be decided by the Divisional and District Canal Officers subject to an appeal to the Superintending Engineer.

Charge on occupier for water how determined.

39. The rates to be charged for canal water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Government and such occupiers as accept the water shall pay for it accordingly.

Occupier's rate.

A rate so charged shall be called the "Occupier's Rate". (The rules hereinbefore referred to may prescribe and determine what persons or classes of persons are to be deemed to be occupiers for the purpose of this section, and may also determine the several liabilities in respect of the payment of the occupiers' rates, of tenants and of persons to whom

tenants may have sublet their lands or of proprietors and of persons to whom proprietors may have let the lands held by them in cultivating occupancy.)

Owner's rates.

40. In addition to the occupier's rate, a rate to be called the "Owner's rate" may be imposed according to rules made by the Government on the owners of canal-irrigated lands in respect of the benefit which they derive from such irrigation.

Amount of owner's rate.

41. The owner's rate shall not exceed the sum which under the rules for the time being in force for assessment of land revenue, might be assessed on such land on account of the increase in the annual value or produce thereof caused by the canal irrigation. And for the purpose of this section only, land which is permanently settled or held free of revenue, shall be considered as though it were temporarily settled and liable to payment of revenue.

Owner's rate when not chargeable.

42. No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land revenue at irrigation rates during the currency of assessment.

When occupier is to pay both owner's rate and occupier's rate

43. If such land is occupied by the owner or if it is occupied by a tenant whose rent is not liable to enhancement on the ground that the value of the produce of the land or the productive powers of the land has or have been increased by irrigation such owner or tenant shall pay the owner's rate as well as the occupier's rate.

Powers to make rules for apportioning owner's rate.

44. In the case of a tenant with a right of occupancy, the Government shall have power to make rules for dividing the owner's rate between such tenant and his landlord proportionately to the extent of the beneficial interest of each in the land.

When owner is to pay owner's rate.

45. If the owner of the land is not the occupier, but has the power to enhance the rent of the occupier on the ground that the value of the produce or the productive powers of the land has or have been increased by irrigation,

or if, when the amount of rent was fixed, the land was irrigated from the canal,

the owner shall pay the owner's rate.

Effect o introduction of canal irrigation on landlord's righ to enhance.

46. If a revision of settlement is a ground for entertaining a suit for the enhancement of rent, the introduction of canal-irrigation into any land shall have the effect on the landlord's right to enhance the rent of a tenant with a right of occupancy of such land, as if a revision of settlement had taken place, under which the revenue payable in respect of such land had been increased.

Water-rate by whom payable when charged on land held by several owners.

47. Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rent or profits of such land, and may be deducted by him from such rent or profits before division or may be recovered by him from persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits.

Land deriving benefit from percolation liable to water-rate.

48. (1) If it appears to a Canal Officer, duly empowered to enforce the provisions of this section, that any cultivated land within 200 yards of any canal, receives, by percolation or leakage from such canal, an advantage equivalent to that which would be given by direct supply of canal water for irrigation, or that any cultivated land, wherever situate, derives by a surface flow, or by means of a well, not exceeding fifteen feet in depth, sunk within two hundred yards of any canal after the admission of water into such canal, a supply of water which by percolation or leakage has given an advantage equivalent to that which would be given by a direct supply of canal water for irrigation;

he may charge on such land a water-rate not exceeding that which would ordinarily have been charged for a direct supply thereto.

(2) All orders of the Canal Officer under sub-section (1) shall be subject to an appeal to the Superintending Engineer.

Powers of Government with regard to irrigation from private tanks.

49. In the event of Government undertaking at its own cost any work whereby the area irrigated from any private work situate in the proximity of the work so undertaken is increased beyond the area recorded as irrigable at the last settlement, the Government may without prejudice to the rights, if any recorded at such settlement, direct that such water-rate as it may deem fit shall be charged on such increase of area:

Provided that no water-rate shall be charged if, on enquiry it is found that the increase in the area has been due to any improvement of the private work made since the settlement.

Land deriving benefit from water discharged as waste water.

50. The Government reserves the right to charge water cess at the rates prescribed in the Rules to be made under this Act, from time to time, on the cultivation made by the water which is discharged as waste water, after being used for the purpose other than cultivation and passes through or across such land as is not owned by the person or persons who discharges the waste water after his or their use for the purpose other than cultivation.

Submerging tanks owned by Government. How to charge water rate.

51. The Divisional or District Canal Officer or any other officer authorised for execution of the purpose of this section shall, during the period between the 15th September and 1st October every year, in the presence of the landlords, occupiers or the representatives in interest, mark out the land actually submerged under water of the submerging tank at Full Tank Level, in the village map by a contour line and obtain signatures of the landlords, occupiers and the representative in interest present on the spot on the said map marked with the contour line. The water-rates to be charged for the land so benefited by submerging to the occupier or occupiers of the land shall be determined by rules to be made by the Government and such occupiers as derive benefit of the land so submerged shall pay for it accordingly.

52. The owners and occupiers of the land situate outside the boundary of the tanks mentioned in section 51 who make cultivation by the water discharged from the sluices and escapes of the said tanks and are benefited by it, shall pay water-rates as are chargeable for the cultivation made by the canal water. Cultivation outside tanks by discharged water. Water rate chargeable as canal water.

53. The provisions of sections 51 and 52 are applicable to the tanks classed 'major tanks', and have nothing to do with the tanks classed as 'minor tanks', which shall be assessed by the settlement authorities at wet rates at the time of settlement, and the assessment shall remain operative till the next settlement. Assessment of minor tanks by the settlement authorities.

54. The Government, if satisfied after exhaustive enquiry, that a certain village or certain area has ample prospects of increased cultivation through the resources of irrigation natural or artificial, existing in the village or area but those resources are not being exploited by the local public and therefore thinking it expedient that the said existing resources of water be utilised to its fullest extent by promoting interest of the local public in irrigation, may by a notification in the official Gazette declare such village or such area as irrigation area and impose on such village or area on the whole or in part, by assessment, compulsory irrigation-cess at the rates prescribed in the Rules to be made under this section from time to time. Compulsory irrigation cess chargeable on area having prospects of irrigation.

55. Any sum lawfully due under this part, and certified by the Divisional or District Canal Officer to be so due which remains unpaid after the day on which it becomes due, shall be recoverable from the person liable for the same as if it were an arrear of land revenue. Certified dues recoverable as land revenue.

PART VI

OF DRAINAGE

56. Whenever it appears to the Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage-channel the Government may, by notification published in the official Gazette, prohibit, within limits to be defined in such notification, the formation of any obstruction, or may within such limits, order the removal or other modification of such obstruction. Power to prohibit obstructions or order their removal.

Thereupon so much of the said river, stream or drainage-channel as is comprised within such limits, shall be held to be a drainage work as defined in section 2.

57. The Divisional or District Canal Officer or other person authorised by the Government in that behalf may, after such publication, 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. Power to remove obstructions after prohibition.

If within the time so fixed such person does not comply with the order, the said Canal Officer may himself remove or modify the obstruction, and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modifications such expenses shall be recoverable by the Suba from him or his representative in interest as an arrear of land revenue.

Preparation of scheme for works of improvement.

58. Whenever it appears to the Governmentt hat any drainage works are necessary for the improvement of anv lands, or for the proper cultivation or irrigation thereof; or that protection from floods or other accumulations of water or from erosion by a river, is required for any lands;

the Government may cause a scheme for such drainage works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of lands which it is proposed to make chargeable in respect of the scheme.

Powers of persons employed on such scheme.

59. The persons authorised by the Government to draw up such scheme may exercise all or any of the powers conferred on Canal Officers by section 14.

Rate on lands benefited by works.

60. An annual rate in respect of such scheme may be charged according to rules to be made by the Government, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits :—

(1) Six per cent. per annum on the first cost of works, adding thereto the estimated yearly cost of maintenance and supervision of the same and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate.

(2) In the case of agricultural land, the sum, which under the rules then in force for the assessment of land revenue, might be assessed on such land on account of the increase of annual value or produce thereof caused by the drainage work.

Such rate may be varied from time to time, within such maximum, by the Government.

So far as any defect to be remedied is due to any canal water-course, road or other work or obstruction constructed or caused by the Government or by any person, a proportionate share of the cost of the drainage works required for the remedy of the said defect shall be borne by such Government or such person as the case may be.

Recovery of rate.

61. Any such drainage-rate may be collected and recovered in the manner provided by section 55 for collection and recovery of water-rates.

Disposal of claims to compensation.

62. Whenever, in pursuance of a notification made under section 56 any obstruction is removed or modified,

or whenever any drainage work is carried out under section 58,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or construction of such work may be made before the Suba and he shall deal with the same in the manner provided in section 10.

Limitation of such claims

63. No such claim shall be entertained after the expiration of one year from the occurrence of loss complained of unless the Suba is satisfied that the claimant had sufficient cause for not making the claim within such period.

PART VII

OF OBTAINING LABOUR FOR CANALS AND DRAINAGE WORKS

Definition of labourer.

64. For the purpose referred to in this Part, the word 'labourer" includes persons who exercise any handicraft specified in rules to be made in that behalf by the Government.

Power to prescribe number of labourers to be supplied by persons benefited by canal.

65. In any district in which a canal or drainage work is constructed, maintained or projected by Government may if it thinks fit direct the Suba,—

(*a*) to ascertain the proprietors, sub-proprietors or farmers, whose village or estates are or will be, in the judgment of the Suba benefited by such canal or drainage-work; and

(*b*) to set down in a list, having due regard to the circumstances of the district and of several proprietors, sub-proprietors or farmers, the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate for employment on any such canal or drainage work when required as hereinafter provided.

The Suba may from time to time add to or alter such list or any part thereof.

Procedure for obtaining labour for works urgently required.

66. Whenever it appears to a Divisional or District Canal Officer duly authorised by the Government that unless some work is immediately executed, such serious damage will happen to any canal or drainage work as to cause sudden and extensive public injury;

and that the labourers necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such injury;

the said officer may require any person named in such list to furnish as many labourers (not exceeding the number which according to the said list he is liable to supply) as to the said officer seem necessary for the immediate execution of such work.

Every requisition so made shall be in writing and shall state :—

(*a*) the nature and locality of the work to be done;

(*b*) the number of labourers to be supplied by the person upon whom the requisition is made; and

(*c*) the approximate time for which and the day on which the labourers will be required;

and a copy thereof shall be immediately sent to the Superintending Engineer, Irrigation, for the information of the Government.

The Government shall fix, and may from time to time alter, the rates to be paid to any such labourers provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work. In case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this part, prevented from following his ordinary occupation.

The Government may direct that the provisions of this Part shall apply, either permanently or temporarily (as the case may be) to any district or part of a district for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

Liability of labourers under requisition.

67. When any requisition has been made on any perso named in the list, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply his labour, for the purpose aforesaid.

PART VIII

Of Jurisdiction

Jurisdiction under this Ordinance of Civil Courts.

68. Except where herein otherwise provided all claims against Government in respect of anything done under this Act may be tried by the civil courts; but no such court shall in any case pass an order as to the supply of canal water to any crop sown or growing at the time of such order.

Settlement of differences as to mutual rights and liabilities of persons interested in the water-course.

69. Whenever any difference arises between two or more persons in regard to their mutual rights and liabilities in respect of the use, construction or maintenance of a water-course, any such person may apply in writing to the Divisional or District Canal Officer stating the matter in dispute. 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 enquire into the said matter. And after such enquiry, he shall pass his order thereon, unless he transfers (as he is hereby empowered to do) the matter to the Suba, who shall thereupon enquire into and pass his order on the said matter.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a civil court.

Power to summon and examine witness.

71. Any officer empowered under this Act to conduct any inquiry may exercise all such powers connected with the summoning and examining of witnesses, as are conferred on Civil Courts by the Civil Procedure Code in force at the time and every such inquiry shall be deemed a judicial proceeding.

PART IX

OF OFFENCES AND PENALTIES

Offences under the Act.

71. Whoever without proper authority and voluntarily does any of the acts following, that is to say:—

(1) damages, alters, enlarges or obstructs any canal or drainage work;

(2) interferes with or increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage work;

(3) opens or interferes the sluice opening of submerging tanks before the date specified for letting out water;

(4) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal or drainage work;

(5) being responsible for the maintenance of water-course or using a water-course, neglects to take proper precautions for the prevention of waste of water thereof, or interferes with the authorised distribution of the water therefrom, or use such water in an unauthorised manner;

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

(7) being liable to furnish labourers under Part VII of this Act, fails, without reasonable cause, to supply or to assist in supplying the labourers required of him;

(8) being a labourer liable to supply his labour under Part VII of this Act, neglects, without reasonable cause, so to supply and to continue to supply his labour;

(9) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant;

(10) passes, or causes animals or vehicles to pass, on or across any of the works, banks or channels of a canal or drainage work contrary to rules made under this Act, after he has been desired to desist therefrom ;

(11) violates any rule made under this Act, on breach whereof a penalty may be incurred;

shall be liable, to be punished, on conviction before a Magistrate of [1][the first] class as the Government directs in this behalf, with a fine, not exceeding fifty rupees, or with imprisonment not exceeding one month, or to both.

All such cases shall be conducted by the said Magistrate as summary trials.

Saving of prosecution under other laws.

72. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: Provided that no person shall be punishable twice for the same offence.

Compensation to persons injured.

73. Whenever any person is fined for an offence under this Act, the Magistrate 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.

Power to arrest without warrant.

74. Any person in charge of or employed upon any canal or drainage work may remove from the lands or buildings 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 :—

(1) wilfully damages or obstructs any canal or drainage work;

(2) without proper authority interferes with the supply or flow of water in or from any canal or drainage works, or any river or stream, so as to endanger, damage or render less useful any canal or drainage work.

Definition of canal.

75. In this Part the word "canal" shall, (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied by Government for the purposes of canals and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce, occupied by or belonging to the Government upon such lands.

PART X

Of Subsidiary Rules

Power to make, alter and cancel rules.

76. The Government may from time to time make rules to regulate the following matters :—

(1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

---

[1] Substituted by Act 4 of 1951.

(2) the cases in which, and the officers to whom, and conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable ;

(3) the persons by whom and the time, place or manner at or in which anything for the doing of which provision is made in this Act shall be done;

(4) the amount of any charge made under this Act;

(5) and generally to carry out the provisions of this Act.

The Government may from time to time in the interest of public alter or cancel any rules so made.

Such rules, alterations, and cancelments shall be published in the official Gazette, and shall thereupon have the force of law. Publication of rules.

77. As soon as this Act comes into force all laws in respect of Irrigation and drainage for the time being in force in any of the Covenanting States shall stand repealed: Repeal.

Provided that all actions taken or orders given, under the said Laws shall, in so far as they could validly have been taken or given under this Act be deemed to have been taken or given, as the case may be, under this Act.

THE MYSORE MINOR TANK RESTORATION ACT, 1916 (AMENDED BY ACTS XV OF 1923 AND VIII OF 1938)

Act XIII of 1916

WHEREAS it is expedient to facilitate the working of the schemes for the restoration and improvement of minor tanks; His Highness the Maharaja is pleased to enact as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Minor Tank Restoration Act, 1916.

(2) It extends to the whole of Mysore.

(3) It shall come into force at once.

Minor tank.

2. Every tank which falls within the definition of a minor tank contained in section 2 of the Tank Panchayat Act, I of 1911, *whether it is situated in a Government or an alienated village* shall be a minor tank within the purview of this Act.

†**2-A.** 'Restoration' means restoring to an efficient condition a tank which, from neglect, accident or other cause, has fallen into disuse or become impaired or less efficient than formerly.†

‡**3.** (1) Whenever Government consider it necessary to take up the restoration of any existing minor tank, a notice of such intention with an estimate of the probable cost of restoration shall be published in the *Mysore Gazette*, in the Taluk Office, and in the chavadi of the village or villages concerned.

(2) Within two months of the date of the publication under sub-section (1), it will be open to the holders of the irrigable lands under the tank to prefer their objections to the said restoration before the Deputy Commissioner of the District.

(3) The Deputy Commissioner shall, after hearing the objections, decide whether the work should be abandoned or whether it should be proceeded with, notwithstanding the objections raised thereto.

(4) Within one month from the date of such decision an appeal may be preferred to the Revenue Commissioner and his decision shall be final.

Explanation.—"Irrigable lands" include lands assessed as wet or garden and any lands commanded by the tank and liable to pay a water-rate.‡

---

* Added by section 1 of Act VIII of 1938.

† Added by section 2, *ibid.*

‡ Substituted by Act XV of 1923.

*4. (1) If no objections have been raised to such restoration, or if the objections raised have been overruled, the Government or any officer to whom Government may delegate their powers in this behalf, may sanction the execution of the work.

(2) One-fourth of the actual cost of the restoration or one-fourth of the probable cost as published under section 3(1), whichever is less, shall be recoverable as contribution from all the raiyats holding lands under the tank in the proportion of the assessment, or assessment and water-rate, as the case may be, payable on such lands, provided that the amount does not in any case exceed eight times the annual assessment or eight times the annual assessment and water-rate, as the case may be, on the irrigable lands.*

†(2-A) In the case of minor tanks situate in alienated villages, the cost of restoration shall, after deducting the raiyats' contribution under sub-section (2), be borne by the Government and the superior holder in the proportion of the land revenue payable by the said superior holder to the Government and the total assessment of the village less the land revenue payable by the said superior holder to the Government.†

*(3) The contribution under sub-section (2) ‡or sub-section (2-A)‡ shall be recoverable in not less than five and not more than ten annual instalments as may be fixed by the Deputy Commissioner, commencing from the year after the completion of the work.

(4) The amount recoverable from holders of lands under-sub-section (2) ‡or sub-section (2-A)‡ shall be deemed to be a rate authorised by Government, within the meaning of section 219 of the Land Revenue Code, for purposes of the recovery of the contribution, on default.

5. (1) The Government may make rules—

(*a*) for the selection of tanks for restoration;

(*b*) prescribing the manner in which estimates are to be prepared ;

(*c*) prescribing the procedure in regard to the disposal of objection petitions by the Deputy Commissioner and the appeals by the Revenue Commissioner; and

(*d*) generally to carry out the purposes of this Act.

(2) Rules made under this section shall be published in the official Gazette and shall thereupon have effect as if it is enacted in this Act.*

---

* Substituted by Act XV of 1923.

† Inserted by section 3 (1) of Act VIII of 1938.

‡ Inserted by section 3 (2), *ibid.*

THE BENGAL TANKS IMPROVEMENT ACT, 1939 (AS MODIFIED UPTO THE 5TH NOVEMBER 1948)

Bengal Act XV of 1939[1]

[12*th October*, 1939]

An Act to provide for the improvement of tanks in Bengal for purposes of irrigation.

WHEREAS it is expedient to provide for the improvement of tanks in Bengal for purposes of irrigation;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Bengal Tanks Improvement Act, 1939.

(2) It extends to the whole of [2][West Bengal].

[3](3) It shall come into force in such areas on such dates as the State Government may, by notification in the official Gazette, direct.

---

[1] For Statement of Objects and Reasons, *see* the *Calcutta Gazette*, *Extraordinary*, dated the 6th August, 1937, pages 208-219; and for Report of the Select Committee *see Calcutta Gazette*, dated the 28th July, 1938, Part IV-A, pages 151-159; and for Proceedings in the Bengal Legislative Assembly, *see* Bengal Legislative Assembly Proceedings, 1937, Vol. LIII, No. 2, pages 314-320, 1938, Vol. LIII, No 1, page 66, and 1938, Vol. LIII, No. 3, page 173 and pages 222-237; and for Proceedings in the Bengal Legislative Council, *see* Bengal Legislative Council Debates, 1939, Vol I, page 56, page 137, pages 451-456 and pages 467-485, 1939, Vol. II, pages 168-169, page 526 and page 954.

[2] The words in square brackets were substituted for the word "Bengal" by paragraph (2) of Article 3 of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

[3] The Act was brought into force in such areas and on such dates as follows :—

(1) On the 22nd November, 1940, in the districts of Birbhum, Bankura, Burdwan and Murshidabad (*vide* notification No. 10772-Misc., dated the 19th November 1940, published in the *Calcutta Gazette*, dated the 28th November, 1940, part I, page 3215);

(2) On the 10th April, 1941, in the district of Malda (*vide* notification No. 3751-Misc., dated the 5th April, 1941, published in the *Calcutta Gazette*, dated the 10th April, 1941, Part I, page 877);

(3) On the 28th October, 1943, in the district of Bogra (*vide* notification No. 14465-Misc., dated the 18th October, 1943, published in the *Calcutta Gazette*, dated the 28th October, 1943, Part I, page 1573);

(4) On the 6th May, 1943, in the district of Nadia (*vide* notification No. 6467-Misc., dated the 1st May, 1943, published in the *Calcutta Gazette*, dated the 13th May, 1943, Part I, page 993);

(5) On the 22nd June, 1944, in the districts of Midnapore and Rajshahi (*vide* notification No. 10728-Misc., dated the 14th June, 1944, published in the *Calcutta Gazette*, dated the 22nd June, 1944, Part I, page 829);

(6) On the 17th August, 1944, in the district of Hooghly (*vide* notification No. 13826-Misc., dated the 12th August, 1944, published in the *Calcutta Gazette*, dated the 17th August, 1944, Part I, page 1043);

(7) On the 28th November, 1945, in the district of Dinajpur (*vide* notification No. 64-T.I., dated the 15th November, 1945, published in the *Calcutta Gazette*, dated the 29th November, 1945, Part I, page 1977);

(8) On the 11th July, 1946, in the districts of Rangpur, Mymensing, Dacca, Tippera and Chittagong (*vide* notification No. 665 T.I., dated the 5th July, 1946, published in the *Calcutta Gazette*, dated the 11th July, 1946, Part I, page 1073);

(9) On the 1st September, 1948, in the district of 24-Parganas (*vide* notification No. 5097-T.I., dated the 12th August, 1948, published in the *Calcutta Gazette*, dated the 26th August, 1948, Part I, page 1156).

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1) "authorised person" means the Collector, a local authority, co-operative society, or any other person who takes possession of a tank under the provisions of this Act and includes the successors in interest of such a person;

[1][(1*a*) "agricultural land" includes land used for the growing of vegetables and the like and also waste land which is capable of cultivation but does not include a fruit garden, an orchard, any temple, mosque or homestead land;]

(2) "Collector" includes a magistrate in charge of a sub-division of a district and any officer appointed by the State Government to exercise all or any of the functions of a Collector under this Act;

(3) "co-operative society" means a society registered under the Co-operative Societies Act, 1912; II of 1912.

(4) "derelict tank" means a tank which has been declared to be a derelict irrigation work under section 4;

(5) "period of possession" means the period from the time when possession is first taken of a tank under section 5 or section 6 until the time when possession thereof is restored under section 21;

[2][5*a*) "person having control over a tank" does not include a person by whom the tank is held for a limited time and whose interest in the tank is not transferable;]

(6) "prescribed" means prescribed by rules made under this Act;

(7) "tank" means a reservoir, or place which has been used as a reservoir, for the storage of water whether formed by excavation or by the construction of one or more embankments or place where water naturally accumulates, and includes any part of a tank and the banks thereof except such portions of the banks as are homestead garden or orchard lands.

3. If the Collector is of opinion that any tank has fallen into disrepair or disuse, he may serve a notice in the prescribed form and manner on the person having control over the tank [3][requiring such person to intimate to him within a period specified in the notice if such person is willing to carry out and in case such person is so willing then] to carry out within a period specified in the notice such improvements of the tank as the Collector considers necessary for the proper utilisation of the tank for purposes of irrigation. Requisition by Collector to carry out improvement in certain tanks.

[1] This new clause was inserted by section 2(*a*) of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

[2] This new clause was inserted by section 2(*b*) of the same Act.

[3] The words in square brackets were substituted for the words "requiring him" by section 3 of the same act.

Declaration of a tank to be a derelict irrigation work.

4. (1) [1][If the person having control over the tank does not send any intimation or sends any intimation to the Collector within the period fixed under section 3 that he is not willing to carry out the improvements referred to in that section or if such person sends any intimation to the Collector within such period that he is willing to carry out the improvements but fails to carry out the improvements] to the satisfaction of the Collector within the period specified in the notice issued under that section or within such further period as the Collector may, on application made to him in this behalf, think fit to allow, the Collector may, [2][by a notice served in the prescribed manner on] the person having control over the tank and otherwise published in the prescribed form and manner, declare the tank to be a derelict irrigation work.

(2) Every notice issued under sub-section (1) shall state the boundaries of the tank which is declared to be a derelict irrigation work [3][or the number entered in the record-of-rights finally published under Chapter X of the Bengal Tenancy Act, 1885, of the survey plot comprising such tank.] VIII of 1885.

(3) A copy of every notice published under sub-section (1) shall be posted up in a conspicuous place near the tank, together with an intimation that any objections to the [4][confirmation] of the notice received by the Collector within one month from the date when it is so posted up, will be taken into consideration.

(4) On the expiry of the said period of one month, the Collector, after considering the objections, if any, shall confirm or withdraw the notice.

(5) A notice published under this section shall, unless and until it is withdrawn, be conclusive evidence of the fact that the tank to which it relates is a derelict irrigation work within the meaning of this section.

Power to Collector in respect of a derelict irrigation work.

5. After the notice declaring a tank to be a derelict irrigation work has been confirmed under section 4 the Collector, if he thinks fit, may at any time—

(*a*) take possession of the tank and carry out the improvements specified in the notice under section 3, or

(*b*) authorise under section 6 a local authority, co-operative society, or any other person interested to take such action.

---

[1] The words and figure in square brackets were substituted for the words and figure "If the improvements referred to in section 3 are not carried out" by section 4(*a*) (*i*) of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

[2] The words in square brackets were substituted for the words "by a notice to" by section 4(*a*) (*ii*) of the same Act.

[3] The words and figures in square brackets were added by section 4(*b*) of the same Act.

The word in square brackets was substituted for the word "issue" by section 4(*c*) of the same Act.

Order for possession of and improvements in a derelict tank.

6. (1) Any local authority or co-operative society, or any other person who, in the opinion of the Collector, has an interest in a derelict tank, may, if authorised by the Collector by an order in writing in this behalf, take possession of such tank and carry out the improvements specified in the notice under section 3.

(2) In making an order under sub-section (1) the Collector shall, except for sufficient reason to be recorded in writing, give preference to [1][the sole owner or] any co-sharer owner of the tank who has submitted an application stating that he is willing to carry out the said improvements or he may make an order in favour of more than one such co-sharer owner jointly.

(3) An order under sub-section (1) shall be in such form and shall contain such particulars and conditions as may be prescribed.

Order for possession of lands adjoining a derelict tank for carrying out improvements in such tank.

[2]**6-A.** (1) If any authorised person considers it necessary for the purpose of carrying out the improvements in a derelict tank to take possession of any land adjoining such tank, he may,—

(*a*) if he is the Collector, take possession of such land by order in writing, and

(*b*) if he is not the Collector, apply in the prescribed manner to the Collector to be empowered to take possession of such land and the Collector may, if he is satisfied after considering the application that such land is required for carrying out the improvements, empower the authorised person by order in writing to take possession of such land :

Provided that the Collector shall not take possession or empower any authorised person to take possession of such land without giving in the prescribed manner the person in possession of such land reasonable opportunity of making any representation he may like to make and without considering any representation so made.

(2) Every order made under sub-section (1) shall specify the boundaries of the land to which it relates or the number entered in the record-of-rights finally published under Chapter X of the Bengal Tenancy Act, 1885, of the survey plot comprising such land and shall be in such form as may be prescribed.

VIII of 1885.

Cancellation of order under section 6.

7. (1) [3][If any authorised person other than the Collector—]

[4](*a*) fails to carry out the improvements to the satisfaction of the Collector in accordance with the conditions referred to in sub-section (3) of section 6,

---

[1] The words in square brackets were inserted by section 5 of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

[2] This new section was inserted by section 6 of the same Act.

[3] The words in square brackets were substituted for the words "If any authorised person—" by section 7 (1) (*a*) of the same Act.

[4] This new clause was substituted for the original clause by section 7(1) (*b*) of the same Act.

(*b*) fails, in the opinion of the Collector, to proceed with the improvements with due diligence or to maintain the tank in proper condition, or

(*c*) with or without the permission of the Collector gives up possession of the tank or abandons the work of improvement, or

(*d*) is, in the opinion of the Collector, guilty of any serious negligence or misconduct in relation to the tank or to persons having any right or interest in the tank or in the use of water thereof, or

(*e*) fails to comply with any order passed under section 26 or section 27,

the Collector may cancel the order made under section 6, [1][as well as any order made under clause (*b*) of sub-section (1) of section 6A] and thereupon all rights and powers of the said authorised person in respect of the tank [2][and in respect of any land of which possession is taken as a result of an order made under clause (*b*) of sub-section (1) of section 6A] shall cease and determine, and the Collector shall take possession of the tank [3][and such land].

(2) After taking possession of the tank [4][and such land] under sub-section (1) the Collector shall either appoint another authorised person to carry out the improvements or carry them out himself.

Authorised person to retain possession of a derelict tank for a period not exceeding twenty-five years.

[5]**8.** Subject to the provisions of this Act, the Collector or an authorised person shall be entitled to remain in possession of a derelict tank of which possession has been taken under the provisions of this Act for such period not exceeding twenty-five years from the date on which possession of the derelict tank was taken under section 5 or section 6 as may, in the opinion of the Collector, be necessary to recover the amount referred to in sub-section (4) of section 17 :

Provided that the Collector may, after considering the views of the authorised person, if any, and for reasons to be recorded in writing, vary such period from time to time subject to the maximum limit of twenty-five years.

---

[1] The words, figures, letters and brackets in square brackets were inserted by section 7 (1) (*c*) of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

[2] The words, figures, letters and brackets in square brackets were inserted by section 7 (1) (*d*) of the same Act.

[3] The words in square brackets were added by section 7 (1) (*e*) of the same Act.

[4] The words in square brackets were inserted by section 7 (2) of the same Act.

[5] This new section was substituted for the original section by section 8 of the same Act.

Owner to be restored to possession on certain conditions

9. Notwithstanding anything contained in section 8, the Collector in his discretion may, at any time within the period determined under the said section, restore to possession of the tank the person recorded as entitled to possession thereof in the record-of-rights referred to in section 22 or his successors in interest, provided that—

[1](*a*) such person pays to the Collector so much of the costs incurred up to that time both by the authorised person in carrying out the required improvements in the tank and by the Collector in carrying out the purposes of this Act in respect of the tank as remains unrecovered after realisation by the authorised person under this Act of the fees referred to in section 17 or of any sum under any lease referred to in section 18, together with interest on the costs so remaining unrecovered at a rate not exceeding six and a quarter *per centum per annum*, and

(*b*) he undertakes to the satisfaction of the Collector to carry out any remaining improvements specified in the notice under section 3 within such period as the Collector may determine.

Authorised person to retain possession of land adjoining a tank during the period of possession of such tank.

[2]**9A.** An authorised person shall be entitled to remain in possession of any land adjoining a derelict tank of which possession is taken under section 6A as long as such person remains in possession of such derelict tank under section 8

Restoration of possession of land adjoining a derelict tank and the retaking of possession of such land.

[2]**9B.** (1) Notwithstanding anything contained in section 9A, if the person recorded as entitled to possession of any land adjoining a derelict tank in the record-of-rights referred to in section 22 or his successor in interest is not the person recorded as entitled to possession of such derelict tank in the record-of-rights referred to in the said section or his successor in interest, then the Collector may, at the request of the person so recorded as entitled to possession of such land or his successor in interest or of the authorised person at any time after the required improvements in the tank have been completed, by an order in writing, restore the possession of such land to the person so recorded as entitled to possession of such land or to his successor in interest, although the possession of the tank by the authorised person has not terminated, and when the possession of such land is so restored all rights in the land which existed prior to the time when possession was taken of the land under section 6A shall be revived :

Provided that before the Collector takes any action under this sub-section at the request of any person other than the authorised person, the Collector shall give the authorised

[1] This new clause was substituted for the original clause by section 9 of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

[2] New sections 9A, 9B and 9C were inserted by section 10 of the same Act.

person a reasonable opportunity of making any representation he may like to make and the Collector shall consider any representation so made.

(2) The person to whom the possession of such land has been restored under sub-section (1) shall not use it in such manner as may cause damage to the banks of the derelict tank or may affect the use of the tank for the purposes of irrigation.

(3) If the person referred to in sub-section (2) fails, in the opinion of the Collector, to comply with the provisions of that sub-section, the Collector may,—

(*a*) again empower the authorised person by an order in writing to take possession of such land whereupon the authorised person shall forthwith take possession thereof, or

(*b*) if he is the authorised person, himself again take possession of such land by order in writing,

and the authorised person so taking possession of such land again shall retain such possession as long as he remains in possession of the tank.

(4) Every order made under sub-section (3) shall specify the boundaries of the land to which it relates or the number entered in the record-of-rights finally published under Chapter X of the Bengal Tenancy Act, 1885, of the survey plot comprising such land and shall be in such form as may be prescribed. VIII of 1885.

Restoration of possession of land adjoining a derelict tank on the restoration of possession of such tank under section 9.

[1]**9C.** When the possession of a derelict tank is restored by the Collector under section 9, the Collector shall at the same time restore the possession of any land adjoining such tank of which possession was taken under section 6A and has not already been restored under sub-section (1) of section 9B or of which possession was retaken under sub-section (3) of section 9B to the person recorded as entitled to possession of such land in the record-of-rights referred to in section 22 or to his successor in interest:

Provided that where the person to whom the possession of the tank is restored under section 9 is not the person recorded as entitled to possession of such land in the said record-of-rights or his successor in interest, the possession of such land shall not be so restored until the improvements, if any, required to be carried out in the tank under clause (*b*) of the proviso to section 9 have been completed if the person to whom the possession of the tank is so restored agrees to pay the person so recorded as entitled to possession of such land the compensation which would have been payable by the authorised person under sub-section (1) of section 14A if such authorised person had continued to be in possession of such land.

[1] *Vide* foot-note 2 on pre-page.

Authorised person not liable to pay rent or compensation.

10. An authorised person shall not be liable to pay any rent or compensation in respect of his possession of a derelict tank [1][or any land of which possession is taken under section 6A or is retaken under sub-section (3) of section 9B] except as expressly provided in this Act.

Possession by an authorised person not to affect the rights or liabilities of other persons.

11. Save as otherwise expressly provided in this Act, the possession of a derelict tank [2][or of any land adjoining a derelict tank under this Act] by an authorised person shall not affect the right or liability of any other person to receive or pay rent in respect of the said tank [3][or land] or in respect of any right or interest therein :

Provided that where rent [4][in respect of the tank] was, at the time when possession was first taken of the tank under this Act, payable by any person solely in respect of a right to use the water of the tank for irrigation purposes the liability to pay such rent shall cease and determine from the date on which such possession was taken.

Authorised person to pay rent to owner and compensation to person other than the owner dispossessed by him.

12. [5](1) Where a derelict tank is, at the time of the taking of possession thereof by an authorised person, in the actual possession of the owner of the tank, the authorised person shall pay, during the period he remains in possession, to such owner at such times and in such manner as may be prescribed, such rent as the Collector, after such inquiry as he thinks fit, may determine :

Provided that where the authorised person is the owner of the tank in actual possession thereof, no such payment of the rent determined by the Collector under this sub-section shall be necessary; but the amount of such rent shall be included in and form part of the costs incurred or likely to be incurred by the authorised person in carrying out the required improvements in the tank.

[5](2) Where a derelict tank is, at the time of the taking of possession thereof by an authorised person, in the actual possession of any person other than the owner of the tank, the authorised person shall, at such times and in such manner as may be prescribed, pay to the person dispossessed by him such compensation as the Collector, after such inquiry as he thinks fit, may determine. Such compensation shall not be less than the amount of the rent which the person so dispossessed is liable to pay in respect of the tank, and shall be deemed to be a full and complete satisfaction for all loss suffered by such person as a result of the interference with his possession.

---

1 The words, figures, letters and brackets in square brackets were inserted by section 11 of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

2 The words in square brackets were inserted by section 12(*a*) of the same Act.

3 The words in square brackets were inserted by section 12(*b*) of the same Act.

4 The words in square brackets were inserted by section 12(*c*) of the same Act.

5 The original section 12 was renumbered as sub-section (2) of that section and before the said section, as so renumbered, new sub-section (1) was inserted by section 13 of the same Act.

Authorised person to pay compensation to persons who have right to fish in the tank, etc., on payment.

13. Where, at the time of the taking of possession of a derelict tank by an authorised person, any person has a right, on payment of any rent or charge, to catch fish in the tank or to take fruits from trees on, or other produce from, the banks of the tank the authorised person shall, at such times and in such manner as may be prescribed, pay to the said person such compensation as the Collector, after such inquiry as he thinks fit, may determine. Such compensation shall not be less than the amount of the rent or charge which the said person continues to be liable to pay to the owner or any tenant of the tank and shall be deemed to be a full and complete satisfaction for all loss suffered by such person as a result of the interference with the exercise of his right.

Authorised person to pay compensation to cultivators who hold a lease of the bed of a tank.

14. (1) Where the bed or any part of the bed of a tank has been leased out to cultivators for agricultural purposes the authorised person shall pay compensation to such cultivators, and thereupon such lease shall be terminated. The amount of compensation payable to each cultivator shall be such amount as the Collector, after such inquiry as he thinks fit, deems fair and equitable [1]* * * :

[2]Provided that the compensation payable to such cultivators shall not be less than an amount which bears to the total amount of *salami*, as determined by the Collector to have been paid for obtaining the lease, the same ratio as the unexpired period of lease bears to the total period of such lease :

[2]Provided further that where no period of lease is expressly mentioned or agreed to between the parties concerned the total period of lease shall be taken as twelve years.

(2) The amount of compensation determined by the Collector under sub-section (1) shall be paid in the prescribed manner and within the prescribed time to the authorised person by the landlord who granted the lease. If the landlord makes default in such payment the same shall be recoverable from the landlord by the Collector as a public demand and paid by him to the authorised person.

Payment of compensation to persons having rights in lands adjoining a tank of which possession is taken under this Act.

[3]**14A.** (1) Where the owner of a derelict tank is not the owner of any land adjoining such tank of which possession is taken under section 6A or retaken under sub-section (3) of section 9B, the authorised person shall, at such times and such manner as may be prescribed, pay to the person in possession of such land at the time of taking or retaking possession thereof such compensation as the Collector, after such inquiry as he thinks fit, may determine. Such compensation shall not be less than the amount of the rent which the person so dispossessed is liable to pay in respect of the land and shall be deemed to be a full and complete satisfaction for all loss suffered by such person as a result of interference with his possession.

[1] The words "but not less than the *salami* paid by such cultivator for the lease" were omitted by section 14(*a*) of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

[2] These provisos were added by section 14(*b*) of the same Act.

[3] This new section was inserted by section 15 of the same Act.

(2) Where the owner of a derelict tank is also the owner of any land adjoining such tank of which possession is taken under section 6A, or retaken under sub-section (3) of section 9B, the authorised person shall—

(*a*) in the case where such land is in the actual possession of the owner thereof, pay at such times and in such manner as may be prescribed to such owner such rent as the Collector, after such inquiry as he thinks fit, may determine :

Provided that where the authorised person is the owner of such land in actual possession thereof, no such payment of the rent determined by the Collector under this clause shall be necessary; but the amount of such rent shall be included in and form part of the costs incurred or likely to be incurred by the authorised person in carrying out the required improvements in the tank; and

(*b*) in other cases, pay at such times and in such manner as may be prescribed to any person to whom such land has been leased out and who holds such land as lessee at the time such possession is taken or retaken and to every other person having at that time, on payment of any rent or charge, any right in such land, such compensation as the Collector, after such inquiry as he thinks fit, may determine, and such compensation shall not be less than the amount of the rent or charge which the person to whom the compensation is paid continues to be liable to pay to the owner or the tenant of such land and shall be deemed to be a full and complete satisfaction for all loss suffered by every such person as a result of the interference with the exercise of his right.

Permission of the authorised person necessary to use or occupy the tank, etc.

15. [1](1) During the period of possession no person shall without the permission of the authorised person use or occupy the tank or use the water thereof except for drinking and other domestic purposes or catch fish in the tank or take fruits from trees on, or other produce from, the banks of the tank, except such portions of the banks as are homestead, garden or orchard lands.

[1](2) During the period any land, of which possession is taken under section 6A, or retaken under sub-section (3) of section 9B, remains in the possession of an authorised person, no person shall without the permission of the authorised person use or occupy such land or take fruits from trees on, or other produce from, such land.

---

[1] The original section 15 was renumbered as sub-section (1) of that section and to the said section, as so renumbered, new sub-section (2) was added by section 16 of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

Rights to use the water of the tank.

[1]**16.** During the period of possession all rights to use the water of the tank for irrigation purposes shall vest in the authorised person and no person shall use the water of the tank for such purposes except with the permission of the authorised person or in so far as he may be permitted to do so by or under the provisions of this Act.

Maximum irrigation area.

[1]**16A.** (1) When the possession of any tank has been taken under section 5 or section 6 the Collector shall determine in the prescribed manner the maximum area of land to the limits of which irrigation from the said tank may practicably be extended (hereinafter referred to as the maximum irrigation area) and the system and alignment by which and the priority in accordance with which such irrigation can be so extended to the land in that area, and shall publish a notice in the prescribed form and manner defining the limits of the maximum irrigation area and specifying the system, alignment and priority so determined.

(2) Every person possessing agricultural land within the maximum irrigation area shall, subject to the provisions of sub-sections (3) and (4), be liable to pay a fee annually during the period of possession to the authorised person at the rate fixed and in the manner provided under section 17 and such liability shall not cease by reason of such person not using water for irrigation purposes from the tank to which the maximum irrigation area relates.

(3) Any person concerned may, within thirty days of the date of the publishing of the notice referred to in sub-section (1), apply in the prescribed form and manner and on payment of the prescribed fee to the Collector for—

(*a*) including any land within the maximum irrigation area,

(*b*) excluding any land from the maximum irrigation area, and

(*c*) exempting any land or part of any land from liability to pay the fees referred to in sub-section (2) on the ground that such land cannot practicably be irrigated from the tank to which the maximum irrigation area relates, or cannot be benefited by such irrigation or that such land is not agricultural land,

and the Collector after giving the applicant a reasonable opportunity of being heard may pass such order as to such inclusion, exclusion or exemption as he thinks fit.

(4) The Collector may, of his own motion at any time after the expiry of thirty days from the date of publishing of the notice referred to in sub-section (1), include within the maximum irrigation area any land which was not agricultural land at the time of publication of such notice but has subsequently been converted into agricultural land, or otherwise revise the limits of the maximum irrigation area or

[1] New sections 16, 16A, 16B, 17 and 17A were inserted by section 17 of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

exempt any land or part of any land within such maximum irrigation area from liability to pay the fees referred to in sub-section (2) and the Collector shall modify the list referred to in sub-section (1) of section 16B accordingly :

Provided that before any order for such inclusion, revision or exemption is passed all persons concerned shall, by notice served or published in the prescribed manner, be given a reasonable opportunity of making any representation which they may like to make and the Collector shall consider such representation.

Preparation of list.

[1]**16B.** (1) As soon as may be after the Collector has disposed of any applications made under sub-section (3) of section 16A, he shall prepare a list in the prescribed form and manner of the persons who are liable to pay the fee referred to in sub-section (2) of that section and such list shall specify the amount of agricultural land within the maximum irrigation area in respect of which each such person is to pay such fee and the amount of such fee which such person is to pay annually to the authorised person.

(2) The Collector shall publish the list referred to in sub-section (1) and every modification of such list in the manner prescribed and shall where the authorised person is not the Collector, forward a copy of such list and every modification of such list to the authorised person who shall permit every person whose name is entered in the list or his successor in interest to use the water of the tank for the irrigation of the land of such person as long as the amount of the fee payable by such person is duly paid and not otherwise.

(3) If any dispute arises between persons entered in the list prepared under sub-section (1) as to any matter in respect of the use of water by such persons from the tank for the irrigation of their lands the authorised person or a person authorised in this behalf by the Collector shall decide the dispute and his decision, subject to the provisions of section 26, shall be final.

Payment and rate of fees.

[1]**17.** (1) Every person whose name is included in the list referred to in sub-section (1) of section 16B or his successor in interest shall pay annually and in the prescribed manner and on the dates prescribed to the authorised person or to such person as may be authorised by the Collector in this behalf the fees fixed according to the provisions of this section.

(2) If the fees payable under sub-section (1) are not paid within thirty days from the due date fixed for such payment, interest on the amount of the fees so outstanding shall be payable at the rate of six and one quarter *per centum per annum* calculated from the day on which such payment became due until the date on which the amount of the fees so outstanding is paid or recovered, as the case may be.

(3) The Collector shall fix, in respect of any tank of which possession is taken under this Act and for which the maximum irrigation area has been determined by the Collector, the rate

[1] *Vide* foot-note 1 on pre-page.

or rates at which fees to be paid to the authorised person under sub-section (1) shall be calculated and different rates may be so fixed for classes of agricultural lands of different descriptions or having different advantages or for lands for the irrigation of which any person had at the time when possession was taken of the tank under this Act the prescriptive right to use water for irrigation.

(4) The rate to be fixed under sub-section (3) shall be such that all costs incurred or likely to be incurred—

(*i*) by the authorised person in carrying out the required improvements in the tank; and

(*ii*) by the Collector in carrying out the purposes of this Act in respect of the tank;

may be recovered together with interest thereon at a rate, fixed by the State Government, not exceeding six and one quarter *per centum per annum* and together with an amount estimated by the Collector as is likely to be necessary for maintaining the tank in proper condition during the period of possession determined by the Collector under section 8.

(5) The Collector may revise the rate or rates of fees fixed under this section in respect of any tank.

(6) Any sum due to the authorised person under this section shall be recoverable as a public demand.

Passage of water.

[1]**17A.** No person shall obstruct the passage of any water taken for irrigation purposes from any tank in accordance with the system, alignment and priority for taking water as determined by the Collector under sub-section (1) of section 16A.

Power of authorised persons to lease out the tank, etc.

18. [2](1) During the period of possession the authorised person may, subject to the provisions of this Act and the previous permission of the Collector, lease to any person for a period not extending beyond the period of possession any part of the banks of the tank or any right to take fruit from trees on, or other produce from, such banks or any right to rear and catch fish in the tank.

[2](2) During the period any land of which possession is taken under section 6A or retaken under sub-section (3) of section 9B remains in the possession of an authorised person, such authorised person may, subject to the provisions of this act and the previous permission of the Collector, lease to any person for a period not extending beyond the said period of possession any part of the said land or any right to take fruits from trees on, or other produce from, such land.

[2](3) Any sum due to the authorised person under any lease granted under this section shall be recoverable as a public demand.

---

[1] *Vide* foot-note 1 on page 300, *ante*.

[2] The original section 18 was renumbered as sub-section (1) of that section and to the said section as so renumbered, new sub-sections (2), (3) and (4) were added by section 18 of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

[1](4) All sums realised or estimated to be realised by the Collector or by the authorised person under any lease granted under this section and any other income derived from the tank including banks thereof and from adjoining lands taken possession of under section 6A and by the sale of silt or otherwise, shall be applied in payment of the costs recoverable under sub-section (4) of section 17.

Bar to transfer of tank except as provided in this Act.

19. Except as provided in this Act, no transfer by sale, gift, will, mortgage, lease or any contract or agreement of any right acquired by an authorised person under the provisions of this Act in respect of a derelict tank, [2][or in respect of any land of which possession is taken under section 6A or retaken under sub-section (3) of section 9B] shall be valid.

Bar to acquisition of occupancy rights in lands leased out under section 18.

VIII of 1885.

[3]**19A.** Notwithstanding anything contained in the Bengal Tenancy Act, 1885, no person shall acquire any occupancy right in any part of the banks of, or in any land adjoining, a tank leased out to such person under section 18 and no person who has held any part of the banks of any tank under a lease under section 18 at any time since the commencement of this Act shall be deemed to have acquired any occupancy right therein.

Application of the Act to tank improved as a relief measure.

[4]**20.** (1) When any tank has been re-excavated at the expense of the State Government as a relief measure by the system commonly known as Test or Famine Relief, the Collector may, after giving an opportunity to the person having control over the tank to be heard in the matter, direct that possession of such tank should be taken over by the Collector.

(2) When possession of any improved tank is taken over under sub-section (1) such tank shall be deemed for the purposes of this Act to be a tank taken over and improved under the provisions of this Act and the provisions of this Act shall thereupon apply *mutatis mutandis* to such tank accordingly.

Restoration of possession of tank.

[5]**21.** (1) When the possession of a derelict tank is terminated in accordance with the provisions of section 8, the tank shall be restored to the possession of the persons who were recorded as entitled to possession thereof in the record-of-rights referred to in section 22, or their successors in interest and any land possession of which was taken under

---

[1] *Vide* foot-note 2 on page 302, *ante*.

[2] The words, figures, letters and brackets in square brackets were inserted by section 19 of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

[3] This new section was inserted by section 20 of the same Act.

[4] This new section was substituted for the original section by section 21 of the same Act.

[5] This new section was substituted for the original section by section 22 of the same Act.

section 6A but has not been previously restored under section 9B or section 9C or possession of which has been retaken under sub-section (3) of section 9B shall be restored to the possession of the persons who are recorded as entitled to possession thereof in the record-of-rights referred to in section 22 or their successors in interest.

(2) When possession of any tank or land is restored under sub-section (1) or under section 9, all rights in the tank including all rights to use the water for the purposes of irrigation which existed prior to the time when possession was first taken of the tank under section 5 or section 6 and all rights in such land which existed prior to the time when possession of the land was taken under section 6A or retaken under sub-section (3) of section 9B, as the case may be, excepting any rights for which compensation has been paid under section 14, shall be revived.

Record of rights in respect of derelict tanks.

22. (1) The Collector shall prepare in the prescribed form and manner a record-of-rights in respect of all tanks which are declared to be derelict tanks under this Act, [1][and a record-of-rights in respect of the lands adjoining such tanks of which possession is taken under section 6A or retaken under sub-section (3) of section 9B] and during the period of possession of any such tank [2][or during the period for which any such land remains in the possession of an authorised person] he may, on application or of his own motion, from time to time, add to or alter in the prescribed manner any entry in the record-of-rights [3][in respect of such tank or such land.]

[4](1*a*) In the record-of-rights prepared under sub-section (1), there shall be shown in addition to any other details that may be prescribed, the following :—

(*a*) the names of all persons from the actual possessor upwards up to and including the owner having permanent transferable right in the tank and adjoining lands together with their addresses, nature and extent of right and interest in the tank and adjoining lands as existing immediately before possession of such tank or land is taken under the provisions of this Act;

(*b*) the revenue or rent and cesses, if any, payable by the different persons referred to in clause (*a*) in respect of the tank or land or if that be not ascertainable then the revenue or rent and cesses in respect of the estate, tenure or holding in which such tank or land is included; and

---

[1] The words, figures, letters and brackets in square brackets were inserted by section 23(a) of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

[2] These words in square brackets were inserted by section 23(*b*) of the same Act.

[3] These words in square brackets were added by section 23(c) of the same Act.

[4] This new sub-section was inserted by section 23(*d*) of the same Act.

(*c*) the numbers of cadastral survey plots together with the names and addresses of possessors of such plots who may have immediately before possession of such tank is taken the prescriptive right of taking water from such tank for irrigation purposes.

(2) Every entry in the record-of-rights referred to in sub-section (1) shall be evidence of the matter referred to in such entry, and shall be presumed to be correct in every particular for the purposes of this Act until it is proved by evidence to be incorrect.

Application of the Act to certain tanks.

[1]**23.** (1) The State Government may, by order published in the official Gazette, direct that any tank which may have been improved under the provisions of this Act prior to the commencement of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948, shall, with effect from a date to be specified in such order, be deemed to have been improved in accordance with the provisions of this Act as amended by the last mentioned Act.

West Ben. Act XXIV of 1948

(2) When an order under sub-section (1) is made in respect of any tank, the Collector shall, in the prescribed manner, prepare or revise the list of maximum irrigation area, revise the order regarding period of possession and assessment of fees and take such other action as may be deemed necessary to give effect to such order.

Costs.

[2]**24.** All costs incurred by the Collector in carrying out the purposes of this Act in respect of a tank of which possession is taken under section 6 or in respect of any land of which possession is taken under section 6A or retaken under sub-section (3) of section 9B shall be paid by the authorised person at such times and in such manner as may be prescribed, and on default in payment thereof the same shall be recoverable by the Collector as a public demand.

Decision of disputes.

25. [3](1) During the period of possession all disputes relating to the exercise of any rights in respect of a tank or the use of the water thereof by the authorised person [3] * * * shall be decided by the Collector in such manner as may be prescribed.

[4](2) During the period any land of which possession is taken under section 6A or retaken under sub-section (3) of section 9B remains in the possession of an authorised person, all disputes relating to the exercise of any rights in respect of such land shall be decided by the Collector in such manner as may be prescribed.

---

1 This new section was substituted for the original section by section 24 of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

2 This new section was substituted for the original section by section 25 of the same Act.

3 The original section 25 was renumbered as sub-section (1) of that section, and in the said section, as so renumbered, the words, figures and brackets "or among any other persons referred to in sub-section (2) of section 16" were also omitted by section 26(a) of the same Act.

4 This new sub-section was added by section 26(*b*) of the same Act.

Appeal against action of authorised person.

26. Any person aggrieved by any action [1][or decision] of an authorized person, other than the Collector, [2][or any person authorised by the Collector] may appeal to the Collector who after giving such authorised person an opportunity to be heard in the matter, shall pass such order thereon as he thinks fit.

Other appeals.

27. (1) Any person aggrieved by any order passed by a Collector, other than the Collector of the district, under this Act may appeal in the prescribed manner to the Collector of the district.

(2) Any person aggrieved by any order passed, on appeal or otherwise, by the Collector of the district may appeal in the prescribed manner to the Commissioner.

(3) Any person aggrieved by any order passed by a Commissioner under this Act may appeal in the prescribed manner to the Board of Revenue :

Provided that where an order passed by the Collector of the district on appeal has been confirmed by the Commissioner no appeal under this sub-section shall lie except on a point of law.

Procedure in proceedings under section 27.

28. Notwithstanding anything contained in any other Act the procedure to be followed by the Collector of the district, Commissioner or Board of Revenue in any proceedings under section 27 shall be in accordance with rules made under this Act.

Order of Civil Court not to operate during period of possession.

29. No decree nor order of a Civil Court shall operate to disturb, curtail or otherwise modify the possession under this Act of a tank [3][or of any land adjoining such tank] by the authorised person, or, during the period of possession, [4][of such tank or during the period for which any such land remains in the possession of an authorised person] to annul or alter any order or decision of the Collector or any other Revenue authority made or purporting to have been made under the provisions of this Act.

Bar to jurisdiction of Civil Courts.

30. [5](1) No suit shall lie in any Civil Court for compensation in respect of any injury, damage or loss resulting from anything done under this Act.

[5](2) No suit or other proceedings shall lie against the Collector, other authorised person or any officer or worker employed by or under the Collector for anything in good faith done or intended to be done or purporting to be done under the provisions of this Act or any rule made thereunder.

---

1 The words in square brackets were inserted by section 27(*a*) of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

2 The words in square brackets were inserted by section 27(*b*) of the same Act.

3 The words in square brackets were inserted by section 28(*a*) of the same Act.

4 The words in square brackets were inserted by section 28(*b*) of the same Act.

5 The original section 30 was renumbered as sub-section (1) of that section and after the said section, as so renumbered, new sub-section (2) was added by section 29 of the same Act.

Power to enter land to make survey, etc

31. The Collector, subject to any rules made under this Act may at any time enter upon any land with such officers or servants as he considers necessary, and make a survey or take measurements thereof or do any other acts which he considers to be necessary for carrying out any of his duties under this Act.

Power to compel production of statements and documents.

32. (1) Subject to rules made under this Act the Collector may, for the purposes of this Act, by notice, require any person to make and deliver to him a statement or to produce records or documents in his possession or control relating to any land or tank at a time and place specified in the notice.

(2) Every person required to make or deliver a statement or to produce any record or document under this section shall be deemed legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

Act XLV of 1860.

Power to enforce attendance of witnesses and production of documents.

33. For the purposes of an inquiry under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including any of the persons interested in the tank [1][or in any land adjoining such tank] and to compel the production of documents by the same means and, so far as may be, in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908.

Act V of 1908.

Power to authorise subordinate officer to exercise Collector's powers.

34. The Collector may, by order in writing, authorise any officer subordinate to him to exercise the powers of the Collector under clause (*a*) of section 5 [2][or clause (*a*) of sub-section (1) of section 6A, or clause (*b*) of sub-section (3) of section 9B] or under section 31.

Penalty.

35. Whoever contravenes any of the provisions of section 15, [3][section 16 or section 17A] shall be punished with fine which may extend to one hundred rupees.

No reduction of revenue for anything done under this Act.

36. The proprietor of a tank [4][or of any land adjoining a tank] shall not be entitled to claim, on account of anything done under the provisions of this Act, any reduction in the revenue payable by him to the Government.

---

[1] The words in square brackets were inserted by section 30 of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV 1948).

[2] The words, figures, letters and brackets in square brackets were inserted by section 31 of the same Act.

[3] The words, figures and letters in square brackets were substituted for the words, figures and brackets "or sub-section (1) of section 16" by section 32 of the same Act.

[4] The words in square brackets were inserted by section 33 of the same Act.

Power to make rules.

37. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the forms of notices under section 3, sub-section (1) of section 4 and sub-section (1) of section 23, of [1][orders under sub-section (1) of section 6, sub-section (1) of section 6A and sub-section (3) of section 9B], and of record-of-rights under sub-section (1) of section 22;

(*b*) the manner of serving notice under section 3, [2][sub-section (1) of section 4] and sub-section (1) of section 23 and of publishing notice under sub-section (1) of section 4;

(*c*) the particulars and conditions to be specified in an order under sub-section (1) of section 6;

[3](*cc*) the manner of making an application under clause (*b*) of sub-section (1) of section 6A and of giving reasonable opportunity to the person in possession of the land to make any representation under the proviso to the said sub-section;

(*d*) the time and manner of payment of compensation under section 12, section 13, [4][sub-section (2) of section 14 and sub-sections (1) and (2) of section 14A], and of cost under section 24;

[5](*dd*) the manner of determining the maximum irrigation area and the system, alignment and priority of irrigation in that area, and the form and the manner of publishing the notice defining the limits of the maximum irrigation area and the system, alignment and priority of irrigation in that area, under sub-section (1) of section 16A and the form and manner of the application and the fee payable under sub-section (3) of that section;

[5](*ddd*) the manner of service and publication of notice referred to in the proviso to sub-section (4) of section 16A;

[5](*dddd*) the form of the list and the manner of its preparation under sub-section (1) of section 16B and the manner of publication of the list and every modification thereof under sub-section (2) of that section;

---

[1] The words, figures and brackets in square brackets were substituted for the words, figures and brackets "order under sub-section (1) of section 6" by section 34 (1) of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

[2] The words, figures and brackets in square brackets were inserted by section 34 (2) of the same Act.

[3] This new clause was inserted by section 34 (3) of the same Act.

[4] The words, figures, letter and brackets in square brackets were substituted for the words, figures and brackets "and sub-section (2) of section 14" by section 34 (4) of the same Act.

[5] New clauses (*dd*), (*ddd*), (*dddd*) and (*ddddd*) were inserted by section 34 (5) of the same Act.

[1](*ddddd*) the manner and the dates of payment of fees under sub-section (1) of section 17;

(*e*) the manner of preparing the [2][records-of-rights] under sub-section (1) of section 22, and of adding or altering any entry therein;

[3](*ee*) the manner of preparation and revision of the list of maximum irrigation area referred to in sub-section (2) of section 23;

(*f*) the manner of deciding disputes under [4][sub-sections (1) and (2) of section 25];

(*g*) the manner of making an appeal and the procedure to be followed in any proceedings under section 27;

(*h*) the procedure and conduct of the Collector and of officers and servants referred to in section 31;

(*i*) the exercise of powers under sub-section (1) of section 32 to enforce the making and delivery of statements and production of documents.

---

[1] *Vide* foot-note 5 on pre-page.

[2] The word in square brackets was substituted for the word "record-of-rights" by section 34 (6) of the Bengal Tanks Improvement (West Bengal Amendment) Act, 1948 (West Ben. Act XXIV of 1948).

[3] This new clause was inserted by section 34 (7) of the same Act.

[4] The words, figures and brackets in square brackets were substituted for the word and figures "section 25" by section 34 (8) of the same Act.

THE COCHIN PRESERVATION OF ERIES ACT, 1945

Act XXIII of 1945 (Karkadagam 1120)

Preamble. WHEREAS in the interests of agriculture it is necessary to preserve the existing Eries; It is hereby enacted as follows:—

Short title, extent and commencement. **1.** (1) This Act may be called the Preservation of Eries Act, XXIII of 1120.

(2) It extends to the whole of Chittur Taluk and shall come into force on such date as Government may by notification in the *Cochine Government Gazette* specify.

Definition. **2.** "Eri" means a tank, well, canal or other reservoir used for the storage of water for purposes of cultivation and notified by Government in the *Cochine Government Gazette* as an Eri for the purposes of this Act.

Returns. **3.** (1) Government may for the purpose of determining the Eries to which this Act should be made applicable, by notification in the *Cochin Government Gazette* require the owners and persons in possession of lands to furnish to the Diwan Peishkar within a specified period particulars, in such form as may be prescribed, of the tanks, wells, canals or other reservoirs for the storage of water for agricultural purposes in their lands.

(2) Whoever fails to make the return mentioned in sub-section (1) or makes a return which is false in any material particular, shall be liable to a penalty not exceeding one hundred rupees as may be fixed by the Diwan Peishkar.

Eries not to be converted into wet lands, etc. **4.** No person shall convert an Eri into wet lands or parambas without the previous sanction in writing of the Diwan-Peishkar.

Penalty. **5.** Whoever converts an Eri or abets the conversion of an Eri in contravention of the provisions of section 4 shall be liable to a penalty not exceeding two hundred rupees as may be fixed by the Diwan Peishkar.

Recovery of expenses incurred. **6.** (1) If any person in possession and control of the Eri does not maintain it in good repair or converts the Eri into wet land or paramba, the Diwan Peishkar may by notice in writing require such person within such time as may be fixed by the Diwan Peishkar to repair it or restore the same to its original state as the case may be. If the person so required fails to repair or restore the Eri to its original state, the Diwan Peishkar may, without prejudice to any other action that may be taken under this Act, cause such work or repair to be executed, or may take such measure or do that which in his opinion is necessary for restoring the same to its original state or for the repair thereof. The Diwan

Peishkar may enter or authorise the entry into the Eri and the land adjacent to it of such persons as may be necessary for the execution of such work or repair. The expenses incurred by the Diwan Peishkar in the execution of such work or repair shall be recoverable from the person who was required to execute the work as arrears of revenue under the provisions of the Cochin Revenue Recovery Act, IV of 1083.

(2) Where an Eri not maintained in good repair is caused to be repaired by the Diwan Peishkar under sub-section (1) and such Eri benefits lands other than those in the possession of the person in whose possession and control such Eri is, the Diwan Peishkar shall, subject to the subsisting rights between the several persons whose lands are benefited, apportion the expenses of repair recoverable between the several persons whose lands are so benefited by the repair in proportion to the benefit derived or derivable by the lands on account of such repair.

7. An appeal shall lie to Government from the orders passed by the Diwan Peishkar under section 3 or section 4 or section 5 or section 6. Such appeals shall be presented within thirty days from the date of the receipt of the order complained against. The orders of Government, or where there has been no appeal, the orders of the Diwan Peishkar shall be final and shall not be called in question in a court of law : Appeal.

Provided that, in cases of disputes relating to liability on apportionment under section 6(2) any aggrieved party may sue any other or others without making Government a party and the court may by its decree re-apportion the liability.

8. The penalties imposed under section 3 or section 5 shall be recoverable as arrears of revenue under the provisions of the Cochin Revenue Recovery Act, IV of 1083. Recovery of Penalty.

THE MADRAS IRRIGATION TANKS (IMPROVEMENT) ACT, 1949

Act No. XIX of 1949

[*Received the assent of His Excellency the Governor on the 13th July*, 1949, *first published in the* "*Fort* "Fort St. George Gazette" *on the 19th July* 1949.]

An Act to empower the Provincial Government to increase the capacity and efficiency of irrigation tanks in the Province of Madras.

WHEREAS it is expedient to empower the Provincial Government to increase the capacity and efficiency of irrigation tanks in the Province of Madras; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Irrigation Tanks (Improvement) Act 1949.

(2) It extends to the whole of the State of Madras.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Government" means the State Government;

(*b*) "owner", in relation to any land or property includes any person having an interest in such land or property ;

(*c*) "prescribed" means prescribed by rules made under this Act ;

(*d*) "tank" means an irrigation tank in the State of Madras.

Power to take measures for increasing the capacity or efficiency of irrigation tanks.

3. (1) Notwithstanding anything contained in any other law for the time being in force, the Government shall have power to raise the full-tank level of any tank or to take any other measures for increasing its capacity for efficiency, wherever it may be situated and whether in a ryotwari, zamindari, inamdari or other area.

(2) The owner of a tank not belonging to the Government shall not be required to bear any portion of the cost of carrying out any measures in respect of the tank under sub-section (1).

(3) Where, in pursuance of sub-section (1), any measures are carried out in respect of a tank, the cost of carrying them out or such portion of the cost as the Government may specify; may be recovered by the District Collector from the owners of the lands and other properties benefited by the tank in such proportions, and in such manner as may be prescribed.

Suits and applications for injunctions barred.

4. No Court shall entertain any suit or application for the issue of an injunction to restrain the exercise of any powers conferred on the Government by section 3.

Compensation.

5. (1) Where in consequence of anything done in pursuance of section 3, the owner of any land or property sustains loss or damage, he shall be entitled to such compensation as the District Collector may by order determine:

Provided that where the loss or damage was sustained by reason of the diminution of the supply of water to any land or to any tank or other source from which water is supplied to any land, compensation shall be payable only in such cases, and to such extent, as may be prescribed.

(2) No compensation shall be payable to any person under sub-section (1), unless he has preferred to the District Collector, an application in that behalf setting forth the grounds of his claims, within three years from the date on which the loss or damage was sustained or such further time as the District Collector may think fit to allow.

(3) On receipt of an application under sub-section (2) the District Collector shall hold an enquiry in the prescribed manner.

(4) The compensation payable to any person under this section shall be a lump sum in all cases including those where the loss or damage sustained by him is a recurring one, and shall be determined by the District Collector in the prescribed manner.

(5) All compensation payable to any person under this section shall be paid by the Government, and the total amount paid by way of compensation in consequence of any measures taken in pursuance of section 3 in respect of any tank or such portion of the total amount aforesaid as the Government may specify may be recovered by the District Collector from the owners of the lands and other properties benefited by the measures taken in such proportions, and in accordance with such rules, as may be prescribed.

Appeal against order of the District Collector.

6. (1) The Government or any person deeming himself aggrieved by an order of the District Collector under section 5, sub-section (1), or any person deeming himself aggrieved by any recovery ordered by the District Collector under section 3, sub-section (3), or under section 5, sub-section (5) may appeal against such order to the Subordinate Judge's Court having jurisdiction over the area in which the land or property to which the order relates is situated, or if there is no such court, to the District Court having jurisdiction over such area, or if such area is in the Presidency town to the Madras City Civil Court.

(2) Such appeal shall be made within ninety years from the date on which the order appealed against was served on the Government or the person concerned as the case may be or such further tim as the court may think fit to allow.

Power to make rules.

7. (1) The Government may, by notification in the *Fort St. George Gazette*, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the entry on, and inspection of, any irrigation tank or any land adjacent thereto or in the neighbourhood thereof;

(*b*) the delegation of the powers of the Government under section 3 to any officer or authority subordinate to them and the control and revision of the acts or proceedings of any such officer or authority;

(*c*) the procedure to be followed in disposing of applications preferred under this Act; and

(*d*) the manner of service of orders under this Act.

THE ASSAM EMBANKMENT AND DRAINAGE ACT, 1941

Assam Act VII of 1941

An Act to provide for the construction, removal and upkeep of embankments and for the drainage and improvement of lands in Assam.

WHEREAS it is expedient to make provision for the construction, maintenance, management, removal and control of embankments and for the better drainage and improvement of lands in Assam ; Preamble.

And whereas the previous sanction of the Governor has been obtained to the introduction of this Bill ;

It is hereby enacted as follows :—

1. (*i*) This Act may be called the Assam Embankment and Drainage Act, 1941. Short title, extent and commencement.

(*ii*) It extends to the whole of Assam.

(*iii*) It shall come into force on such date as the [1][State] Government may specify by notification in the official Gazette in that behalf.

2. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(*i*) "Cattle" includes also elephants, buffaloes, horses, ponies, mules, asses, pigs, sheep and goats. "Cattle".

(*ii*) (*a*) "Embankment" means any embankment, public or private, constructed for the purpose of excluding, regulating or retaining water and includes all earthen or masonry walls, dams, spilways, piers, groins, sluices, syphons, water gauges, benchmarks and other works subsidiary to any such embankment; but does not include any "ail" or ridge surrounding or dividing a field or any public or private road. "Embankment".

(*b*) "Public Embankment" means an embankment vested in the [1][Government] or under the control and administration of the [1][State] Government or any Local Board, Municipality or Town Committee. "Public Embankment".

(*c*) "Private Embankment" means any embankment which is not a public embankment. "Private Embankment".

(*d*) "Drain" includes *dongs* and irrigation channels in the plains, a tunnel, a culvert, a ditch, a channel, a canal, a syphon, a sluice or artificial water-course of any other description and any "Drain".

[1] Substituted by the Adaptation of Laws Order, 1950.

other device for excluding, regulating or retaining water, rain water, flood water or sub-soil water, but does not include the ordinary irrigation processes in hill and submontane districts.

"Embankment Officer". (*iii*) "Embankment Officer" means the Executive Engineer or any Division and any other officer not below the rank of Executive Engineer whom the [1][State] Government may declare to be such.

"Owner". (*iv*) (*a*) "Owner" shall include proprietors and settlement holders as defined in the Assam Land and Revenue Regulation, 1886 (Regulation I of 1886) and every intermediate tenant between the proprietor or settlement holder and the occupier and with respect to unsettled waste land, shall mean [1][State] Government. I of 1886.

"Occupier". (*b*) "Occupier" means the person residing in or in possession of any house, land or place.

"Local Area". (*c*) "Local area" means an area notified as such by the [1][State] Government in the Gazette to which section 13 of this Act would apply.

"Prescribed." (*d*) "Prescribed" means prescribed by rules made under this Act.

"Cost". (*e*) "Cost" means the capital cost of a work including that of the connected survey but does not include any maintenance or interest charges or any contribution made by Government under section 7.

Right of entry upon private land and payment for damage.

3. (*i*) It shall be lawful for any officer generally or specially authorised by the [1][State] Government in this behalf and for his servants and workmen to enter upon, survey and take levels of any land, whether covered with water or not ; to dig or bore into the sub-soil; to mark levels by placing marks; and to cut down and clear away any part of any standing crop, fence, or jungle whenever necessary for the completion of any survey :

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house, unless with the consent of the occupier thereof, without previously giving the occupier at least ten days' notice in writing of his intention to do so.

(*ii*) The officer so authorised shall at the time of such entry pay or tender payment for all damage done as aforesaid and in case of dispute as to the sufficiency of the amount so paid or tendered, he shall refer forthwith the dispute to the Deputy Commissioner whose decision which shall be based on an enquiry, held either by himself or by a gazetted officer not below the rank of Extra Assistant Commissioner deputed by him, shall be final. Nothing in this sub-section shall debar the person injured from applying direct to the Deputy Commissioner for compensation. No claim under this sub-section made later than six months after the damage occurred shall be entertained.

[1] Substituted by *ibid.*

Construction, removal or alteration of embankments or removal of obstructions.

4. (*i*) The Embankment Officer shall have power :—

(*a*) to remove any obstruction of any kind which in his opinion endangers the stability of any embankment or drain ;

(*b*) to remove or alter any embankment or drain or any obstruction of any kind which in his opinion endangers the safety of any town or village or is likely to cause loss of property by interfering with the general drainage or the flood drainage of any tract of land; and

(*c*) to construct any embankment or drain the absence of which, in his opinion, endangers the safety of any town or village.

(*ii*) Except as hereinafter provided the Embankment Officer shall, before exercising his powers under sub-section (*i*) above, apply to the Deputy Commissioner for permission stating the nature of the action proposed to be taken and the reasons therefor. Thereupon the Deputy Commissioner shall publish a general notice to all persons likely to be affected and after considering any objection that may be received, may refuse or grant permission either absolutely or subject to such conditions as he may think fit to impose. Any person aggrieved by the Deputy Commissioner's order may within thirty days thereof appeal to the [1][State] Government whose decision shall be final.

(*iii*) In case of grave and imminent danger to life or property the Embankment Officer may forthwith commence the execution of any work under sub-section (*i*) and then apply for permission under sub-section (*ii*) above. Before the Embankment Officer begins any emergency work under this section he shall intimate his proposals to the Railway Administration, Local Boards, Municipalities and Town Committees within the area affected by such work. But in any such case, if it should appear that anything done by the Embankment Officer was unnecessary, any person who has sustained damage by the execution of the work shall be entitled to make a claim to compensation for the decision of the Deputy Commissioner. No claim under this sub-section made later than six months after the damage occurred shall be entertained. An appeal against the Deputy Commissioner's decision shall lie to the District Judge but no appeal shall be entertained unless it is made within sixty days of the date of the Deputy Commissioner's decision. Where the claim is upheld, the applicant is entitled to have the land, embankment or drain restored as nearly as possible to its original state, regard being had to the amount of the work which the Deputy Commissioner or the District Judge, as the case may be, considers to have been necessary, at the expense of Government :

Provided that no suit or criminal prosecution shall lie against the Embankment Officer for anything done or omitted to be done by him in good faith under this Act.

[1] Substituted by *ibid.*

Application for a drain or a new embankment or a sluice in a public embankment.

5. (*i*) (*a*) If any person desires that a bridge, culvert, syphon or sluice be made in any public embankment for the purpose of drainage or irrigation; or

(*b*) If within any local area to which section 13 has been applied, any person desires that any new embankment or drain be constructed or that any existing embankment or drain be altered or removed ;

He shall make an application in writing to the Deputy Commissioner of the District in which such embankment or drain is situated.

(*ii*) At the time of making such application the applicant(s) shall deposit with the Deputy Commissioner the sum of Rupees ten towards the expense of surveys, etc., necessary for investigating the soundness of the proposal.

Procedure for enquiry and realisation of cost.

6. When application has been made to the Deputy Commissioner under section 5 he shall forward the proposals to the [1][State] Government.

Preparation of schemes for improvement of drains, embankments and flood protection.

7. Whenever it appears to the [1][State] Government that any embankment or drainage work is necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof, or for protection from floods or other accumulations of water, or from erosion by a river (whether the lands to be so protected are in the immediate vicinity of the place where the work is considered necessary, or otherwise), the [1][State] Government, after consultation with the Railway Administration, any Local Board, Municipality or Town Committee regarding all schemes within a notified local area, and in all other areas without such consultation, may cause a scheme for such embankment or drainage work to be drawn up by the Embankment Officer and published together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable.

Power to enter and survey, etc.

8. (*i*) The person authorised by the [1][State] Government to draw up such a scheme may with his servants and workmen enter upon any lands adjacent to any embankment or drain or on which any embankment or drain is proposed to be made, and undertake surveys or levels thereon; and dig and bore into the sub-soil; and make and set up suitable land-marks, level-marks and water-gauges; and do all acts necessary for the preparation of the scheme contemplated under this Act; and

Power to clear land.

(*ii*) where otherwise such enquiry cannot be completed such officer or other person acting under his orders may cut down and clear away any part of any standing crop, fence or jungle ;

---

[1] Substituted by *ibid.*

(*iii*) every proprietor and settlement-holder of any land and every person entitled to receive rent in respect of any land or occupying any land as a tenant, shall, on the written requisition of the Embankment Officer, furnish, personally or otherwise, as the Embankment Officer directs, such information or assistance as may be required by that officer for the purpose of preparing the scheme: Information or assistance to be furnished.

Provided that, if such aforesaid officer or person acting under his orders proposes to enter into any enclosed court or garden attached to a dwelling house, he shall previously give the occupier of such court or garden at least ten days' notice in writing, of his intention to do so; Notice of intended entry into courtyard and gardens attached to the dwelling houses.

(*iv*) In every case of entry under this section the aforesaid officer shall, at the time of such entry, tender compensation for any 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 he shall forthwith refer the same for decision by the Deputy Commissioner and such decision which shall be based on an enquiry, held either by himself or by a gazetted officer not below the rank of Extra Assistant Commissioner deputed by him, shall be final. Compensation for damage caused by entry.

8. As soon as possible after the publication of a scheme under section 7, a Deputy Commissioner or, where the scheme affects persons in more than one district, the Commissioner of Divisions shall invite objections by a proclamation allowing one month's time for their receipt from the public, and any Railway Administration, Local Board, Municipality or Town Committee likely to be affected. On receipt of any objections the Deputy Commissioner or the Commissioner as the case may be shall publish a notice stating the place, date and time at which an enquiry will be held for the purpose of ascertaining the validity of the objections. After such enquiry has been completed the Deputy Commissioner or the Commissioner as the case may be shall forward the objections along with his recommendations to the [1][State] Government.

9. (*i*) After taking into consideration any objections and recommendations made under the preceding section the [1][State] Government may direct that the scheme drawn up under section 7, with such consequential modifications as Government deem necessary, be put into operation and completed forthwith, or within such period as may be directed. Completion of scheme.

(*ii*) An annual rate may be charged on the occupier or, if there is no occupier, the owner of all lands proposed to be made chargeable under section 7 so as to liquidate the cost of the scheme within a period not exceeding twenty years as Government may prescribe. Such rate shall not be varied by the [1][State] Government: Rates.

[1] Substituted by *ibid.*

Provided that no rate shall be levied on land in temporary settled districts of Assam which is liable to periodic enhancement of revenue within ten years of completion of the improvements effected under this Act.

Recovery of rate.

(*iii*) Any rate charged under this Act shall be recoverable as if it was an arrear of land revenue.

The [1][State] Government shall take into account the degree of benefit accruing to the assessees when deciding upon the date from which the rate shall be levied.

Disposal of claims to compensation.

10. (*i*) Whenever any :—

(*a*) obstruction is removed or embankment or drain removed, constructed or altered under section 4(*i*)(*a*), (*b*) and (*c*), or

(*b*) embankment or drainage work carried out under section 9, or

(*c*) emergent work undertaken under sub-section 4 (*iii*), or

(*d*) right of fishery, right of drainage, right and uses of water or other right of property, other than as mentioned above, has been injuriously affected,

a claim to compensation for any loss arising therefrom may be made within three years of the completion of the work before the Deputy Commissioner who shall award such compensation as he considers fair and reasonable. An appeal against the Deputy Commissioner's decision shall lie to the District Judge, but no appeal shall be entertained unless it is made within sixty days of the date of Deputy Commissioner's decision. The District Judge's decision shall be final.

Limitation of such claims.

(*ii*) No such claim shall be entertained after the expiry of three years from the occurrence of the loss complained of, unless the Deputy Commissioner is satisfied that the claimant had sufficient cause for not making the claim within such period.

Vesting of certain rights in the [1][Government]

11. The right of access to and maintenance of any embankment or drain or portion thereof constructed, improved or repaired under any section of this Act shall vest in the [1][Government] and be under the control and administration of [1][State] Government.

Penalties for trespass on embankments or drains.

12. (*i*) Any person who, without the permission of the Embankment Officer—

(*a*) grazes any cattle or allows any cattle belonging to him or in his charge to trespass on any public embankment or drain, or

(*b*) cuts or roots out any trees, shrubs or grass growing on any public embankment or drain, or

(*c*) takes any vehicle over or across any public embankment or drain, or

[1] Substituted by *ibid.*

(*d*) damages or obstructs any embankment or drain constructed, repaired or maintained under the provisions of this Act,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

(*ii*) No person shall, without due authority, cut through any embankment or drain or destroy or attempt to destroy, any such embankment or drain or open or shut or obstruct any sluice in any such embankment or drain or any public water-course; and every person who shall commit any breach of the provisions of this sub-section shall be liable to imprisonment of either description for a term not exceeding six months or to a fine not exceeding two hundred rupees, or to both.

Penalties for constructing, maintaining, etc., an embankment or drain.

13. Any person who, without the permission of the Deputy Commissioner, constructs, removes, alters or damages any embankment or drain, within the limits of any local area to which this section may from time to time be applied by a notification in the official Gazette by the [1][State] Government, shall be punished with imprisonment of either description for a term which may extend to six months, or with a fine which may extend to two hundred rupees, or with both.

Notice for removal of embankment or drain and penalties for neglect of such removal.

14. (*i*) The Deputy Commissioner may by notice require any person, who constructs or alters any embankment or drain in contravention of the provisions of section 13, to remove the same within a reasonable time to be specified in the notice.

(*ii*) If any embankment or drain of which the removal has been required by notice under sub-section (*i*) is not removed within the time specified in the notice, the Deputy Commissioner may cause the same to be removed.

(*iii*) The cost of the removal of any embankment or drain removed under the provision of sub-section (*ii*) shall be recoverable as an arrear of land revenue either from the person who constructed or altered the embankment or drain or who caused it to be constructed or altered or jointly and severally from both such persons as the Deputy Commissioner may determine.

Prior consultation with the Public Works and Public Health Departments.

15. (*i*) In deciding questions which he is required to do under the provisions of this Act the Deputy Commissioner shall first consult the Public Works Department on all questions involving technical matters.

(*ii*) Before any capital work is undertaken the Public Health Department shall be consulted.

Crtain person sdeemed to be public servants.

16. Every person authorised by an Embankement Officr to act under section 7 shall be deemed to be a "public servant" within the meaning of the Indian Penal Code.

Act XLV of 1860.

[1] Substituted by *ibid.*

Power to make rules.

17. The [1][State] Government may subject to the condition of previous publication make rules generally to carry out the provisions of this Act and in particular to regulate the following matters :—

(*a*) the proceedings of any officer who, under any provisions of this Act, is required or empowered to take action in any matter ;

(*b*) the manner in which any order or public notice issued under the provisions of this Act shall be published ;

(*c*) the area in respect of which the Deputy Commissioner shall consult the Railway Administration and Local Bodies with regard to applications under section 5 ;

(*d*) the manner in which apportionment of costs under this Act shall be made; and

(*e*) the rates chargeable under the provision of this Act.

Indian Railways Act, 1890 (Act IX of 1890) not affected.

18. Nothing in this Act shall affect the provisions of the Indian Railways Act, 1890. Act IX of 1890.

[1] Substituted by *ibid.*

THE ASSAM LAND (REQUISITION AND ACQUISITION) ACT, 1948

Assam Act XXV of 1948

An Act to provide for the requisition and speedy acquisition of premises and land for certain purposes.

Preamble.

WHEREAS it is expedient to provide for the requisition and speedy acquisition of premises and land for certain purposes;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Assam Land (Requisition and Acquisition) Act, 1948.

(2) It shall come into force on such date as the [1][State] Government may, by notification in the official Gazette, appoint in this behalf, and shall remain in force for [2][five years] [3][****].

(3) It shall extend to such areas in Assam as the [1][State] Government may, from time to time, by notification in the official Gazette direct.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context—

(*a*) "Collector", "land" and "person interested" have the same meanings as in the Land Acquisition Act, 1894;

Act I of 1894.

Explanation.—Land for the purpose of this Act includes trees, buildings and standing crops on it, and easement.

(*b*) "court" means a principal Civil Court of original jurisdiction, and includes the Court of any Additional Judge, Subordinate Judge or Munsif whom the [1][State] Government may appoint, by name or by virtue of his office, to perform, concurrently with any such principal Civil Court, all or any of the functions of the Court under this Act within any specified local limits and, in the case of Munsif, up to the limits of the pecuniary jurisdiction with which he is vested under section 19 of the Bengal, Agra and Assam Civil Courts Act; 1887; and

Act XII of 1887.

(*c*) "owner" means proprietor or patta holder and his co-sharer; and

(*d*) "prescribed" means prescribed by rules made under this Act ;

[4][(*e*) "displaced person" means—

(*i*) any person, who on account of the setting up of the two Dominions of India and

[1] Substituted by the Adaptation of Laws Order, 1950.
[2] Substituted by Act XVI of 1949.
[3] Omitted by *ibid.*
[4] Inserted by Act XIV of 1949.

Pakistan or on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan has been compelled to leave his place of residence in such area after the 1st day of March 1947 and who has subsequently been residing in India and is in distress, or

(*ii*) a person who has been displaced due to various acquisition proceedings relating to land in Assam since 1943".]

Power to requisition.

3. (1) If in the opinion of the [1][State] Government or any person authorised in this behalf by the [1][State] Government it is necessary so to do for maintaining supplies and services essential to the life of the community or for providing proper facilities for accommodation, transport, communication, irrigation or drainage [2][or for providing land individually or in groups to landless, flood-affected or displaced persons, or to a society registered under the Indian Co-operative Societies Act, 1912 (with such statutory re-enactment or modification thereof as shall from time to time be made), or a company incorporated under the Indian Companies Act, 1913, formed for the benefit and rehabilitation of landless, flood-affected or displaced persons, the [1][State] Government or the person so authorised, as the case may be, may by order in writing, requisition any land and may make such further orders as appear to it or to him to be necessary or expedient in connection with the requisitioning. Act II of 1912 Act III of 1913

[3][Provided that no land used for the purpose of religious worship or for charitable purposes and no building or part thereof wherein the owner has actually resided for a continuous period of one year immediately preceding the date of the order shall be requisitioned under this section.

Explanation.—'Charitable purpose' includes relief of the poor, education and medical relief and the advancement of any other object of general public utility.]

(2) An order under sub-section (1) shall be served in the prescribed manner on the owner of the land and where the order relates to land in occupation of a tenant also on such tenant.

(3) When the order for requisition is made by any authority other than the [1][State] Government, any person interested in the land, within 30 days from the date of issue of the order, may appeal to the [1][State] Government and the decision of the [1][State] Government in such appeal shall be final.

Acquisition of land.

4. (1) Where any land has been requisitioned under section 3, the [1][State] Government may use or deal with it in such manner as may appear to it to be expedient and may acquire such land by publishing in the official Gazette, a notice to the effect that the [1][State] Government has decided to acquire such land in pursuance of this section.

---

[1] Substituted by the Adaptation of Laws Order, 1950.
[2] Substituted by *ibid*.
[3] Substituted by Act XX of 1950.

(2) Where a notice as aforesaid is published in the official Gazette, the requisitioned land and premises shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the [1][State] Government free from all encumbrances and the period of requisition of such land shall end.

Notice to persons interested.

5. (1) After the publication of a notice under sub-section (1) of section 4, the Collector shall cause public notice to be given at convenient places on or near the land to be taken, stating that the [1][State] Government has acquired the land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so acquired, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claim to compensation for such interests. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice in the manner prescribed on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by registered post in a letter addressed to him at his last known residence, address or place of business.

Release from requisitions.

6. (1) Where any land requisitioned under section 3 is not acquired and is to be released from requisition, it will revert to the owner and the Collector will deliver the possession of the land to such owner or interested person who was recognised under section 7 (3).

(2) The delivery of possession of such land to the person specified in the order made under sub-section (1) shall be a full discharge of any liability of the [1][State] Government to deliver possession to such person as may have rightful claim to possession thereof but shall not prejudice any right in respect of such land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(3) Where the person to whom the possession of any land requisitioned under section 3 is to be delivered cannot be found or is not readily traceable or has no agent or other person empowered to accept delivery on his behalf, the [1][State] Government shall publish in the official Gazette a notice declaring that such land is released from requisition and shall cause a copy thereof to be affixed on some conspicuous part of such land.

[1] Substituted by the Adaptation of Laws Order, 1950.

(4) When a notice referred to in sub-section (3) is published in the official Gazette, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof; and the [1][State] Government shall not be liable for any compensation or other claims in respect of such land for any period after the said date.

Compensation.

7. (1) [2][Subject to the provisions of sub-section (1A)] wherever any land is acquired under section 4 there shall be paid compensation the amount of which shall be determined by the Collector in the manner and in accordance with the principles set out in sub-section (1) of section 23 of the Land Acquisition Act, 1894 : Act I of 1894.

Provided that the market value referred to in clause first of sub-section (1) of section 23 of the said Act shall, in respect of any land acquired under this Act be deemed to be the market value of such land on the date of publication of the notice referred to in sub-section (1) of section 4 :

Provided further that if such market value exceeds by any amount the average of the aggregate market value of the land for three consecutive years [3]["immediately preceding the 31st day of March 1946"] on the assumption that the land had been at that date in the state in which it in fact was on the date of publication of the notice referred to in sub-section (1) of section 4, the amount of such excess shall not be taken into consideration.

[2][(1A) In the case of land included in any grant or settlement made for special cultivation, if such land is lying fallow or uncultivated or is not utilized for the purpose for which the grant or settlement was made or for the purpose incidental thereto, then the compensation payable for acquisition of such land together with trees (if any) standing on it shall be an amount equal to ten times the annual land revenue which, on the date of publication of the notice referred to in sub-section (1) of section 4, is or would have been payable if such land is or had been assessable to revenue at full rates:

Provided that where an amount was originally paid to Government by the guarantee as price or premium for the land, an additional amount equal to the amount originally paid by the guarantee shall also be payable.

Explanation.—"Special cultivation" means cultivation which involves, either owing to the nature of the crop or owing to the process of cultivation, a much larger expenditure of capital per acre than is incurred by most of the cultivators in the State, and includes cultivation of tea.]

---

[1] Substituted by the Adaptation of Laws Order, 1950.

[2] Inserted by Assam Act 34 of 1950.

[3] Substituted by Act XX of 1950.

(2) When the compensation has been determined under sub-section (1) [1][and sub-section (1A)] the Collector shall make an award in accordance with the principles set out in section 11 of the Land Acquisition Act, 1894, and no amount referred to in sub-section (2) of section 23 of that Act, shall be included in the award.

(3) Where any land is requisitioned under section 3, there shall be paid [2][subject to the provisions of sub-section 4 below] to every person interested such compensation as may be agreed upon in writing between such person and the Collector, in respect of—

(*a*) the requisition of such land, and

(*b*) any damage done during the period of requisition to such land other than what may have been sustained by natural causes.

[3]["(4) Notwithstanding the provisions of sub-section (2) of section 8, in the case of land included in any grant or settlement made for special cultivation or other purposes which is lying fallow or uncultivated and which is requisitioned for the purpose of cultivation, the annual compensation payable under clause (*a*) of sub-section (3) shall in no case be more than double the annual land revenue which, on the date of order of requisition, is or would have been payable if such land is or had been assessable to revenue at full rates".]

Reference to Court.

8. (1) The Collector shall in every case—

(*a*) where any person aggrieved by an award made under sub-section (2) of section 7 makes an application requiring the matter to be referred to the Court; or

(*b*) where there is any disagreement with regard to the compensation payable under sub-section (3) of section 7 between the Collector and the person to whom possession of any land is delivered under section 6, refer the matter to the decision of the Court.

Act I of 1894.

(2) The provisions of the Land Acquisition Act, 1894, shall *mutatis mutandis* apply in respect of any reference made to the Court under sub-section 1.

Power to enter upon land, etc.

9. The [4][State] Government may, with a view to requisitioning any land or for the purpose of determination by the Collecter of the amount of compensation payable under this Act, by order—

(*a*) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the property as may be specified;

(*b*) direct that the owner or occupier of the land shall not dispose of it or alter it without permission from the Government till the expiry of such period as may be specified in the order;

---

[1] Inserted by Assam Act 34 of 1950.
[2] Inserted by *ibid.*
[3] Inserted by *ibid.*
[4] Substituted by the Adaptation of Laws Order, 1950.

(*c*) authorise any person to perform in respect of any land all or any of the functions referred to in sub-section (2) of section 4 of the Land Acquisition Act, 1894. Act I of 1894

Penalty.

10. If any person contravenes any order made under this Act he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

Protection of action taken under this Act.

11. Save as otherwise expressly provided in this Act, no decision or order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

12. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) Save as otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the [1][State] Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

Power to make rules.

13. (1) The [1][State] Government may make rules for carrying out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

(*a*) the manner of service of orders on the owner or occupier of land referred to in sub-section (2) of section 3,

(*b*) the manner of service of notice on the persons referred to in sub-section (3) of section 5,

[2]["(*c*) the manner and the conditions and terms on which land will be settled or disposed of by Government".]

Recovery of money payable to Government.

[3][**14.** Any money payable to Government under this Act shall be recoverable as arrears of land revenue.]

[1] Substituted by the Adaptation of Laws Order, 1950.

[2] Substituted by Act XVI of 1949.

[3] Inserted by Act XX of 1950.

THE WEST BENGAL LAND (REQUISITION AND ACQUISITION) ACT, 1948

West Bengal Act II of 1948

An Act to provide for the requisition and speedy acquisition of land for certain purposes

WHEREAS it is expedient to provide for the requisition and speedy acquisition of land for the purposes of maintaining supplies and services essential to the life of the community and for providing proper facilities for transport, communication, irrigation or drainage;

It is hereby enacted as follows :—

Short title, extent, commencement and duration.

1. (1) This Act may be called the West Bengal Land (Requisition and Acquisition) Act, 1948.

(2) It extends to the whole of West Bengal.

(3) It shall come into force at once.

(4) It shall remain in force up to the 31st day of March, [1][1954].

Definitions

2. In this Act unless there is anything repugnant in the subject or context,—

(*a*) "Collector", "land" and "person interested" have the same meanings as in the Land Acquisition Act, 1894; I of 1894.

(*b*) "Court" means a principal Civil Court of original jurisdiction, and includes the Court of any Additional Judge, Subordinate Judge or Munsif whom the [2][State] Government may appoint, by name or by virtue of his office, to perform, concurrently with any such principal Civil Court, all or any of the functions of the Court under this Act within any specified local limits and, in the case of a Munsif, up to the limits of the pecuniary jurisdiction with which he is vested under section 19 of the Bengal, Agra and Assam Civil Courts Act, 1887; and XII of 1887.

(*c*) "prescribed" means prescribed by rules made under this Act.

Power to requisition.

3. (1) If in the opinion of the [2][State] Government or any person authorised in this behalf by the [2][State] Government it is necessary so to do for maintaining supplies and services essential to the life of the community or for providing proper facilities for transport, communication, irrigation or drainage, the [2][State] Government or the person so authorised, as the case may be, may, by order in writing,

[1] Substituted by Act VII of 1951.

[2] Substituted by the Adaptation of Laws Order, 1950.

requisition any land and may make such further orders as appear to it or to him to be necessary or expedient in connection with the requisitioning :

Provided that no land used for the purpose of religious worship shall be requisitioned under this section.

(2) An order under sub-section (1) shall be served in the prescribed manner on the owner of the land and where the order relates to land in occupation of a tenant also on such tenant.

Acquisition of land.

4. (1) Where any land has been requisitioned under section 3, the [1][State] Government may use or deal with it in such manner as may appear to it to be expedient and may acquire such land by publishing in the official Gazette, a notice to the effect that the [1][State] Government has decided to acquire such land in pursuance of this section.

(2) Where a notice as aforesaid is published in the official Gazette the requisitioned land shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the [1][State] Government free from all encumbrances and the period of requisition of such land shall end.

Notice to persons interested.

5. (1) After the publication of a notice under sub-section (1) of section 4, the Collector shall cause public notice to be given at convenient places on or near the land to be taken, stating that the [1][State] Government has acquired the land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so acquired, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice in the manner prescribed on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by registered post in a letter addressed to him at his last known residence, address or place of business.

Release from requisition.

6. (1) Where any land requisitioned under section 3 is not acquired and is to be released from requisition, the [1][State] Government may, after making such inquiry, if any, as it considers necessary, specify by order in writing the person who appears to it to be entitled to the possession of such land.

---

[1] Substituted by *ibid.*

(2) The delivery of possession of such land to the person specified in the order made under sub-section (1) shall be a full discharge of any liability of the [1][State] Government to deliver possession to such person as may have rightful claim to possession thereof but shall not prejudice any right in respect of such land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(3) Where the person to whom the possession of any land requisitioned under section 3 is to be delivered cannot be found or is not readily traceable or has no agent or other person empowered to accept delivery on his behalf, the [1][State] Government shall publish in the official Gazette a notice declaring that such land is released from requisition and shall cause a copy thereof to be affixed on some conspicuous part of such land.

(4) When a notice referred to in sub-section (3) is published in the official Gazette, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof; and the [1][State] Government shall not be liable for any compensation or other claims in respect of such land for any period after the said date.

Compensation.

7. (1) Wherever any land is acquired under section 4 there shall be paid compensation the amount of which shall be determined by the Collector in the manner and in accordance with the principles set out in sub-section (1) of section 23 of the Land Acquisition Act, [2]1894 [so far as they may be applicable:]

I of 1894.

Provided that the market value referred to in clause first of sub-section (1) of section 23 of the said Act shall, in respect of any land acquired under this Act, be deemed to be the market value of such land on the date of publication of the notice referred to in sub-section (1) of section 4 :

Provided further that if such market value exceeds by any amount the market value of the land on the 31st day of December, 1946, on the assumption that the land had been at that date in the state in which it in fact was on the date of publication of the notice referred to in sub-section (1) of section 4, the amount of such excess shall not be taken into consideration.

(2) When the compensation has been determined under sub-section (1) the Collector shall make an award in accordance with the principles set out in section 11 of the Land Acquisition Act, 1894, and no amount referred to in sub-section (2) of section 23 of that Act, shall be included in the award.

[1] Substituted by *ibid.*

[2] Added by Act VII of 195-

(3) Where any land is requisitioned under section 3, there shall be paid to every person interested such compensation as may be agreed upon in writing between such person and the Collector, in respect of—

(*a*) the requisition of such land; and

(*b*) any damage done during the period of requisition to such land other than what may have been sustained by natural causes.

Reference to Court.

8. (1) The Collector shall in every case—

(*a*) where any person aggrieved by an award made under sub-section (2) of section 7 makes an application requiring the matter to be referred to the Court ; or

(*b*) where there is any disagreement with regard to the compensation payable under sub-section (3) of section 7 between the Collector and the person to whom possession of any land is delivered under section 6,

refer the matter to the decision of the Court.

(2) The provisions of the Land Acquisition Act, 1894, shall *mutatis mutandis* apply in respect of any reference made to the Court under sub-section (1). 1 of 1894.

Power to enter upon land, etc.

9. The [1][State] Government may, with a view to requisitioning any land or for the purpose of determination by the Collector of the amount of compensation payable under this Act, by order,—

(*a*) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the property as may be specified;

(*b*) direct that the owner or occupier of the land shall not dispose of it or alter it till the expiry of such period as may be specified in the order;

(*c*) authorise any person to perform in respect of any land all or any of the functions referred to in sub-section (2) of section 4 of the Land Acquisition Act, 1894.

Penalty.

10. If any person contravenes any order made under this Act he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

Saving.

11. Save as otherwise expressly provided in this Act, no decision or order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

Protection of action taken under this Act.

12. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

[1] Substituted by the Adaptation of Laws Order, 1950.

(2) Save as otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the [1][State] Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

Power to make rules.

13. (1) The [1][State] Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner of service of orders on the owner or occupier of land referred to in sub-section (2) of section 3 ; and

(*b*) the manner of service of notice on the persons referred to in sub-section (3) of section 5.

[1] Substituted by *ibid.*

THE DESTRUCTIVE INSECTS AND PESTS ACT, 1914 (CORRECTED UPTO 1ST APRIL, 1951)

Act No. II of 1914

An Act to prevent the introduction into and the transport from one State to another in India of any insect fungus or other pest which is or may be destructive to crops.

WHEREAS it is expedient to make provision for preventing the introduction into and the transport from one State to another of any insect, fungus or other pest, which is or may be destructive to crops; It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Destructive Insects and Pests Act, 1914.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "crops" includes all agricultural or horticultural crops, and all trees, bushes or plants;

(*b*) "import" means the bringing or taking by sea, land or air, across any customs frontier defined by the Central Government;

(*c*) "infection" means infection by any insect, fungus or other pest injurious to a crop; and

(*d*) "India" means the territory of India excluding the State of Jammu and Kashmir.

Power of the Central Government to regulate or prohibit the import of articles likely to infect.

3. (1) The Central Government may, by notification in the *Gazette of India*, prohibit or regulate, subject to such restrictions and conditions as the Central Government may impose, the import into India, or any part thereof, or any specified place therein, of any article or class of articles likely to cause infection to any crop or of insects generally or any class of insects.

(2) A notification under this section may specify any article or class of articles or any insect or class of insects either generally or in any particular manner, whether with reference to the country of origin, or the route by which imported or otherwise.

Operation of notification under section 3.

4. A notification under section 3 shall operate as if it had been issued under section 19 of the Sea Customs Act, 1878 (VIII of 1878) and the officers of Custom at every port shall have the same powers in respect of any article with regard to the importation of which such a notification has been issued as they have for the time being in respect of any article the importation of which is regulated, restricted or prohibited by the law relating to Sea Customs, and the law for the time being in force relating to Sea Customs or any such article shall apply accordingly.

Power of Central Government to regulate or prohibit transport from State to State of Insects or Articles likely to infect.

4A. The Central Government may, by notification in the official Gazette prohibit, regulate, subject to such conditions as the Central Government may impose, the export from a State or the transport from one State to another State of any article or class of articles likely to cause infection to any crop or of insects generally or any class of insects.

Refusal to carry article of which tranport is prohibited.

4B. When a notification has been issued under section 4A then, notwithstanding any other law for the time being in force, the person responsible for the booking of goods or parcels at any railway station or inland steam vessel station,—

(*a*) where the notification prohibits export or transport, shall refuse to receive for carriage at, or to forward or knowingly allow to be carried on, the railway or inland steam vessel from that station anything, of which import or transport is prohibited, consigned to any place in a State other than the State in which such station is situated; and

(*b*) where the notification imposes conditions upon export or transport, shall so refuse, unless the consignor produces, or the thing consigned is accompanied by a document or documents of the prescribed nature showing that those conditions are satisfied.

Application of section 4B to articles exported to the State of Jammu and Kashmir.

4C. Where by or under any law in force in the State of Jammu and Kashmir the import into that State of any article likely to cause infection to any crop or of any insect has been prohibited, the Central Government may, by notification in the official Gazette, declare that the provisions of section 4B shall apply in respect of any such article or insect consigned from any place in India to any place in that State:

Provided that the said State prohibits the export to India of any article or insect or class of insects the import of which into the said State has been prohibited by the Central Government.

Power of Central Government to make rules.

4D. The Central Government may by notification in the official Gazette, make rules prescribing the nature of the documents which shall accompany any article or insect the export of which or transport whereof is subject to conditions imposed under section 4A, or which shall be held by the consignor or consignee thereof, the authorities which may issue such documents and the manner in which the documents shall be employed:

Provided that the said notification shall be placed as soon as may be, on the table of both Chambers of the Parliament.

Power of State Government to make rules.

5. (1) The State Government may make rules for the detention, inspection, disinfection or destruction of any insect or class of insects or of any article or class of articles in respect of which a notification has been issued under section 3 or under section 4A or of any article which may have been in contact or proximity thereto, and for regulating the powers and duties of the officers whom it may appoint in this behalf.

(2) In making any rule under this section the State Government may direct that a breach thereof shall be punishable with fine, which may extend to one thousand rupees.

Penalties.

5A. Any person who knowingly exports any article or insect from a State or transports any article or insect from one State to another in contravention of a notification issued under section 4A, or attempts so to export or transport any article or insect, or exports or attempts to export from any part of India to the State of Jammu and Kashmir any article or insect in respect of which a notification under section 4C has been issued, and any person responsible for the booking of goods or parcels at a railway or inland steam vessel station who knowingly contravenes the provisions of section 4B shall be punishable with fine which may extend to two hundred and fifty rupees and upon any subsequent conviction, with fine which may extend to two thousand rupees.

Protection to persons acting under Act

6. No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Act.

THE MADRAS AGRICULTURAL PESTS AND DISEASES ACT, 1919[1]

Madras Act No. III of 1919

An Act for the prevention of the spread of Insect Pests, Plant Diseases and Noxious weeds

WHEREAS it is expedient to take measures to prevent the spread of insect pests, plant diseases and noxious weeds injurious to health or to crops, plants, trees or water-supply or obstructive to water-ways within the Presidency of Madras; It is hereby enacted as follows :— Preamble.

PART I

1. This Act may be called "The Madras Agricultural Pests and Diseases Act, 1919". Short title.

2. In this Act unless there is anything repugnant in the subject or context,— Interpretation clause

"Insect pest" means any insect or other invertebrate animal which has been declared by notification under section 3 of this Act to be an insect pest;

"Plant disease" means any fungoid, bacterial, parasitical or other disease which has been declared by notification under section 3 of this Act to be a plant disease;

"Noxious weed" means any weed which has been declared by notification under section 3 of this Act to be a noxious weed;

"Plant" includes the fruit, leaves, bark, cuttings or any living portion of a plant but does not include the seed unless the seed has been especially included in the definition of plant by the [2][State Government] by notification under this Act;

"Occupier" means the person having for the time being the right of occupation of any land, premises, or water or his authorised agent or any person in actual occupation of the land, premises or water; and includes a local authority and a railway or other company having such right of occupation or in such actual occupation;

"Notified area" means the area covered by a notification published under section 3;

---

[1] For Statement of Objects and Reasons see *Fort St. George Gazette*, Part IV, dated 21st May 1918, pp. 381-382. For proceedings in Council *see ibid*, dated 8th October 1918, pp. 756-762. For Report of Select Committee, *see ibid.*, dated 19th November 1918, pp. 877-878. For proceedings in Council, *see ibid*, dated 15th April 1919, pp. 444-466, and *ibid.*, dated 22nd April 1919, pp. 602-617.

[2] These words were substituted for the words "Provincial Government" by the Adaptation of Laws Order, 1950.

"Director of Agriculture" means an officer appointed by the [1][State Government] to be the Director of Agriculture and includes every person who for the time being performs the duties of the office;

"Prescribed" means prescribed by notification or rule made under this Act.

PART II

ON INSECT PESTS, PLANTS DISEASES AND NOXIOUS WEEDS

Notification by the [1][State Government] of areas affected by insect pests, plant diseases or noxious weeds.

3. [2][(i)] If the [1][State Government] [3][consider] that any pest, disease or weed in any local area is dangerous to health or is injurious to crops, plants, trees or water-supply or is obstructive to water-ways and that it is necessary to take measures to eradicate it or to prevent its introduction or re-appearance, [4][they] may by notification in the [5][(official Gazette)—

(*a*) declare that such pest, disease or weed is an insect pest, a plant disease or a noxious weed,

(*b*) prohibit or restrict the removal of any plant from one place to another or prescribe such other preventive or remedial measures as may be necessary in respect of such pest, disease or weed, and

(*c*) define the local area within which and the period during which such notification shall be in force.

[6][(2) Where the preventive or remedial measures 'prescribed' in sub-section (1) include the removal or destruction of any plant in order to eradicate or prevent the introduction or re-appearance of any insect pest, such notification shall, prior to the date on which the notification shall come into force, be proclaimed in the local area defined in the notification in such manner as may be prescribed.]

Liability on the occupiers.

4. On the issue of a notification under section 3 every occupier within the notified area shall be bound to carry out the remedial and preventive measures prescribed in such notification.

Explanation

For the purpose only of this section the [1][State Government] shall be deemed to be the occupier in the case of all lands which are the property [7][of the Government] within the meaning of section 2 (1) of the Madras Land Encroachment Act, 1905.

---

[1] These words were substituted for the words "Provincial Government" by the Adaptation of Laws Order, 1950.

[2] Section 3 was renumbered as sub-section (i) of section 3 by section 2 of the Madras Agricultural Pests and Diseases (Amendment) Act, 1925 (Madras Act VII of 1925).

[3] This word was substituted for the word "considers" by paragraph 5 (2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

[4] This word was substituted for the word "he" by *ibid.*

[5] These words were substituted for the words "Fort St. George Gazette" by paragraph 4(1), *ibid.*

[6] Sub-section (2) was added by section 2 of the Madras Agricultural Pests and Diseases (Amendment) Act, 1925 (Madras Act VII of 1925).

[7] These words were substituted by the Adaptation of Laws Order, 1950.

Right of entry.

5. Any officer appointed under section 19 may enter on any land or water within the notified area and take such action as may be necessary in order to ascertain—

(*a*) whether any insect pest, plant disease or noxious weed is there present; and

(*b*) whether the prescribed remedial or preventive measures or both, as the case may require, have been taken.

Procedure where measures prescribed to eradicate insect pests include removal or destruction of plants.

[1][**5A.** Where the remedial or preventive measures prescribed by a notification under section 3 include the removal or destruction of any plant in order to eradicate or prevent the introduction or re-appearance of any insect pest, any occupier who fails to remove such plant on or before the date specified in the notification shall be deemed to have committed an offence under this Act and the removal or destruction of such plant may be carried out by the inspecting officer or under his supervision.]

Inspecting officer may serve a notice on occupier to take remedial or preventive action.

6. (1) [2][If any inspecting officer appointed under section 19 finds that any prescribed remedial or preventive measures other than those specified in section 5A have not been properly carried out] he may, subject to such rules as the [3][State Government] may prescribe under section 21(*g*), call upon the occupier by notice in writing to carry out the prescribed remedial or preventive measures within a time to be specified in such notice.

(2) The occupier may within seven days of the service upon him of such notice prefer an appeal to the prescribed officer who may make such order as he thinks fit. The decision on such appeal shall be final.

(3) The officer receiving the appeal may extend the time specified in the notice under sub-section (1).

Occupier failing to comply with the notice served on him commits an offence.

7. If any occupier upon whom notice has been served under section 6 fails to comply with the notice within the time specified by the inspecting officer, or, in cases where an appeal has been preferred, by the prescribed officer on appeal, he shall be deemed to have committed an offence under this Act and the prescribed remedial or preventive measures may be carried out by the inspecting officer or under his supervision.

---

1 Section 5A was inserted by section 3 of Madras Act VII of 1925.

2 These words were substituted for the words "If such inspecting officer finds that the prescribed remedial or preventive measures have not been properly taken" by section 4, *ibid.*

3 These words were substituted for the words "Provincial Government" by the Adaptation of Laws Order, 1950.

Recovery from the occupier of the cost of preventive or remedial measures carried out by the inspecting officer.

8. (1) If any prescribed remedial or preventive measures are carried out by the inspecting officer [1][under section 5-A or 7] the cost of such measures shall be recovered from the occupier as if it were an arrear of land revenue, but such occupier may appeal to the Collector within thirty days from the date of demand on the ground that—

(*a*) charges for items other than the cost of labour material or use of implements have been included, or

(*b*) the charges for labour, material or use of implements are unduly high.

(2) The order of the Collector on such appeal shall be final.

Destruction of trees or plants in execution of remedial or preventive measures and compensation therefor.

9. (1) If in carrying out any prescribed remedial or preventive measures under [2][section 5A or 7] the inspecting officer destroys or causes to be destroyed.—

(*a*) any tree which is infected with the insect pest or plant disease, or

(*b*) any plants, not being trees, some or all of which are affected by the insect pest or plant disease but which are grown so closely together that it is not ordinarily practicable to treat each plant individually, or

(*c*) any plants including trees which, though not so infected, have in his opinion become liable to such infection,

he shall serve a notice in writing on the occupier stating particulars of the trees and plants destroyed and his estimate of their value.

(2) When any trees or plants are destroyed as aforesaid the occupier shall be entitled to compensation as follows :—

for a tree destroyed under sub-section [1](*a*)—not exceeding one-half the value thereof;

for plants destroyed under sub-section 1(*b*)—not exceeding two-thirds of the value thereof;

for plants destroyed under sub-section 1(*c*)—their full value :

[3][Provided that no compensation shall be payable for cotton plants the destruction of which has been prescribed in order to eradicate or prevent the introduction or re-appearance of any insect pest.]

(3) For the purpose of this section "value" shall mean the value of the tree or plant at the time of its destruction.

---

1 The words and figures "under section 5A or 7" were substituted for the words and figure "under section 7" by section 5 of the Madras Agricultural Pests and Diseases (Amendment) Act 1925 (Madras Act VII of 1925).

2 The words and figures "section 5A or 7" were substituted for the word and figure "section 7" by section 6(i), *ibid.*

3 The proviso was substituted by section 6(ii) of the Madras Agricultural Pests and Diseases (Amendment) Act, 1925 (Madras Act VII of 1925).

Claims for compensation how and when to be made.

10. All claims for compensation under section 9 shall be made in writing to the valuing officer appointed by the [1][State Government] within one month from the service of the notice mentioned in sub-section (1) of section 9.

Award of compensation.

11. (1) The valuing officer after making such inquiry and taking such evidence as he may consider necessary shall award compensation not exceeding the rates prescribed in section 9 and transmit or cause to be transmitted copies of his award in writing to the occupier and to the inspecting officer.

(2) The date within which and the officer before whom an appeal may be preferred shall be entered in the award.

Appeal against award.

12. Either the occupier or the inspecting officer may within thirty days of the date of receipt of the award prefer an appeal against such award to the prescribed officer whose decision shall be final.

Obligation of village officers to report on insect pests, plant diseases or noxious weeds.

13. Village officers of villages in taluks adjoining a notified area within whose village limits a pest, disease or weeds similar to the insect pest, plant disease or noxious weed within the notified area shall appear, shall report the same to the Collector.

Punishment for offence under section 5A or 7.

14. Any one convicted by a magistrate of an offence under [2][section 5A or 7] of this Act shall be liable to fine not exceeding Rs. 50 or in default to simple imprisonment for a period not exceeding ten days.

Contravening notification under section 3(b) to be an offence; and punishment therefor.

15. If any person contravenes a notification under section 3(*b*) of this Act prohibiting the removal of any plant from one place to another he shall be deemed to have committed an offence under this Act. Any one convicted by a magistrate of such an offence shall, in addition to confiscation and destruction of the plant in respect of which the offence was committed, be liable to fine not exceeding Rs. 50, or in default to simple imprisonment for a period not exceeding ten days.

PART III

General

Compensation to occupier for trees and plants destroyed.

16. Where an occupier destroys any trees or plants in obedience to a notice issued under section 6, he may be granted compensation in accordance with such rules as may be made under this act.

Compensation not payable for noxious weed destroyed.

17. Notwithstanding anything in this Act, no compensation shall be payable for any noxious weed destroyed.

---

1 These words were substituted for the words "Provincial Government" by the Adaptation of Laws Order, 1950.

2 The words and figures "section 5A or 7" were substituted for the word and figure "section 7" by section 5 of the Madras Agricultural Pests and Diseases (Amendment) Act, 1925 (Madras Act VII of 1925).

Institution of prosecution or other legal proceedings under the Act.

18. (1) No suit, prosecution or other legal proceedings shall lie against any officer for anything done under this Act in good faith or for any damage to property caused by any action taken in good faith in carrying out the provisions of this Act.

(2) No prosecution under this Act shall be commenced without the previous sanction of the District Collector.

(3) No prosecution under this Act shall be commenced after six months from the date of the alleged offence.

Appointment of inspecting officers.

19. The [1][State Government] may from time to time appoint inspecting officers for the purpose of carrying out the duties prescribed in section 5, [2][5-A] and 6.

Delegation of powers.

20. The [1][State Government] may by notification in the [3][official Gazette] delegate all or any of [4][their] powers under this Act except those conferred by section 3 and 21 to the Director of Agriculture or any other officer or to any local authority or the president or chairman of any local authority.

Power to make rules.

21. The [1][State Government] may by notification in the [3][official Gazette] make such rules not inconsistent with the provisions of this Act as may from time to time be necessary—

(*a*) including seed within the definition of a plant,

(*b*) prescribing the methods of publication of descriptions of insect pests, plant diseases and noxious weeds and of the treatment to be followed,

(*c*) prescribing the qualifications required of inspecting officers,

(*d*) prescribing the problem procedure to be followed in making an, award under section 11 and the methods and conditions of valuation of trees and plants,

(*e*) providing for payment of compensation under section 16 and for all matters connected therewith,

(*f*) prescribing the officers to whom appeals may be made, and the procedure to be followed in respect of such appeals,

(*g*) prescribing the procedure, notices and method of service thereof, notifications, registers and other processes needed for the effectual working of this Act,

(*h*) generally to carry out the purposes of this Act.

---

1 These words were substituted for the words "Provincial Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

2 The figure and letter were inserted by section 8 of the Madras Agricultural Pests and Diseases (Amendment) Act, 1925 (Madras Act VII of 1925).

3 These words were substituted for the words "Fort St. George Gazette" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

4 This word was substituted for the word "his" by paragraph 5(2), *ibid.*

THE TRAVANCORE PLANT PESTS AND PLANT DISEASES REGULATION 1919

Regulation XII of 1919 (1094)

[*Passed b His Highness the Maha Raja of Travancore, on the 9th August, 1919, corresponding with the 24th. Karkatakom, 1094, under section 13 of Regulation V of 1073.*]

A Regulation to provide for the prevention, arrest and eradication of plant pests and plant diseases in Travancore.

WHEREAS it is expedient to provide for the prevention, arrest and eradication of plant pests and plant diseases in Travancore; It is hereby enacted as follows :— Preamble.

1. (1) This Regulation may be called "The Travancore Plant Pests and Plant Diseases Regulation of 1094". Short title, extent and Commencement.

(2) It extends to the whole of Travancore, and shall come into force on the 1st Chingom, 1095.

2. In this Regulation, unless there be something repugnant in the subject or context,— Interpretation.

"Plant" means plant, tree, shrub, bud, cutting, graft, scion, nursery stock and fruit, and includes all members of the vegetable kingdom whether living or dead or any part or parts of such, but shall not include canned or preserved fruits; nor does it include the seed, unless the same has been specifically included in the definition of "plant" by our Government by a Notification under this Regulation ;

"Pest" means such insect or animal organism, plant, fungus, or other vegetable organism as Our Government may from time to time declare to be pests for the purposes of this Regulation;

"Plant disease" means any other disease which Our Government may from time to time declare to be a plant disease for the purposes of this Regulation ;

"Owner or occupier" means the proprietor, lessee, superintendent or other person in actual charge of any cultivated or uncultivated land or of any water ;

"Infection" means infection by any pest or plant disease injurious to a plant ;

"Import" means import by sea into Travancore from outside British India.

3. Our Government may, from time to time, publish by Notification in Our Government Gazette, and may revoke, alter, modify, or add to, Schedules specifying— Notification of pests and plant diseases.

(*a*) the insects, plants or fungi, which are declared to be pests for the purposes of this Regulation;

(*b*) the diseases which are declared to be plant diseases for the purposes of this Regulation; and

(*c*) the measures which it shall be within the power of the Director of Agriculture to require to be taken for the prevention, arrest or eradication of such pests or plant diseases.

Power of Government to regulate or prohibit the import of articles likely to cause infection to any plant.

4. (1) Our Government may, by Notification in Our Government Gazette, prohibit, or regulate, subject to such restrictions and conditions as may be imposed, the import into or the removal from one place to another in Travancore of any article or class of articles likely to cause infection to any plant.

(2) A Notification under this section may specify any article or class of articles, either generally or in any particular manner, whether with reference to the country of origin, or the route by which imported or otherwise.

Operation of Notification under section 4.

5. A Notification under section 4 shall operate as if it had been issued under section 18 of the Sea Customs Regulation, V of 1088, and the Officers of Customs at every Port shall have the same powers in respect of any article with regard to the importation of which such a Notification has been issued as they have for the time being in respect of any article the importation of which is regulated, restricted or prohibited by the law relating to Sea Customs and the law for the time being in force relating to Sea Customs or any such article shall apply accordingly.

Right of entry.

6. It shall be lawful for the Director of Agriculture or any Officer empowered by our Government in this behalf or any person authorised in writing by the Director or by such Officer to enter upon at all reasonable times any land or water reputed to be affected by any pest or plant disease and inspect and examine any plant or plants on such land or water, and the owner of such land or water shall afford all reasonable facilities for such inspection and examination.

Power to require preventive or remedial measures to be taken.

7. On being satisfied of the existence of any pest or plant disease, the Director of Agriculture or any Officer duly authorised by Our Government in this behalf may require, by means of a notice served on the owner or occupier of any land or water affected by such pest or plant disease, the carrying out, within such time as he may specify, of such measures for the eradication, arrest or prevention of the pest or plant disease in question as may seem to him desirable:

Provided, however, that such measures are in accordance with the requirement laid down in the Schedule of such measures in force for the time being as provided in section 3 of this Regulation.

Power of Officer to carry out preventive or remedial measures on failure of owner or occupier to do so.

8. (1) If any owner or occupier on whom notice under section 7 has been duly served fails to comply therewith, the Director of Agriculture or any Officer duly authorised by Our Government in this behalf may enter upon such place and cause to enter there on such persons with such instruments and things as may be necessary, and proceed to take or cause to be taken all such measures as may have been

required under section 7, without being liable for trespass or any injury to crops, pasture or fishery right in so doing. The cost of taking such measures shall be borne by the owner or occupier and shall be recoverable as if they are arrears of land revenue.

(2) For the purpose of carrying out the measures referred to in sub-section (1), the Director of Agriculture, or any person authorised by Our Government in this behalf, may destroy or cause to be destroyed—

(*a*) any plant which is infected;

(*b*) any plant which, though not infected, has in his opinion become liable to infection.

Offences.

9. If any person on whom a notice has been served under the provisions of section 7 wilfully fails or neglects to carry out the requisition contained in such notice within the time specified therein, or if he obstructs or impedes or aids in obstructing or impeding any Officer in the execution of any duty under this Regulation, he shall be liable to a fine not exceeding twenty-five rupees and upon a second or subsequent conviction to a fine not exceeding one hundred rupees.

Power to make Rules.

10. (1) Our Government may make Rules for the purpose of carrying out the provisions of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing provision, Our Government may make Rules—

(*a*) for the detention, inspection, disinfection or destruction of any article or class of articles in respect of which a Notification has been issued under section 4;

(*b*) prescribing the methods by which and the time within which the prevention, arrest or eradication of a pest or plant disease shall be completed;

(*c*) prescribing the form, the terms and the mode of service of a notice under section 7;

(*d*) prescribing the circumstances under which the compensation for the destruction of plants may be given and the mode of assessing the actual value of the same.

(3) All Rules made under sub-sections (1) and (2) shall be published in Our Government Gazette and thereupon shall have the force of law.

(4) Our Government may, subject to the restriction mentioned in sub-section (3) alter or vary any Rule made under this section.

(5) In making any Rule under this section, Our Government may direct that a breach thereof shall be punishable with a fine which may extend to twenty-five rupees.

Protection to persons acting under Regulation.

11. No suit, prosecution or other legal proceeding shall lie against any Officer for anything in good faith done or intended to be done under this Regulation.

THE COORG AGRICULTURAL PESTS AND DISEASES ACT, 1933

Coorg Act No. II of 1933

An Act to make provision for the prevention of the spread of insect pests, plant diseases and noxious weeds.

Preamble.

WHEREAS it is expedient to take measures to prevent the spread of insect pests, plant diseases and noxious weeds injurious to health or to crops, plants, trees or water supply or obstructive to water-ways within the Province of Coorg ; And whereas the previous sanction of the Governor-General has been obtained under sub-section (3) of section 80A of the Government of India Act, to the passing of this Act;

It is hereby enacted as follows :—

PART I

PRELIMINARY

Short title.

1. This Act may be called "The Coorg Agricultural Pests and Diseases Act, 1933".

Interpretation clause.

2. In this Act unless there is anything repugnant in the subject or context,—

"Insect pest" means any insect or other invertebrate animal which has been declared by notification under sub-section (1) of section 3 of this Act to be an insect pest ;

"Plant disease" means any fungoid, bacterial, parasitical or other disease which has been declared by notification under sub-section (1) of section 3 of this Act to be a plant disease ;

"Noxious weed" means any weed which has been declared by notification under sub-section (1) of section 3 of this Act to be a noxious weed;

"Plant" includes the fruit, leaves, bark, cuttings or any living portion of a plant but does not include the seed unless the seed has been especially included in the definition of plant by the Chief Commissioner of Coorg by notification under this Act;

"Occupier" means the person having for the time being the right of occupation of any land, premises or water or his authorized agent or any person in actual occupation of the land, premises or water; and includes a local authority and a railway or other company having such right of occupation or in such actual occupation;

"Notified Area" means the area covered by a notification published under sub-section (1) of section 3;

"Prescribed" means prescribed by notification or rules made under this Act.

PART II

Of insect pests, plant diseases and noxious weeds.

Notification by the Chief Commissioner of area affected by insect pests, plant diseases or noxious weeds.

3. (1) If the Chief Commissioner of Coorg considers that any pest, disease or weed in any local area is dangerous to health or is injurious to crops, plants, trees or water supply or is obstructive to waterways and that it is necessary to take measures to eradicate it or to prevent its introduction or reappearance, he may by notification in the "Coorg Gazette"—

(*a*) declare that such pest, disease or weed is an insect pest, a plant disease or a noxious weed,

(*b*) prohibit or restrict the removal of any plant from one place to another or prescribe such other preventive or remedial measures as may be necessary in respect of such pest, disease or weed, and

(*c*) define the local area within which and the period during which such notification shall be in force.

(2) Where the preventive or remedial measures prescribed in sub-section (1) include the removal or destruction of any plant in order to eradicate or prevent the introduction or reappearance of any insect pest, such notification shall, prior to the date on which the notification shall come into force, be proclaimed in the local area defined in the notification in such manner as may be prescribed.

Liability on the occupiers.

4. On the issue of a notification under section 3 every occupier within the notified area shall be bound to carry out the remedial and preventive measures prescribed in such notification.

Right of entry.

5. Any officer appointed under section 20 may enter on any land or water within the notified area and take such action as may be necessary in order to ascertain—

(*a*) whether any insect pest, plant disease or noxious weed is there present; and

(*b*) whether the prescribed remedial or preventive measures or both, as the case may require, have been taken.

Procedure where measures prescribed to eradicate insect pests include removal or destruction of plants.

6. Where the remedial or preventive measures prescribed by a notification under section 3 include the removal or destruction of any plant in order to eradicate or prevent the introduction or reappearance of any insect pest, any occupier who fails to remove such plant on or before the date specified in the notification shall be deemed to have committed an offence under this Act and the removal or destruction of such plant may be carried out by the inspecting officer or under his supervision.

Inspecting officer may serve a notice on occupier to take remedial or preventive action.

7. (1) If any inspecting officer appointed under section 20 finds that any prescribed remedial or preventive measures other than those specified in section 6 have not been properly carried out, he may, subject to such rules as the Chief Commissioner of Coorg may prescribe under section 22 (*g*) call upon the occupier by notice in writing to carry out the prescribed remedial or preventive measures within a time to be specified in such notice.

(2) The occupier may within thirty days of the service upon him of such notice prefer an appeal to the prescribed officer who may make such order as he thinks fit. The decision on such appeal shall be final.

(3) The officer receiving the appeal may extend the time specified in the notice under sub-section (1).

Occupier failing to comply with the notice served on him commits an offence.

8. If any occupier upon whom notice has been served under section 7 fails to comply with the notice within the time specified by the inspecting officer or, in cases where an appeal has been preferred, by the prescribed officer on appeal, he shall be deemed to have committed an offence under this Act and the prescribed remedial or preventive measures may be carried out by the inspecting officer or under his supervision.

Recovery from the occupier of the cost of preventive or remedial measures carried out by the inspecting officer.

9. (1) If any prescribed remedial or preventive measures are carried out by the inspecting officer under section 6 or 8 the cost of such measures shall be recoverable from the occupier as if it were an arrear of land revenue, but such occupier may appeal to the Commissioner of Coorg within thirty days from the date of demand on the ground that,—

(*a*) charges for items other than cost of labour, material or use of implements have been included, or

(*b*) the charges for labour, material or use of implements are unduly high.

(2) The order of the Commissioner of Coorg on such appeal shall be final.

Destruction of trees or plants in execution of remedial or preventive measures and compensation therefor.

10. (1) If in carrying out any prescribed remedial or preventive measures under section 6 or 8 the inspecting officer destroys or causes to be destroyed—

(*a*) any tree which is infected with the insect pest or plant disease, or

(*b*) any plants, not being trees, some or all of which are affected by the insect pest or plant disease but which are grown so closely together that it is not ordinarily practicable to treat each plant individually, or

(*c*) any plants including trees which, though not so infected, have in his opinion become liable to such infection, he shall serve a notice in writing on the occupier stating particulars of the trees and plants destroyed and his estimate of their value;

(2) when any trees or plants are destroyed as aforesaid, the occupier shall be entitled to compensation as follows :—

for a tree destroyed under sub-section (1) (*a*)—not exceeding one-half the value thereof;

for plants destroyed under sub-section (1) (*b*) —not exceeding two-thirds of the value thereof;

for plants destroyed under sub-section (1) (*c*)—their full value:

Provided that no compensation shall be payable for coffee plants, the destruction of which has been prescribed in order to eradicate or prevent the introduction or reappearance of the coffee borer pest (Xylotrechus Quadripes).

(3) For the purposes of this section 'value' shall mean the value of the tree or plant at the time of its destruction.

Claims for compensation how and when to be made.

11. All claims for compensation under section 10 shall be made in writing to the valuing officer appointed by the Chief Commissioner of Coorg within one month from the service of the notice mentioned in sub-section (1) of section 10.

Award of compensation.

12. (1) The valuing officer after making such inquiry and taking such evidence as he may consider necessary shall award compensation not exceeding the rates prescribed in section 10 and transmit or cause to be transmitted copies of his award in writing to the occupier and to the inspecting officer.

(2) The date within which and the officer before whom an appeal may be preferred shall be entered in the award.

Appeal against award.

13. Either the occupier or the inspecting officer may within thirty days of the date of receipt of the award prefer an appeal against such award to the prescribed officer whose decision shall be final.

Obligation of village officers to report on insect pests, plant diseases or noxious weeds.

14. Village officers of villages in taluks adjoining a notified area within whose village limits a pest, disease or weed similar to the insect pest, plant disease or noxious weed within the notified area shall appear, shall report the same to the Commissioner of Coorg.

Punishment for offence under section 6 or 8.

15. Any one convicted by a Magistrate of an offence under section 6 or 8 of this Act shall be liable to fine not exceeding Rs. 10, or in default to simple imprisonment for a period not exceeding two days.

Contravening notification under sub-section (1)(b) of section 3 to be an offence, and punishment therefor.

16. If any person contravenes a notification under sub-section (1) (*b*) of section 3 of this Act prohibiting or restricting the removal of any plant from one place to another he shall be deemed to have committed an offence under this Act. Any one convicted by a magistrate of such an offence shall, in addition to confiscation and destruction of the plant in respect of which the offence was committed, be liable to fine not exceeding Rs. 10 or in default to simple imprisonment for a period not exceeding two days.

PART III

GENERAL

Compensation to occupier for trees and plants destroyed.

17. Where an occupier destroys any trees or plants in obedience to a notice issued under section 7, he may be granted compensation in accordance with such rules as may be made under this Act.

Compensation not payable for noxious weed destroyed.

18. Notwithstanding anything in this Act, no compensation shall be payable for any noxious weed destroyed.

Institution of prosecutions or other legal proceedings under the Act.

19. (1) No suit, prosecution or other legal proceedings shall lie against any officer for anything done under this Act in good faith or for any damage to property caused by any action taken in good faith in carrying out the provisions of this Act.

(2) No prosecution under this Act shall be commenced without the previous sanction of the Commissioner of Coorg.

(3) No prosecution under this Act shall be commenced after six months from the date of the alleged offence.

Appointment of inspecting officers.

20. The Chief Commissioner of Coorg may from time to time appoint inspecting officers for the purpose of carrying out the duties prescribed in sections 5, 6 and 7.

Delegation of powers.

21. The Chief Commissioner of Coorg may by notification in the "Coorg Gazette" delegate all or any of his powers under this Act except those conferred by sections 3 and 22 to the Commissioner of Coorg.

Power to make rules.

22. The Chief Commissioner of Coorg may by notification in the "Coorg Gazette" make such rules not inconsistent with the provisions of this Act as may from time to time be necessary—

(*a*) including seed within the definition of a plant,

(*b*) prescribing the methods of publication of descriptions of insect pests, plant diseases and noxious weeds and of the treatment to be followed,

(*c*) prescribing the qualifications required of inspection officers,

(*d*) prescribing the procedure to be followed in making an award under section 12 and the methods and conditions of valuation of trees and plants,

(*e*) providing for payment of compensation under section 17 and for all matters connected therewith,

(*f*) prescribing the officers to whom appeals may be made and the procedure to be followed in respect of such appeals,

(*g*) prescribing the procedure, notices and method of service thereof, notifications, registers and other processes needed for the effectual working of this Act, and

(*h*) generally to carry out the purposes of this Act.

THE PATIALA DESTRUCTIVE INSECTS AND PESTS ACT, 1943 (2001)

Act No. VII of 1943 (2001)

An Act to prevent the introduction into and the transportation from one place to another in Patiala State of any insect, fungus or other pest, which is or may be destructive to crops.

WHEREAS it is expedient to make provision for preventing the introduction into Patiala State or transportation from one place to another in Patiala State, of any insect fungus or other pest, which is or may be destructive to crops;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Patiala Destructive Insects and Pests Act, 2001.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "crops" includes all agricultural or horticultural crops and all trees, bushes and plants; and

(*b*) "infection" means infection by any insect, fungus or other pest injurious to a crop.

Power of Ijlas-i-Khas to regulate or prohibit the import of articles likely to infect.

2. (1) The Ijlas-i-Khas may, by notification in the *Patiala Government Gazette*, prohibit or regulate, subject to such restrictions and conditions as it may impose, the import into Patiala State or any part thereof, or any specified place therein, of any article or class of articles likely to cause infection to any crop or of insects generally or of any class of insects.

(2) A notification under this section may specify an article or class of articles, or any insects or class of insects either generally or in any particular manner, whether with reference to the country of origin, or the route by which imported or otherwise.

Power of Ijlas-i-Khas to regulate or prohibit transport of insects or articles likely to infect.

4. The Ijlas-i-Khas may, by notification in the *Patiala Government Gazette*, prohibit or regulate, subject to such conditions as the Ijlas-i-Khas may impose, the transport from one place to another in Patiala State of any article or class of articles likely to cause infection to any crop or of insects generally or any class of insects.

Refusal to carry article of which transport is prohibited.

5. When a notification has been issued under section 4, then notwithstanding any other law for the time being in force, the person responsible for the booking of goods or parcels at any railway station—

(*a*) where the notification prohibits transport, shall refuse to receive for carriage at, or to forward or knowingly allow to be carried on, the railway

from that station anything of which transport is prohibited, consigned to any place to which transport is prohibited by the notification; and

(*b*) where the notification imposes conditions upon transport, shall so refuse, unless the consignor produces, or the thing consigned is accompanied by, a document or documents of the prescribed nature showing that those conditions are satisfied.

Application of section 5 to articles exported to British India or Indian States.

6. Where, by or under any law in forms in the territories of British India or of any Indian State, the import to British India or that State of any article likely to cause infection to any crop or of any insect has been prohibited, the Ijlas-i-Khas may, by notification in the *Patiala Government Gazette*, prohibit or regulate subject to such conditions as the Ijlas-i-Khas may impose, the export of any such article or insect from Patiala State to British India or to that State, and further declare that the provisions of section 5 shall apply in respect of any such article or insect consigned from any place in Patiala State to any place in British India or that State:

Provided that the Government of India or of such Indian State prohibits the export to Patiala State of any article or insects or class of insects, the import of which into British India or that State has been prohibited by the Ijlas-i-Khas.

Power of Ijlas-i-Khas to make rules.

7. The Ijlas-i-Khas may by notification in the *Patiala Government Gazette*, make rules prescribing the nature of the documents which shall accompany any article or insect the transport whereof is subject to conditions imposed under section 5, or which shall be held by the consignor or consignee thereof, the authorities which may issue such documents and the manner in which the documents shall be employed.

Power of Ijlas-i-Khas to make rules.

8. (1) The Ijlas-i-Khas may make rules for the detention, inspection, disinfection or destruction of any insect or class of insects, or of any article or class of articles in respect of which a notification has been issued under section 3 or under section 4 or under section 6 or of any article which may have been in contact or proximity thereto and for regulating the powers and duties of the officers whom it may appoint in this behalf.

(2) In making any rule under this section the Ijlas-i-Khas may direct that a breach thereof shall be punishable with fine, which may extend to one thousand rupees.

Penalties.

9. Any person who knowingly imports into Patiala State any article or insect or transports any article or insect from one place to another in Patiala State in contravention of a notification issued under section 3 or section 4 or attempts so to import or transport any article or insect, or exports or attempts to export from Patiala State to British India or to an Indian State any article or insect in respect of which a notification under section 6 has been issued, and any person responsible for the booking of goods or parcels at a

railway station who knowingly contravenes the provisions of section 5 shall be punishable with fine which may extend to two hundred and fifty rupees and, upon any subsequent conviction, with fine which may extend to two thousand rupees and the article or insect in connection with which the offence is committed shall be confiscated and destroyed.

Procedure.

10. Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898, in force in the State *mutatis mutandis*, offences under this Act shall be cognizable and bailable, and shall be triable in a summary way by a Magistrate not below the rank of a Magistrate of the First Class.

Public to give information of offences.

11. Every person aware of the wrongful entry of any article of insect in respect of which a notification is issued under section 3 shall, in the absence of reasonable excuse the burden of proving which shall be upon the person so aware, forthwith make a report of such wrongful entry to the nearest Magistrate or to the officer in charge of the nearest police station.

Protection to persons acting under Act.

12. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

THE BOMBAY AGRICULTURAL PESTS & DISEASES ACT, 1947

Bombay Act No. XLIII of 1947

An Act to repeal and re-enact the Bombay Agricultural Pests and Diseases Act, 1941, providing for the prevention of the introduction, spread or reappearance of insect pests, plant diseases and noxious weeds injurious to crops, plants or trees in the Province of Bombay.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, it is expedient to repeal and re-enact the Bombay Agricultural Pests and Diseases Act, 1941, providing for the prevention of the introduction, spread or reappearance of insect pests, plant diseases and noxious weeds injurious to crops, plants or trees in the Province of Bombay; It is hereby enacted as follows :— 26 Geo. 5, Ch. 2. Bom. XIV of 1941.

Short title and extent.

1. (1) This Act may be called the Bombay Agricultural Pests and Diseases Act, 1947.

(2) It extends to the whole of the [1][State] of Bombay.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,—

(1) "Assessor" means an assessor appointed under section 14;

(2) "Insect pest" means any pest declared to be an insect pest by notification under section 3;

(3) "Inspector" means an inspector appointed under section 14;

(4) "Notified Area" means any area specified in the notification issued under section 3 in which a declaration made under the said section shall remain in force;

(5) "Noxious weed" means any weed declared to be a noxious weed by notification under section 3;

(6) "Occupier" means the person having for the time being the right of occupation of any land or premises, or his authorised agent or any person in actual occupation of the land or premises;

(7) "Pest" means any insect or other invertebrate animal;

(8) "Plant" includes the fruit, leaves, bark, cutting and any living portion of a plant but does not include the seed :

[1] Substituted by the Adaptation of Laws Order, 1950.

Provided that the [1][State] Government may by notification in the official Gazette direct that the seed of any particular plant shall be included in the definition of plant;

(9) "Plant disease" means any fungoid, bacterial, parasitical or other disease declared to be a plant disease by notification under section 3;

(10) "Prescribed" means prescribed by rules made under section 17.

Power to declare insect pests, plant diseases and noxious weeds and direct measures to eradicate or prevent them.

3. Whenever it appears to the [1][State] Government that any pest, disease or weed is injurious to crops, plants or trees in any local area and that it is necessary to take measures to eradicate such pest, disease or weed, or to prevent its introduction, spread or reappearance, the [State] Government may, by notification in the official Gazette—

(*i*) declare that such pest, disease or weed is an insect pest, plant disease or noxious weed;

(*ii*) specify the local area within which and the period during which such declaration shall remain in force;

(*iii*) prohibit or restrict the removal of any plant or tree from one place to another; and

(*iv*) direct the carrying out of such preventive or remedial measures including the destruction of any pest, disease or noxious weed or any crops, plants or trees, as the [1][State] Government may deem necessary, in order to eradicate such pest, disease or weed or to prevent its introduction, spread or reappearance.

Duties of occupier on the issue of a notification under section 3.

4. On the issue of a notification under section 3, every occupier within the notified area shall carry out the preventive or remedial measures mentioned in such notification.

Power of Inspector to enter upon any land or premises.

5. Any Inspector may, after giving the prescribed notice, enter upon any land or premises situated in a notified area for the purposes of ascertaining—

(*i*) whether there is any insect pest, plant disease or noxious weed on such land or premises; and

(*ii*) whether the preventive or remedial measures mentioned in the notification issued under section 3 have been carried out.

Notice to occupier to carry out preventive or remedial measures.

6. (1) If, on inspection of any land or premises under section 5, the Inspector finds that there is any insect pest, plant disease or noxious weed on such land or premises or that the preventive or remedial measures mentioned in the notification issued under section 3 have not been carried out, the Inspector may, subject to the general or special order of the [1][State] Government, call upon the occupier of such land or premises, by notice in writing, to carry out such preventive or remedial measures within the time specified in such notice.

[1] Substituted by *ibid.*

(2) Within seven days from the date of the service upon him of the notice under sub-section (1), the occupier may prefer an appeal to the Collector or such other officer as the Collector may appoint in this behalf.

(3) On receipt of the appeal under sub-section (2) the Collector or other officer, as the case may be, may extend the time specified in the notice under sub-section (1) and shall, after giving the occupier an opportunity of being heard, pass such order on the appeal as he thinks fit.

(4) Every order passed under sub-section (3) shall be final.

Failure to comply with notice under section 6 and power of Inspector to carry out measures.

7. (1) If an occupier upon whom a notice has been served under sub-section (1) of section 6 does not comply with such notice within the time specified therein, or if an appeal has been preferred under sub-section (2) of section 6, does not comply with the order passed on such appeal, the Inspector may carry out the preventive or remedial measures mentioned in such notice or order.

(2) The costs of any preventive or remedial measures carried out under sub-section (1) shall be payable by the occupier and shall be recoverable from him as an arrear of land revenue.

(3) Any such occupier may, within thirty days from the date of the first demand of such costs from him, prefer an appeal to the Collector or to such other officer as the Collector may appoint in this behalf on the ground that—

(*i*) the costs include charges for items other than the cost of labour, material or use of implements, or

(*ii*) the charges for labour or material or use of implements are unreasonably high.

(4) On receipt of the appeal under sub-section (3), the Collector or other officer, as the case may be, shall, after giving the occupier an opportunity of being heard, pass such order thereon as he thinks fit.

(5) Every order passed under sub-section (4) shall be final.

Compensation for destruction of trees or plants.

8. (1) If, in carrying out any preventive or remedial measures under sub-section (1) of section 7 the Inspector destroys or causes to be destroyed—

(*a*) any tree which is infected with an insect pest or a plant disease, or

(*b*) any plants some or all of which are infected with insect pest or plant disease and which are grown so closely together that it is not practicable to treat each plant individually, or

(*c*) any plants or trees, which though not infected at the time with an insect pest or a plant disease, are, in the opinion of the Inspector, liable to such infection,

the Inspector shall give notice to the occupier of the land or premises on which such trees or plants were grown stating particulars of the trees or plants destroyed and his estimate of their value.

(2) When any tree or plant is destroyed under sub-section (1), the occupier shall be entitled to compensation determined in the manner provided in section 11.

Compensation for tree or plants destroyed by occupier.

9. If an occupier in carrying out any preventive or remedial measures, directed to be carried out by the notification issued under section 3 or the notice given under sub-section (1) of section 6, destroys any tree or plant in accordance with such direction, he shall be entitled to such compensation as he would have been entitled to under section 8 if such tree or plant had been destroyed by the Inspector.

Procedure for claims for compensation.

10. Every claim for compensation shall be made in writing to the Assessor within one month from the date of—

(*i*) the notice given under sub-section (1) of section 8, if the claim is made under the said section, or

(*ii*) the destruction of the tree or plant, as the case may be, if the claim is made under section 9.

Award of Assessor; Appeal.

11. (1) On receipt of any claim under section 10, the Assessor shall, subject to the provisions of sub-section (2) and after making an enquiry in the presrdibed manner and taking such evidence as he thinks fit, fix the amount of compensation due to the occupier under the provisions of this Act and make an award for such amount.

(2) The amount of compensation shall—

(*a*) for every destroyed tree of the kind referred to in clause (*a*) of sub-section (1) of section 8, not exceed one-half of the value of the said tree ;

(*b*) for every destroyed plant of the kind referred to in clause (*b*) of sub-section (1) of section 8, not exceed the three-fifths of its value; and

(*c*) for every destroyed plant or tree of the kind referred to in clause (*c*) of sub-section (1) of section 8, be its full value :

Provided that no compensation shall be payable for—

(*i*) any noxious weed destroyed ;

(*ii*) any cotton plant destroyed in order to eradicate or prevent the introduction or reappearance of any insect pest or plant disease ;

(*iii*) the destruction of trees and plants infected with any insect pest or plant disease which in the opinion of the Inspector contracted infection due to the negligence of the occupier in carrying out the preventive or remedial measures mentioned in the notification issued under section 3.

Explanation.—For the purposes of this section, value means the value of a tree or plant at the time of its destruction.

(3) If any amount is due from the occupier on account of costs incurred in carrying out the preventive or remedial measures under sub-section (1) of section 7, the whole or part of the amount of compensation awarded to him, as may be necessary, shall be set off against the amount of costs due from him.

(4) A copy of every award made by an Assessor shall be sent to the occupier to whom such compensation has been awarded and to the Inspector of the notified area concerned.

(5) The occupier or the Inspector, as the case may be, may within 30 days from the date of receipt of a copy of the award under sub-section (4), prefer an appeal to the Collector against the award.

(6) On receipt of the appeal under sub-section (5), the Collector shall, after giving the occupier and the Inspector an opportunity of being heard, pass such order thereon as he thinks fit.

(7) Every order passed under sub-section (6) shall be final.

Duty of certain village officers to report appearance of insect pest, plant disease or noxious weed.

12. (1) If any insect pest, plant disease or noxious weed appears in any village adjoining a notified area, the village officers of such village shall forthwith report the fact to the Collector or such other officer as the [1][State] Government may appoint in this behalf.

(2) The Collector or such other officer, as the case may be, shall on receipt of such report and after making such further inquiry as he may deem necessary forward it to the [1][State] Government with his remarks thereon.

Penalty.

13. (1) Whoever removes any plant or tree in contravention of the directions contained in a notification issued under section 3 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(2) Any occupier who fails to comply with a notice given under sub-section (1) of section 6 or with any order passed on appeal under sub-section (3) of section 6 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(3) Whoever commits a breach of the provisions of any rule made under section 17 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(4) Whenever any person is convicted under this Act, the Court may, in addition to the penalty imposed under this Act, order the destruction of any plant or tree of the kind referred in clause (*a*), (*b*) or (*c*) of sub-section (1) of section 8.

Appointment of Inspectors and Assessors.

14. The [1][State] Government may, by notification in the official *Gazette*, appoint persons as Inspectors and Assessors for such local areas as may be specified in the notification.

Bar of suit or other legal proceedings.

15. (1) No suit, prosecution or legal proceedings shall lie against any person in respect of anything in good faith done or intended to be done under this Act.

(2) No prosecution under this Act shall be commenced without the previous sanction of the Collector, nor after six months from the date of the commission of the alleged offence.

---

1 Substituted by *ibid.*

Delegation of powers.

16. The powers conferred on the [1][State] Government under this Act may, with the exception of the powers under sections 3 and 17, be delegated by the [1][State] Government to any officer.

Rules.

17. (1) The [1][State] Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(*i*) the manner of giving notice under section 5;

(*ii*) the manner of making of an enquiry under sub-section (1) of section 11; and

(*iii*) the mode of determining the value of trees and plants for the purposes of this Act.

(3) The rules made under this section shall, subject to the condition of previous publication, be published in the official Gazette.

Repeal of Bom. XIV of 1941.

18. The Bombay Agricultural Pests and Diseases Act, 1941, is hereby repealed.

Bom. XIV of 1941.

[1] Substituted by *ibid.*

THE REWA AGRICULTURAL PESTS & DISEASES ACT, 1947

An Act for the prevention of the spread of insec pests, plant diseases and noxious weeds

Preamble.

WHEREAS it is expedient to take measurers to prevent the spread of insect pests, plant diseases and noxious weeds injurious to health or the crops, plants, trees or water supply or obstructive to waterways within the Rewa State; it is hereby enacted as follows :—

PART I

PRELIMINARY

Short title extent and commencement.

1. This Act may be called the Rewa State Agricultural Pests and Diseases Act, 1947. It shall extend to the whole of the State and shall come into force from 1st April 1948.

Interpretation Clause.

2. In this Act unless there is anything repugnant in the subject or context,—

"Insect pest" means any insect or other invertebrate animal which has been declared by notification under section 3 of this Act to be an insect pest;

"Plant disease" means any fungoid, bacterial, parasitical or other disease which has been declared by notification under section 3 of this Act to be a plant disease;

"Noxious weed" means any weed which has been declared by notification under section 3 of this Act to be a noxious weed ;

"Plant" includes the fruit, leaves, bark, cuttings or any living portion of a plant but does not include the seed unless the seed has been especially included in the definition of plant by the Director of Agriculture by notification under this Act;

"Occupier" means the person having for the time being the right of occupation of any land, premises or water or his authorised agent or any person in actual occupation of the land, premises or water ; and includes a local authority and other company having such right of occupation or in such actual occupation;

"Notified area" means the area covered by a notification published under section 3

"Director of Agriculture" means an officer appointed by the Durbar to be the Director of Agriculture and includes every person who for the time being performs the duty of the office ;

"Prescribed" means prescribed by notification or rule made under this Act.

PART II

Insect Pests, Plant Diseases and Noxious Weeds

Notification by the Director of Agriculture of area affected by insect pests, plant diseases or noxious weeds.

3. (1) If the Director of Agriculture considers that any pest, disease or weed in any local area is dangerous to health or is injurious to crops, plants, trees or water supply or is obstructive to waterways and that it is necessary to take measures to eradicate it or to prevent its introduction or reappearance, he may by notification in the *Rewa Raj Gazette*—

(*a*) declare that such pest, disease or weed is an insect pest, a plant disease or a noxious weed;

(*b*) prohibit or restrict the removal of any plant from one place to another or prescribe such other preventive or remedial measures as may be necessary in respect of such pest, disease or weed; and

(*c*) define the local area within which and the period during which such notification shall be in force.

(2) Where the preventive or remedial measures prescribed in sub-section (1) include the removal or destruction of any plant in order to eradicate or prevent the introduction or reappearance of any insect pest, such notification shall, prior to the date on which the notification shall come into force, be proclaimed in the local area defined in the notification in such manner as may be prescribed.

Liability on the occupiers.

4. On the issue of a notification under section 3 every occupier within the notified area shall be bound to carry out the remedial and preventive measures prescribed in such notification.

Inspection of new section 5(1) in Rewa Act III of 1947.

5. (1) Any officer appointed under section 19 may enter on any land or water within the notified area and take such action as may be necessary in order to ascertain—

(*a*) whether any insect pest, plant disease or noxious weed is present there; and

(*b*) whether the prescribed remedial or preventive measures or both, as the case may require, have been taken.

Procedure where measures prescribed to eradicate insect pest include removal or destruction of plants.

(2) Where the remedial or preventive measures prescribed by a notification under section 3 include the removal or destruction of any plant in order to eradicate or prevent the introduction or reappearance of any insect pest, any occupier who fails to remove such plant on or before the date specified in the notification shall be deemed to have committed an offence under this Act and removal or destruction of such plant may be carried out by the inspecting officer or under his supervision.

Inspecting Officer may serve a notice on occupier to take remedial or preventive action.

6. (1) If any Inspecting Officer appointed under section 19 finds that the prescribed remedial or preventive measures other than those specified in 5 (21) have not been properly taken he may, subject to such rules as the Durbar may prescribe under section 21(G), call upon the occupier by notice in writing to carry out the prescribed remedial or preventive measures within a time to be specified in such notice.

(2) The occupier may within seven days of the service upon him of such notice prefer an appeal to the Director of Agriculture who may make such order as he thinks fit. The decision on such appeal shall be final.

(3) The Director of Agriculture may extend the time specified in the notice under sub-section (1).

Occupier failing to comply with the notice served on him commits an offence.

7. If any occupier upon whom notice has been served under section 6 fails to comply with the notice within the time specified by the inspecting officer, or in case where an appeal has been preferred, by the Director of Agriculture on appeal, he shall be deemed to have committed an offence, under this Act and the prescribed remedial or preventive measures may be carried out by the inspecting officer or under his supervision.

Recovery from the occupier of the cost of preventive or remedial measure carried out by the Inspecting Officer.

8. (1) If any prescribed remedial or preventive measures are carried out by the inspecting officer under section 5(2) or section 7 the cost of such measures shall be recoverable from the occupier under the Rewa State Demand Rules, 1936, as if it were an arrear of land revenue, but such occupier may appeal to the authority to whom appeals in against the order of the officer issuing the certificate of demand within thirty days from the date of demand on the ground that :—

(*a*) charges for items other than cost of labour, material or use of implements have been included, or

(*b*) the charges for labour, material or use of implements are unduly high.

(2) The order of the appellate authority on such appeal shall be final.

9. (1) If in carrying out any prescribed remedial or preventive measures under section 5(2) or section 7 the inspecting officer destroys or causes to be destroyed—

(*a*) any tree which is infected with the insect pest or plant disease, or

(*b*) any plants, not being trees, some or all of which are affected by the insect pest or plant disease but which are grown so closely together that it is not ordinarily practicable to treat each plant individually, or

(*c*) any plant including trees which, though not so infected, have in his opinion become liable on such infection he shall serve a notice in writing on the occupier stating particulars of the trees and plants destroyed and his estimate of their value.

(2) When any trees or plants are destroyed as aforesaid, the occupier shall be entitled to compensation as follows :— Destruction of trees or plants in execution of remedial or preventive measures and compensation thereof.

For a tree destroyed under sub-section 1(*a*) not exceeding one-half the value thereof:

Provided that no compensation shall be payable for annual crops the destruction of which has been prescribed in order to eradicate or prevent the introduction or reappearance of any insect pest.

(3) For the purposes of this section 'value' shall mean the value of the tree or plant at the time of its destruction.

10. All claims for compensation under section 9 shall be made in writing to the valuing officer appointed by the Director of Agriculture within one month from the service of the notice mentioned in sub-section 1 of section 9. Claims for compensation how and when to be made.

11. (1) The valuing officer after making such inquiry and taking such evidence as he may consider necessary shall award compensation not exceeding the rates prescribed in section 9 and transmit or cause to be transmitted copies of his award in writing to the occupier and to the inspecting officer. Award of compensation.

(2) The date within which and the officer before whom an appeal may be preferred shall be entered in the award.

12. Either the occupier or the inspecting officer may within thirty days of the date of receipt of the award prefer an appeal against such award to the Director of Agriculture whose decision shall be final. Appeal against award.

13. Village officers of villages in or adjoining a notified area within whose village limits pest, disease or weed similar to the insect pest, plant disease or noxious weed within the notified area shall appear, shall report the same to the Deputy Commissioner through the Tehsildar. Obligation of village officers to report on insect pests, plant diseases or noxious weeds.

14. Any one convicted by a Magistrate of an offence under section 5(2) or section 7 of this Act shall be liable to fine not exceeding Rs. 50 or in default to simple imprisonment for a period not exceeding ten days. Punishment for offence under section 7.

15. If any person contravenes a notification under section 3(1)(*b*) of this Act prohibiting or restricting the removal of any plant from one place to another, he shall be deemed to have committed an offence under this Act. Any one convicted by a Magistrate of such an offence shall in addition to confiscation and destruction of the plant in respect of which the offence was committed, be liable to fine not exceeding Rs. 50 or in default to simple imprisonment for a period not exceeding ten days. Contravening notification under section 3(b) to be an offence and punishment thereof.

PART III

GENERAL

Compensation to occupier for trees and plants destroyed.

16. Where an occupier destroys any trees or plants in obedience to a notice issued under section 6, he may be granted compensation in accordance with such rules as may be made under this Act.

Compensation not payable for noxious weed destroyed.

17. Notwithstanding anything in this Act, no compensation shall be payable for any noxious weed destroyed.

Institution of prosecution or other legal proceedings under the Act.

18. (1) No suit, prosecution or other legal proceedings shall lie against any officer for anything done under this Act in good faith or for any damage to property caused by any action taken in good faith in carrying out the provisions of this Act.

(2) No prosecution under this Act shall be commenced without the previous sanction of the Minister in charge of the Agriculture Department.

(3) No prosecution under this Act shall be commenced after six months from the date of the alleged offence.

Appointment of Inspecting Officer.

19. The Director of Agriculture may from time to time appoint inspecting officers for the purpose of carrying out the duties prescribed in sections 5(1), 5(2) and 6.

Delegation of Powers.

20. The Director of Agriculture may by notification in the *Rewa Raj Gazette* delegate any of his powers under this Act to any local authority or the president or chairman of any local authority.

Power to make rules.

21. With the previous approval of H.H.'s Government the Director of Agriculture may by notification in the *Rewa Raj Gazette* make such rules not inconsistent with the provisions of this Act as may from time to time be necessary—

(*a*) including seed with the definition of a plant,

(*b*) prescribing the methods of publication of destruction of insect pests, plant diseases and noxious weeds and of the treatment to be followed,

(*c*) prescribing the qualifications required of inspecting officers,

(*d*) prescribing the procedure to be followed in making an award under section 11 and the methods and the condition of valuation of trees and plants,

(*e*) providing for payment of compensation under section 16 and for all matters connected therewith,

(*f*) prescribing the officers to whom appeals may be made and the procedure to be followed in respect of such appeals,

(*g*) prescribing the procedure, notices and methods of service thereof, notifications, registers and other processes needed for the effectual working of this Act, and

(*h*) generally to carry out the proposals of this Act.

THE EAST PUNJAB AGRICULTURAL PESTS, DISEASES AND NOXIOUS WEEDS ACT, 1949

East Punjab Act No. IV of 1949

An Act to provide for the prevention of the introduction, spread or reappearance of insect pests, plant diseases and noxious weeds injurious to crops, plants or trees in the Province of East Punjab.

It is hereby enacted as follows :—

PART I

PRELIMINARY

Short title and extent.

1. (1) This Act may be called the East Punjab Agricultural Pests, Diseases and Noxious Weeds Act, 1949.

(2) It extends to the whole of the [1][State] of Punjab.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context—

[2][(1) "Pest" means any insect, vertebrate or invertebrate animal declared to be a pest by notification under section 3;]

(2) "Inspector" means an inspector appointed under section 10 ;

(3) "Notified Area" means any area specified in the notification issued under section 3 in which a declaration made under the said section shall remain in force;

(4) "Noxious weed" means any weed declared to be a noxious weed by notification under section 3;

(5) "Occupier" means the person having for the time being the right of occupation of any land or premises or his authorised agent or any person in actual occupation of the land or premises and includes a local authority having such right of occupation or in such actual occupation ;

(6) "Plant" includes all agricultural or horticultural crops, trees, bushes or herbs or the seed, fruit or any other part thereof which is used for food of man or beast or for any purpose in connection with art or manufacture;

(7) "Plant disease" means any fungoid, bacterial virus, parasitical or other disease declared to be a plant disease by notification under section 3;

(8) "Prescribed" means prescribed by rules made under this Act.

---

[1] Substituted by Act II of 1951.

[2] Substituted by the Adaptation of Laws Order, 1950

PART II

[1][PESTS], PLANT DISEASES AND NOXIOUS WEEDS

Power to declare insect pests, plant diseases and noxious weeds and direct measures to eradicate or prevent them.

3. Whenever it appears to the [2][State] Government that any [3][insect, vertebrate or invertebrate animal] disease or weed is injurious to plants in any local area and that it is necessary to take measures to eradicate such pest, disease or weed, or to prevent its introduction, spread or reappearance, the [2][State] Government, may by notification in the official Gazette—

[4][(*i*) declare such insect, vertebrate or invertebrate animal to be a pest or such disease or weed to be a plant disease or noxious weed, respectively;]

(*ii*) specify the local area within which and the period during which such declaration shall remain in force;

(*iii*) prohibit or restrict the movement or removal of any plant, earth, soil, manure or other thing from one place to another;

(*iv*) direct the carrying out of such preventive or remedial measures, including the destruction of any [1][pest], plant disease or noxious weed or any plants as the [2][State] Government may deem necessary, in order to eradicate such [5][insect vertebrate or invertebrate] disease or weed or to prevent its introduction, spread or reappearance; and

(*v*) prescribe the period within which it shall not be lawful to plant with a specified crop the whole or any portion of the notified area.

Duties of occupier on the issue of a notification under section 3.

4. On the issue of a notification under section 3, every occupier within the notified area shall be bound to carry out the preventive or remedial measures mentioned in such notification.

Power of Inspector to enter upon any land or premises.

5. (1) Any Inspector may, after giving the prescribed notice, enter upon any land or premises, situated in the notified area within his local jurisdiction for the purpose of ascertaining—

(*i*) whether there is any [1][pest], plant disease or noxious weed on such land or premises; and

(*ii*) whether the preventive or remedial measures or both, as the case may require, mentioned in the notification issued under section 3 have been carried out.

Notice to occupier to carry out preventive or remedial measures.

[5][(2) Notwithstanding anything contained in this Act, in the event of any area being invaded, or in danger of an invasion, by locusts, the Collector of the district or other officer authorised by him in this behalf may call upon any male person not below the age of 14 years resident in the district to render all possible assistance in carrying out preventive or remedial measures and in the destruction of locusts :

---

[1] Substituted by Act II of 1951.
[2] Substituted by the Adaptation of Laws Order, 1950
[3] Substituted by *ibid.*
[4] Substituted by *ibid.*
[5] Inserted by *ibid.*

Provided as follows :—

(*i*) no person who is by virtue of old age or any physical disability incapable of rendering assistance or who lives at a distance of more than five miles from the place where his presence is required, shall be called upon to render any such assistance;

(*ii*) it shall not be necessary to notify every person individually for his services, and a proclamation by beat of drum or other customary mode in the village or locality shall be deemed sufficient notice to all affected persons residing in that village or locality.

(3) Any person who fails to render the assistance required of him under sub-section (2) shall, on conviction by a Magistrate, be punishable with fine which may extend to fifty rupees or in default to simple imprisonment for a period not exceeding ten days, and the offence shall be tried summarily as provided in section 260 of the Code of Criminal Procedure, 1898.]

Notice to occupier to carry out preventive or remedial measures.

6. (1) If, on the inspection of any land or premises under section 5, the Inspector finds that there is any [1][pest], plant, disease or noxious weed on such land or premises and that the preventive or remedial measures mentioned in the notification issued under section 3 have not been carried out, the Inspector may, subject to any general or special orders of the [2][State] Government, call upon the occupier of such land or premises, by notice in writing, to carry out such preventive or remedial measures within the time specified in such notice.

(2) Within seven days from the date of the service upon him of the notice under sub-section (1), the occupier may prefer an appeal to the Collector or to such other officer as the [2][State] Government may appoint.

(3) On receipt of the appeal under sub-section (2) the Collector or other officer, as the case may be, may extend the time specified in the notice under sub-section (1) and shall, after giving the occupier an opportunity of being heard, pass such order on the appeal as he thinks fit.

(4) An order passed under sub-section (3) of this section shall be final and conclusive and shall not be liable to be called in question in any court.

Failure to comply with notice under section 6 and power of Inspector to carry out measures.

7. (1) If any occupier upon whom a notice has been served under sub-section (1) of section 6 does not comply with such notice within the time specified therein, or if an appeal has been preferred under sub-section (2) of section 6, does not comply with the order passed on such appeal within the time specified in such order, the Inspector may carry out at the expense of the occupier the preventive or remedial measures mentioned in such notice or order.

---

1 Substituted by Act II of 1951.

2 Substituted by the Adaptation of Laws Order, 1950.

(2) The costs of any preventive or remedial measures carried out under sub-section (1) shall be payable by the occupier and shall be recoverable from him as an arrear of land revenue.

(3) Any such occupier may, within thirty days from the date of the first demand of such costs from him, prefer an appeal to the Collector or to such other officer as the [1][State] Government may appoint in this behalf on the ground that—

(*i*) the costs include charges for items other than the cost of labour, material or use of implements, or

(*ii*) the charges for labour or material or use of implements are unreasonably high.

(4) On receipt of the appeal under sub-section (3) the Collector or other officer appointed by the [1][State] Government shall, after giving the occupier an opportunity of being heard, pass such order thereon as he thinks fit.

(5) An order passed under sub-section (4) shall be final and conclusive and shall not be liable to be called in question in any court.

Duty of certain village officers to report appearance of insect pest, plant diseases or noxious weeds.

8. (1) If any [2][pest], plant diseases or noxious weed appears in any village adjoining a notified area, the Patwari or Lambardar of such village shall forthwith report the fact to such officer as the [1][State] Government may appoint in this behalf.

(2) The officer aforesaid shall on receipt of such report and after making such further inquiry as he may deem necessary forward it to the [1][State] Government through the Director of Agriculture with his remarks thereon.

Offences and Penalties.

9. (1) Whoever removes any plant, earth, soil, manure or other thing in contravention of the directions contained in a notification issued under section 3 shall, on conviction by a magistrate, be punishable with fine which may extend to Rs. 50 or in default to simple imprisonment for a period not exceeding ten days.

(2) Any occupier who fails to comply with a notice given under sub-section (1) of section 6 or with any order passed on appeal under sub-section (3) of section 6 shall on conviction by a Magistrate, be punishable with fine which may extend to Rs. 50 or in default to simple imprisonment for a period not exceeding ten days.

(3) Whoever having once been convicted of an offence under sub-section (1) or (2) of this section is again convicted of an offence under either of these sections shall be punishable with fine which may extend to Rs. 250 or in default to simple imprisonment not exceeding one month.

---

1 Substituted by the Adaptation of Laws Order, 1950.

2 Substituted by Act II of 1951.

PART III

GENERAL

Appointment of Inspectors.

10. The [1][State] Government may, by notification in the official Gazette, appoint persons as Inspectors for such local areas as may be specified in the notification.

Bar of suits or other legal proceedings.

11. (1) No suit, prosecution or legal proceedings shall lie against the [1][State] Government or any officer of the [1][State] Government in respect of anything in good faith done or intended to be done under this Act or for any damage to property caused by any action taken in good faith in carrying out the provisions of this Act.

(2) No prosecution under this Act shall be commenced without the previous sanction of the Collector or other officer authorised by the [1][State] Government in this behalf nor after three months from the date of the commission of the alleged offence.

Delegation of powers.

12. The powers conferred on the [1][State] Government under this Act, may, with the exception of the powers under section 13, be delegated by the [1][State] Government to any officer.

Rules.

13. (1) The [1][State] Government may, from time to time, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following purposes :—

(*a*) the form or manner of giving notice under section 5;

(*b*) the manner of making an inquiry under section 5;

(*c*) the method of publication of description of insect pests, plant diseases, noxious weeds and the treatment to be followed ;

(*d*) the qualifications required of the Inspectors ;

(*e*) prescribing the Officers to whom an appeal may be made and procedure to be followed in such appeal ;

(*f*) prescribing the notices and methods of services thereof, and registers needed for the effective working of the Act; and

(*g*) generally to carry out the purposes of this Act.

(3) The rules made under this section shall be subject to the condition of being made after previous publication.

---

[1] Substituted by the Adaptation of Laws Order, 1950

HIMACHAL PRADESH

The East Punjab Agricultural Pests, Diseases and Noxious Weeds Act, 1949, *as extended to Himachal Predesh* vide *Notification No.* 112-1, *dated New Delhi-2, the* 30*th August* 1950, *from the Government of India, Ministry of States, to the Chief Commissioner, Himachal Pradesh.*

In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950), the Central Government is pleased to extend the Punjab Agricultural Pests, Diseases and Noxious Weeds Act, 1949 (Punjab Act No. IV of 1949) to the State of Himachal Pradesh subject to the following modifications, namely :—

(1) For the words "the [1][State] Government" wherever they occur except in section 11, the words "the Chief Commissioner, Himachal Pradesh" shall be substituted.

(2) Sub-section (2) of section 1 shall be omitted.

(3) In section 11 for the words "[1][State] Government wherever they occur the words "Central Government shall be substituted.

[1] Substituted by the Adaptation of Laws Order, 1950.

THE ASSAM AGRICULTURAL PESTS AND DISEASES ACT, 1950

Assam Act XXXV of 1950

Preamble. WHEREAS it is expedient to provide for measures for the prevention of the spread of insect pests, plant diseases and noxious weeds injurious to health or to crops, plants, trees or water supply or obstructive to waterways within the Province of Assam; it is hereby enacted as follows :—

PART I

PRELIMINARY

Short title, extent and commencement. **1.** (1) This Act shall be called "The Assam Agricultural Pests and Diseases Act, 1949".

(2) It extends to the whole of Assam.

(3) It shall come into force on such date as the [1][State] Government may, by notification in the official Gazette, appoint in this behalf.

Definitions. **2.** In this Act, unless there is anything repugnant in the subject or context,—

(1) "Crop" means any agricultural produce as are stored for consumption and shall include seed, plant or any part thereof;

(2) "Director of Agriculture" means an officer appointed by the [1][State] Government to be the Director of Agriculture and includes every person who for the time being performs the duties of the office;

(3) "Insect pest" means any insect or other invertebrate animal and shall include bacteria and other vegetable or animal organisms, which has been declared by notification under section 3 of this Act to be an insect pest ;

(4) "Inspecting Officer" means the officer appointed as such under section 20 of the Act ;

(5) "Noxious weed" means any weed which has been declared by notification under section 3 of this Act to be noxious weed ;

(6) "Notified area" means the area covered by a notification published under section 3 ;

(7) "Occupier" means the person having for the time being the right of occupation of any land, premises or water or his authorized agent or any person in actual occupation of the land, premises or water and includes a local authority and a railway or other company having such right of occupation or in such actual occupation ;

[1] Substituted by the Adaptation of Laws Order, 1950.

(8) "Plant disease" means any fungoid, bacterial, parasitical or other disease which has been declared by notification under section 3 of this Act to be a plant disease ;

(9) "Plant " includes the fruit, leave, bark, roots cuttings or any living portion of a plant but does not include the seed unless the seed has been especially included in the definition of plant by the [1][State] Government by notification under this Act ;

(10) "Prescribed" means prescribed by notification or rules made under this Act ;

(11) "Valuing Officer" means Officers appointed as such for the purposes of this Act.

PART II

Notification by the [1][State] Government of areas affected by insect pests, plant diseases or noxious weeds.

3. (1) If the [1][State] Government consider that any pest, disease or weed in any local area is injurious to health, crops, plants, trees or water supply or is obstructive to waterways and that it is necessary to take measures to eradicate it or to prevent its introduction or reappearance, they may by notification in the official Gazette—

(*a*) declare that such pest, disease or weed is an insect pest, a plant disease or a noxious weed,

(*b*) prohibit or restrict the removal of any plant or crop from one place to another or prescribe such other preventive or remedial measures as may be necessary in respect of such pest, disease or weed, and

(*c*) define the local area within which and the period during which such notification shall be in force.

(2) Where the preventive or remedial measures prescribed in sub-section (1) include the removal or destruction of any plant or crop in order to eradicate or prevent the introduction or reappearance of any insect pest, plant disease or noxious weed, such notification shall, prior to the date on which the notification shall come into force be proclaimed in the local area defined in the notification in such manner as may be prescribed.

Liability on the occupiers.

4. On the issue of a notification under section 3, every occupier within the notified area shall be bound to carry out the remedial and preventive measures prescribed in such notification.

Explanation.—For the purpose only of this section Government shall be deemed to be the occupier in the case of all lands, premises or water which they have for the time being the right to occupy or are in their actual occupation.

---

[1] Substituted by *ibid*.

Power of entry.

5. Any Inspecting Officer may enter into any premises, land or water within the notified area and take such action as may be necessary in order to ascertain—

(*a*) whether any insect pest, plant disease or noxious weed is there present; and

(*b*) whether the prescribed remedial or preventive measures or both, as the case may require, have been taken.

Inspecting Officer may serve a notice on occupier to take remedial or preventive action.

6. (1) If any Inspecting Officer finds that any prescribed remedial or preventive measures have not been properly carried out he may, subject to such rules as the [1][State] Government may prescribe under section 22, call upon the occupier by notice in writing to carry out the prescribed remedial or preventive measures within a time to be specified in such notice.

(2) The occupier may within seven days of the service upon him of such notice prefer an appeal to the prescribed officer who may make such order as he thinks fit. The decision on such appeal shall be final.

(3) The Officer receiving the appeal may extend the time specified in the notice under sub-section (1).

Occupier failing to comply with the notice served on him commits an offence.

7. If any occupier upon whom notice has been served under section 6 fails to comply with the notice within the time specified by the Inspecting Officer, or, in case where an appeal has been preferred, by the prescribed officer on appeal, he shall be deemed to have committed an offence under this Act and the prescribed remedial or preventive measures may be carried out by the Inspecting Officer or under his supervision.

Recovery from the occupier of the cost of preventive or remedial measures carried out by the Inspecting Officer.

8. (1) If any prescribed remedial or preventive measures are carried out by the Inspecting Officer under section 7 the cost of such measures shall be recoverable from the occupier as if it were an arrear of land revenue, but such occupier may appeal to the Deputy Commissioner within thirty days from the date of demand on the ground that,—

(*a*) charges for items other than costs of labour, material or use of implements have been included, or

(*b*) the charges for labour, materials or use of implements are unduly high.

(2) The order of the Deputy Commissioner on such appeal shall be final.

Destruction of trees or plants in execution remedial of preventive or measures and compensation.

9. (1) If in carrying out any prescribed remedial or preventive measures under section 6 the Inspecting Officer destroys or causes to be destroyed —

(*a*) any tree which is infected with the insect pest or plant disease, or

[1] **Substituted by** *ibid.*

(*b*) any plants, not being trees, some or all of which are affected by the insect pest or plant disease but which are grown so closely together, that it is not ordinarily practicable to treat each plant individually, or

(*c*) any plants including trees which, though not so infected, have in his opinion become liable to such infection,

(*d*) any crop which is infected with insect pest,

he shall serve a notice in writing on the occupier stating particulars of the trees, crop and plants destroyed and his estimate of their value.

(2) When any trees or plants or crops are destroyed as aforesaid, the occupier shall be entitled to compensation as follows :—

(*i*) for a tree destroyed under sub-section 1 (*a*)—not exceeding one-half the value thereof;

(*ii*) for plants destroyed under sub-section 1 (*b*)—not exceeding two-thirds of the value thereof ;

(*iii*) for plants destroyed under sub-section 1 (*c*)—their full value ;

(*iv*) for crop destroyed under sub-section (*d*)—not exceeding three-fourths of its value.

(3) For the purpose of this section "value" shall mean the value of the tree, plant or crop at the time of its destruction.

Claims for compensation how and when to be made.

10. All claims for compensation under section 9 shall be made in writing to the valuing officer appointed by the [1][State] Government within one month from the service of the notice mentioned in sub-section (1) of section 9.

Award of compensation.

11. (1) The valuing officer after making such enquiry and taking such evidence as he may consider necessary shall award compensation not exceeding the rates prescribed in section 9 and transmit or cause to be transmitted copies of his award in writing to the occupier and to the inspecting officer.

(2) The date within which and the officer before whom an appeal may be preferred shall be entered in the award.

Appeal against award.

12. Either the occupier or the Inspecting Officer may within thirty days of the date of receipt of the award prefer an appeal against such award to the prescribed officer whose decision shall be final.

Obligation of Village Officers to report on insect pest, plant diseases or noxious weeds.

13. Village Officers of villages in mauzas adjoining a notified area within whose village limits pest, disease or weed similar to the insect pest, plant disease or noxious weed within the notified area shall appear, shall report the same to the Deputy Commissioner and the Director of Agriculture.

[1] Substituted by *ibid.*

Punishment for offence under section 7 or 9.

14. Any one convicted by a Magistrate of an offence under section 7 of this Act shall be liable to fine not exceeding Rs. 50 or in default to simple imprisonment for a period not exceeding 10 days.

Contravening notification under section 3 (*b*) to be an offence; and punishment therefor.

15. If any person contravenes a notification under section 3(*b*) of this Act prohibiting or restricting the removal of any plant or crop from one place to another he shall be deemed to have committed an offence under this Act. Any one convicted by a Magistrate of such an offence shall, in addition to confiscation and destruction of the plant or crop in respect of which the offence was committed, be liable to a fine not exceeding Rs. 50 or in default to simple imprisonment for a period not exceeding ten days.

PART III

MISCELLANEOUS

Compensation to occupier for trees and plants destroyed.

16. Where an occupier destroys any trees or plants or crop in obedience to a notice issued under section 6, he may be granted compensation in accordance with such rules as may be made under this Act.

Compensation not payable for noxious weed destroyed.

17. Notwithstanding anything in this Act, no compensation shall be payable for any noxious weed destroyed.

Protection of action taken under the Act.

18. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done or for damage to property caused by any action which is in good faith taken or intended to be taken in pursuance of this Act or any rules made thereunder.

(2) Save as otherwise expressly provided under the Act, no suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Institution of prosecutions or other legal proceedings under this Act.

19. (1) No prosecution under this Act shall be commenced except with the previous sanction of the Director of Agriculture.

(2) No prosecution under this Act shall be commenced after six months from the date of the alleged offence.

Appointment of Inspecting Officers.

20. The [1][State] Government may from time to time appoint Inspecting Officers for the purposes of this Act.

Delegation of powers.

21. The [1][State] Government may by notification in the official Gazette delegate all or any of their powers under this Act except those conferred by sections 3 and 22 to the Director of Agriculture or any other officer or to any local authority or the president or chairman of any local authority.

---

1 Substituted by *ibid.*

PART IV

POWER TO MAKE RULES

Power of Government to make rules.

22. (1) The [1][State] Government may, subject to the condition of previous publication, make rules, for carrying into effect the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provision, such rules may prescribe—

(*a*) the methods of publication of descriptions of insect pests, plant diseases and noxious weeds and the treatment to be followed;

(*b*) the qualifications required of Inspecting Officers;

(*c*) the procedure to be followed in making an award under section 12 and the methods and conditions of valuation of trees, plants and crops;

(*d*) the officers to whom appeals may be made, and the procedure to be followed in respect of such appeals ;

(*e*) the procedure notices and methods of service thereof, notifications, registers and other processes needed for effectual working of this Act;

(*f*) inclusion of seed within the definition of a plant;

(*g*) the procedure for payment of compensation under section 16 and for all matters connected therewith;

(*h*) the methods generally to carry out the purposes of this Act.

[1] Substituted by *ibid.*

THE ESSENTIAL SUPPLIES (TEMPORARY POWERS) ACT, 1946

Act No. XXIV of 1946

An Act to provide for the continuance during a limited period of powers to control the production, supply and distribution of and trade and commerce in certain commodities.

[1][* * * * * *]

It is hereby enacted as follows :—

Short title, extent and duration.

1. (1) This Act may be called the Essential Supplies (Temporary Powers) Act, 1946.

[2][(2) It extends to the whole of India except the State of Jammu and Kashmir but shall come into force in a Part B State to which this Act extends only on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, and different dates may be appointed for different Part B States.]

(3) It shall cease to have effect on [2][thirty-first day of December 1952] except as respects things done or omitted to be done before [3][that date], and section 6 of the General Clauses Act, 1897, (X of 1897), shall apply upon the expiry of this Act as if it had then been repealed by a Central Act. Act X of 1897.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "essential commodity" means any of the following classes of commodities :—

(*i*) foodstuffs,

[4][(*ia*) cattle fodder],

(*ii*) cotton and woollen textiles,

[5][(*iia*) raw cotton,

(*iib*) cotton seed],

(*iii*) paper,

(*iv*) petroleum and petroleum products,

(*v*) spare parts of mechanically propelled vehicles,

(*vi*) coal,

(*vii*) iron and steel,

(*viii*) mica;

[6][(*aa*) "coal" shall include coke and other derivatives of coal];

(*b*) "food-crops" shall include crops of sugarcane;

(*c*) "foodstuffs" shall include edible oilseeds and oils;

[7][(*cc*) "cattlefodder" includes oil-cakes and other concentrates];

---

1 Omitted by Act of 1950.
2 Substituted by *ibid.*
3 Substituted by the Adaptation of Laws Order, 1950, for all the provinces of India.
4 Inserted by Act of 1950.
5 Inserted by the Essential Supplies (Temporary Powers) Amendment Act, 1949 (49 of 1949) 3·3.
6 Inserted, *ibid.* (with retrospective effect).
7 Inserted by Act 52 of 1950.

(*d*) "notified order" means an order notified in the official Gazette;

(*e*) "paper" shall include newsprint;

(*f*) "[1][State] Government" in relation to a [1][Part C State] means the Chief Commissioner;

(*g*) "raw cotton" shall include ginned cotton and unginned cotton or kapas.

Rule of construction respecting enactments not extending to Part B States.

2A. [2][Any reference to the Indian Penal Code (Act XLV of 1860), the Code of Criminal Procedure, 1898 (Act V of 1898) or the Indian Evidence Act, 1872 (1 of 1872) shall, in relation to any Part B State to which this Act applies, be construed as a reference to the corresponding enactment in force in that State.]

Powers to control production, supply, distribution, etc. of essential commodities.

3. (1) The Central Government, so far as it appears to it to be necessary or expedient for maintaining or increasing supplies of any essential commodity, or for securing their equitable distribution and availability at fair prices, may by [3][ ] order provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.

[4][(1A) An order made under sub-section (1) shall,—

(*a*) in the case of an order of a general nature or affecting a class of persons, be notified in the official Gazette; and

(*b*) in the case of an order affecting an individual person be served on such person—

(*i*) by delivering or tendering to that person,

(*ii*) if it cannot be so delivered or tendered by affixing it on the outer door or some other conspicuous part of the premises in which that person lives and the written report whereof should be witnessed by two persons living in the neighbourhood.]

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

(*a*) for regulating by licences, permits or otherwise the production or manufacture of any essential commodity;

(*b*) for bringing under cultivation any waste or arable land, whether appurtenant to a building or not, for the growing thereon of foodcrops generally or of specified foodcrops, and for otherwise maintaining or increasing the cultivation of foodcrops generally, or of specified foodcrops;

(*c*) for controlling the prices at which any essential commodity may be bought or sold;

(*d*) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of any essential commodity;

---

[1] Substituted by the Adaptation of Laws Order, 1950.
[2] Inserted by Act 52 of 1950.
[3] Omitted by *ibid.*
[4] Inserted by Act 72 of 1950.

(*e*) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale ;

(*f*) for requiring any person holding stock of an essential commodity to sell the whole or a specified part of the stock at such prices and to such persons or class of persons or in such circumstances, as may be specified in the order;

(*g*) for regulating or prohibiting any class of commercial or financial transitions relating to foodstuffs or cotton textiles, which, in the opinion of the authority making the order are, or if unregulated are likely to be, detrimental to public interest;

(*h*) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

(*i*) for requiring persons engaged in the production, supply or distribution of, or trade or commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;

(*j*) for any incidental and supplementary matters, including in particular the entering, and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents, and the charging of fees therefor.

[1][(3) An order made under sub-section (1) may confer powers and impose duties upon the Central Government or the State Governments officers and authorities of the Central or State Government and may contain directions to any State Government or to officers and authorities thereof as to the exercise of any such powers or the discharge of any such duties.]

(4) The Central Government, so far as it appears to it to be necessary for maintaining or increasing the production and supply of an essential commodity, may by order authorise any person (hereinafter referred to as an authorised controller) to exercise, with respect to the whole or any part of any such undertaking engaged in the production and supply of the commodity as may be specified in the order, such functions of control as may be provided by the order; and so long as an order made under this sub-section is in force with respect to any undertaking or part thereof—

(*a*) the authorised controller shall exercise his functions in accordance with any instructions given to him by the Central Government, so, however, that he shall not have any power to give any

[1] Substituted by Act 52 of 1950.

direction inconsistent with the provisions of any Act or other instrument determining the functions of the undertakers except in so far as may be specifically provided by the order; and

(*b*) the undertaking or part shall be carried on in accordance with any directions given by the authorised controller in accordance with the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions.

Delegation of powers.

4. The Central Government may by notified order direct that the power to make orders under section 3 shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by—

(*a*) such officer or authority subordinate to the Central Government, or

(*b*) such [1][State] Government or such officer or authority subordinate to a [1][State] Government, as may be specified in the direction.

Power to issue directions to [1][States].

5. The Central Government may give directions to any [1][State] Government as to the carrying into execution in the [1][State] of any order made under section 3.

Effect of Orders inconsistent with other enactments.

6. Any order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

Penalties.

7. [2][(1) If any person contravenes any order under section 3 relating to cotton textiles, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine; and any property in respect of which the order has been contravened or such part thereof as to the Court may seem fit shall be forfeited to the Government.

(2) If any person contravenes any order under section 3 relating to foodstuffs,—

(*a*) he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine, unless for reasons to be recorded the court is of opinion that a sentence of fine only will meet the ends of justice; and

(*b*) any property in respect of which the order has been contravened or such part thereof as to the court may seem fit shall be forfeited to the Government, unless for reasons to be recorded the court is of opinion that it is not necessary to direct forfeiture in respect of the whole or, as the case may be, any part of the property:

---

[1] Substituted by the Adaptation of Laws Order, 1950, for 'Provincial'.

[2] Substituted by Act 52 of 1950.

Provided that where the contravention is of an order prescribing the maximum quantity of any foodgrains that may lawfully be possessed by any person or class of persons, and the person contravening the order is found to have been in possession of foodgrain exceeding twice the maximum quantity so prescribed, the court shall—

(*a*) sentence him to imprisonment for a term which may extend to seven years and to a fine not less than twenty times the value of the foodgrain found in his possession ; and

(*b*) direct that the whole of such foodgrain in excess of the prescribed maximum quantity shall be forfeited to Government.

Explanation.—A person in possession of foodgrain which does not exceed by more than five maunds the maximum quantity so prescribed shall not be deemed to be guilty of an offence punishable under the proviso to this sub-section.

(3) If any person contravenes any order under section 3 relating to any essential commodity other than cotton textile and foodstuffs, he shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both, and if the order so provides, any property in respect of which the court is satisfied that the order has been contravened may be forfeited to Government.

(4) If any person to whom a direction is given under sub-section (4) of section 3 fails to comply with the direction, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.]

Forfeiture of certain property used in the commission of the offence.

[1][**7A.** Whenever any offence relating to cotton textiles or foodstuffs which is punishable under [2][*] section 7 has been committed, the Court may, if the order made under section 3 so provides, direct that the packages, coverings or receptacles in which any property liable to be forfeited under the said [2][*] section is found, and the animals, vehicles, vessels or other conveyances used in carrying the said property shall be forfeited to [3][Government] :

Provided that no Court trying an offence under this Act shall declare any such package, covering, or receptacle or any such animal, vehicle, vessel or other conveyance forfeited to [3][Government] unless it is proved that the owner thereof knew that the offence was being, or was to be, or was likely to be, committed.]

Attempts and abetments.

8. Any person who attempts to contravene, or abets a contravention, of any order made under section 3 shall be deemed to have contravened that order.

---

[1] Inserted by Act of 1946.

[2] Omitted by Act 52 of 1950.

[3] Substituted by *ibid.*

Offences by Corporations.

9. If the person contravening an order made under section 3 is a company or other body corporate every director, manager secretary, or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

False statements.

10. If any person,—

(*i*) when required by any order made under section 3 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or

(*ii*) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Cognizance of offences.

11. No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code (XLV of 1860).

XLV of 1860.

Power to try offences summarily.

12. Any magistrate or bench of magistrates empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 (V of 1898), may, on application in this behalf being made by the prosecution, try in accordance with the provisions contained in sections 262 to 265 of the said Code any offence punishable under this Act.

V of 1898.

Special provision regarding fines.

13. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (V of 1898), it shall be lawful for any Magistrate of the First Class specially empowered by the [1][State] Government in this behalf and for any Presidency Magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening an order made under section 3.

Special provisions regarding bail.

[2][**13A.** Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), no person accused or convicted of a contravention of any order under section 3 relating to foodgrains which is punishable under the proviso to sub-section (2) of section 7 shall, if in custody, be released on bail or on his own bond unless—

(*a*) the prosecution has been given an opportunity to oppose the application for such release, and

1 Substituted by the Adaptation of Laws Order, 1950.

2 Inserted by Act 52 of 1950.

(*b*) where the prosecution opposes the application, it appears to the court that there are reasonable grounds for believing that he is not guilty of such contravention.

Cases to be disposed of expeditiously.

13B. Where any offence is not being tried in a summary way under section 12 of this Act,—

(*a*) with reference to sub-section (2) of section 256 of the Code of Criminal Procedure 1898 (V of 1898), the next hearing of the case shall be fixed on the day following the one on which the charge is framed, unless the Magistrate, for reasons to be recorded in writing, adjourns the case to any other day, but not later than four days, and

(*b*) the hearing of the case shall be continued from day to day unless the court finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded.]

Presumption as to order.

14. (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

(2) Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Indian Evidence Act, 1872 (I of 1872), presume that such order was so made by that authority.

Burden of proof in certain cases.

15. Where any person is prosecuted for contravening any order made under section 3 which prohibits him from doing an act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document, shall be on him.

Protection of action taken under the Act.

16. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

(2) No suit or other legal proceeding shall lie against the [1][Government] for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

Repeal and saving.

17. (1) The Essential Supplies (Temporary Powers) Ordinance, 1946 (XVIII) of 1946), is hereby repealed.

(2) Any order made or deemed to be made under the said Ordinance and in force immediately before the commencement of this Act shall continue in force and be deemed to be an order made under this Act; and all appointments made, licences or permits granted and directions issued

---

[1] Substituted by Adaptation of Laws Order, 1950.

under any such order and in force immediately before such commencement shall likewise continue in force and be deemed to be made, granted or issued in pursuance of this Act.

(3) For the removal of doubts it is hereby declared—

(*a*) that for the purposes of the said Ordinance and this Act an order of the nature referred to in section 5 of the said Ordinance made before the commencement of the said Ordinance and not previously rescinded shall be deemed to be, and always to have been, an order in force immediately before such commencement, notwithstanding that such order or parts of it, may not then have been in operation, either at all or in particular areas;

(*b*) that for the purposes of this Act an order made or deemed to be made under the said Ordinance and not rescinded prior to the commencement of this Act shall be deemed to be an order in force immediately before the commencement of this Act, notwithstanding that such order, or parts of it, may not then be in operation, either at all or in particular areas.

[1][(4) If immediately before the day on which this Act comes into force in a Part B State, there is in force in that State any law which corresponds to this Act, such corresponding law shall on that day stand repealed in so far as it relates to any of the essential commodities governed by this Act :

Provided that any order made and in force immediately before that day in the said State shall continue in force and be deemed to be an order made under this Act, and all appointments made, licences or permits granted, and directions issued, under any such order and in force immediately before that day shall likewise continue in force and be deemed to be made, granted or issued in pursuance of this Act.]

[1] Inserted by Act 52 of 1950.

THE COCHIN PROCLAMATION

XVIII of 1942 (1117)

Promulgated by His Highness Sree Kerala Verma, Maharaja of Cochin, on the 9th day of Edavam 1117 corresponding to the 11th day of June 1942.

WHEREAS it is necessary to provide that lessees shall not be entitled to claim value for the improvements effected by them during the period of the lease in respect of lands leased to them in pursuance of the Scheme for Food Production ; WE are hereby pleased to command as follows :—

Notwithstanding the provisions contained in the Cochin Tenancy Act, XV of 1113, relating to the payment of compensation for improvements, no lessee to whom land has been leased in pursuance of the Scheme for Food Production initiated by Government shall, in the absence of a contract to the contrary, be entitled to claim nor shall the lessor be liable to pay value for the improvements, if any, effected by the lessee during the period of the lease or the period during which he holds over the property without the consent in writing of the lessor :

Provided that this Proclamation shall not apply to leases granted without the previous approval in writing of the Commissioner of Food Production.

THE BOMBAY GROWTH OF FOODCROPS ACT, 1944 (AMENDED BY BOM. 16 OF 1944)

*Bombay Act No. VIII of 1944[1]

An Act to provide for regulating the cultivation of crops with a view to growing more foodcrops in the Province of Bombay.

WHEREAS it is expedient to provide for regulating the cultivation of crops with a view to growing more foodcrops in the Province of Bombay ;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5. Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title, extent and commencement.

1. (1) This Act may be called the Bombay Growth of Foodcrops Act, 1944.

(2) It extends to the whole of the [2][State] of Bombay, but shall come into force in any area thereof only on such date as the [2][State] Government may by notification in the official Gazette appoint in this behalf for that area [3][save as follows, namely, section 10A shall take effect only in such area, and from such date as the [2][State] Government may, by like notification, specify in this behalf].

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "cultivator" means a person who is actually in possession of agricultural land whether as an occupant, tenant or otherwise, and includes a company and a joint family or a group of persons in joint actual possession ;

(2) "cultivator's holding" means the aggregate of all lands in the actual possession of a cultivator ;

(3) "scheduled foodcrop" means a crop specified in Schedule I;

(4) "scheduled non-foodcrop" means a crop specified in Schedule II;

(5) Words and expressions used in this Act but not defined shall have the same meaning as in the Bombay Land Revenue Code, 1879.

Bombay V of 1879.

---

* This act was re-enacted by Bom. 2 of 1948, s. 2.

1 For the Statement, *see Bombay Government Gazette*, 1944, Part IV, p. 125.

2 Substituted by the Adaptation of Laws Order, 1950.

3 These words, figures and letter were added by Bom. 16 of 1944, s. 2, read with Bombay 2 of 1948, s. 2.

Powers to prescribe maintenance of existing proportion of growing foodcrops.

3. The [1][State] Government may by an order published in the official Gazette and in such other manner as it may consider expedient direct that in any specified area every cultivator shall grow scheduled foodcrops in such area of his holding in the twelve months immediately following the date of the order as bears to the total area of his holding a proportion not less than that which the area of such crops grown by him in the twelve months previous to the date of order before to the total area of his then holding:

Provided that where a cultivator had no holding in the twelve months previous to the date of the order or where information regarding the area of the scheduled foodcrops grown in a cultivator's holding during the said twelve months is not available, the proportion for the purposes of this section shall be deemed to be such as may be fixed in the order.

Explanation.—Where a scheduled foodcrop is grown as a mixed crop with any crop other than a scheduled foodcrop, the area under such scheduled foodcrop shall, for the purposes of this section, be deemed to be not more than [2][1/4, or such other proportion as may be fixed in this behalf by the [1][State] Government either generally or in relation to any particular area or any particular mixed crop by notification published in the official Gazette and in such other manner as it may consider expedient, whichever is greater,] of the total area under such mixed crop.

Power to prescribe maximum proportion of non-foodcrops and minimum proportion of foodcrops to be grown.

4. If the [1][State] Government is satisfied that it is necessary in the interests of the Province to increase the production of scheduled foodcrops in any local area, it may by an order published in the official Gazette and in such other manner as it may consider expedient—

(*a*) prescribe the minimum proportion of the cultivator's holding in which scheduled foodcrops shall be grown after the date of the order in any cultivator's holding in that area during the twelve months immediately following the date of the order;

(*b*) prescribe the proportion in excess of which scheduled non-foodcrops shall not be grown after the date of the order in any cultivator's holding in that area during the twelve months immediately following the date of the order.

Explanation.—Where a scheduled foodcrop is grown as a mixed crop with any crop other than a scheduled foodcrop, the area under such scheduled foodcrop shall, for the purposes of this section, be deemed to be not more than [2][1/4, or such other proportion as may be fixed in this behalf by the [1][State] Government either generally or in relation to any particular area or any particular mixed crop by notification published in the official Gazette and in such other manner as it may consider expedient, whichever is greater,] of the total area under such mixed crop.

---

1 Substituted by the Adaptation of Laws Order, 1950.

2 These figures and words were substituted for the figures "¼" by Bom. 16 of 1944, s. 3, read with Bom. 2 of 1948, s. 2.

Power to prohibit growing of non-food-crops in successive years.

5. The [1][State] Government may by an or er published in the official Gazette and in such other manner as it may consider expedient direct that in any area s ecified in the order scheduled non-foodcrops shall not be grown after the date of the order in that part of a cultivator's holding in which they were grown in the previous twelve months.

Power to rescind or amend orders.

6. The [1][State] Government may add to, mend, vary or rescind any order issued under sections 3, 4 or 5 if in its opinion the circumstances of a season or any other reasons make this desirable.

Power of [1][State] Government to amend Schedules.

[2][**6A.** The [1][State] Government may, by notification in the official Gazette direct additions to or omission from the list of crops specified in Schedule I or Schedule II either generally or with reference to any particular area specified in any such notification, and the Schedule shall on the issue of the notification be deemed to be amended accordingly.]

Power to exempt.

7. The [1][State] Government may wholly or partially exempt any cultivator's holding or class of such holdings from any or all the provisions of this Act or any order made thereunder.

Effect of orders inconsistent with contracts to the contrary.

8. An order issued under section 3, 4, 5 or 6 shall have effect notwithstanding any contract to the contrary between the cultivator and any other person interested in the agricultural land affected by such order.

Fixation and guarantee of prices of foodcrops.

9. The [1][State] Government shall, by an order published in the official Gazette and in such other manner as it may consider expedient, fix and guarantee prices for all cereal foodcrops grown in any cultivator's holding in each of the areas in respect of which an order under section 3 or 4 is issued.

Reduction of revenue or irrigation dues and rent.

10. (1) The [1][State] Government may remit any part of land revenue or irrigation dues if in its opinion it is necessary to do so in respect of any area to which an order under section 4 applies.

(2) Whenever remission is granted in any area under sub-section (1), rents payable by a cultivator to his superior holder in such area shall be adjusted in accordance with section 84A of the Bombay Land Revenue Code, 1879.

Bom. V. of 1879.

Determination of rent.

[3][**10A.** (1) In the areas where this section takes effect under the provisions of sub-section (2) of section 1, it shall be lawful for a tenant who is compelled to grow scheduled foodcrops on any land by the operation of an order under section 4 to apply in writing to the Mamlatdar within whose jurisdiction the land is situated for determination of the rent to be paid by him in respect of the land; and thereupon

[1] Substituted by the Adaptation of Laws Order, 1950.

[2] This section was inserted by Bom. 16 of 1944, s. 4, read with Bom. 2 of 1948, s. 2.

[3] This section was inserted, *ibid.*, s. 5.

notwithstanding anything contained in any law for the time being in force (including the Bombay Small Holders Relief Act, 1938, the B mbay Tenancy Act, 1939, and the Bombay Land Improvements Schemes Act, 1942) or any usage or agreement or decree or order of a Court of Law, the rent payable by the tenant in respect of the land on which scheduled foodcrops are compulsorily grown shall be the rent determined under this section. The application shall be made in such form as may be prescribed by rules and shall be filed before the end of the tenancy year terminating on the 31st March. Bom. VIII of 1938. Bom. XXIX of 1939. Bom. XXVIII of 1942.

(2) On receipt of an application under sub-section (1) the Mamlatdar shall give notice t› the landlord and after holding a formal inquiry in the manner provided in the Bombay Land Revenue Code, 1879, shall determine the rent of the land. Bom. V. of 1879.

(3) Any party aggrieved by the decision of the Mamlatdar under sub-section (2) may, within one month from such decision, file an appeal before the Assistant or Deputy Collector in charge of the taluka in which the land is situated.

(4) The Assistant or Deputy Collector in appeal may for reasons to be recorded in writing annul, reverse, modify or confirm the decision of the Mamlatdar or he may direct further inquiry to be made on any point or take additional evidence as he may think necessary.

(5) The following factors shall be taken into consideration in determining the rent :—

(*i*) the rental values of similar lands used for purposes of growing scheduled foodcrops in the locality ;

(*ii*) the prices of scheduled foodcrops in the locality ;

(*iii*) improvements, if any, made in the land by the landlord during the tenancy year ;

(*iv*) assessment payable in respect of the land; and

(*v*) such other f ctors as may be prescribed by rules.

(6) The Mamlatdar and the Assistant or Deputy Collector in proceedings under this section shall have the same powers as are vested in Courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying a suit, namely :— V of 1908.

(*i*) proof of facts by affidavit ;

(*ii*) summoning and enforcing the attendance of any person and examining him on oath; and

(*iii*) compelling the production of documents.

The Mamlatdar and the Assistant or Deputy Collector may have also such other powers as may be prescribed by rules.

(7) The Mamlatdar or the Assistant or Deputy Collector may award costs in any proceedings under this section and such costs, together with the cost of execution, shall be recoverable from the party ordered to pay them as an arrear of land revenue.

(8) Every order passed by the Mamlatdar under this Act, if not appealed against, and every order passed by the Assistant or Deputy Collector in appeal, shall hold good only in respect of the tenancy year concerned and shall not be called in question in any Court.

(9) Notwithstanding anything contained in the Court-
VII of 1870. fees Act, 1870, every application under this section to the Mamlatdar and every appeal to the Assistant or Deputy Collector shall bear a court-fee stamp of such value as may be prescribed by rules.

(10) Any party to proceedings under this section may appear by any person authorised in writing to act on his behalf.

Explanation.—For the purpose of this section, the word "Mamlatdar" includes a Mahalkari and any other officer appointed by the Commissioner to perform the duties of a Mamlatdar in respect of any area under this section.]

Penalty.

11. (1) If any cultivator contravenes an order made under section 3, 4, 5 or 6, he shall be punishable with fine which may extend to fifty rupees in relation to every acre or less of land in respect of which the order is contravened.

Explanation.—If the cultivator is a company or a joint family, the principal officer of such company or the *karta* of the joint family, as the case may be, shall be deemed to be the cultivator.

(2) Any Court trying such contravention may direct that any crop not being a scheduled foodcrop in respect of which the Court is satisfied that the order has been contravened shall be forfeited to [1][State Government] or, if the crop has been disposed of, such sum as may be equivalent to the fair value of the crop as may be determined by the Court shall be recovered as an arrear of land revenue.

Delegation of powers.

12. The powers conferred on the [2][State] Government under this Act may, subject to such restrictions and conditions as it may impose, be delegated by it in whole or in part to the Commissioners or Collectors.

Power to make rules.

13. (1) The [2][State] Government may by notification in the official Gazette make rules for carrying out the provisions of this Act.

---

[1] Substituted by the Adaptation of Laws Order, 1950.

[2] Substituted by *ibid.*

(2) The rules made under this section shall be made after previous publication.

SCHEDULE I

Food Grains—

1. Rice.
2. Wheat.
3. Jowar :
   (a) Kharif,
   (b) Rabi.
4. Bajri.
5. Ragi.
6. Maize.
7. Kodra.
8. Barley.
9. Sama.
10. Rala.
11. Vari.

Pulses—

1. Gram.
2. Tur.
3. Pavata.
4. Mug.
5. Math.
6. Udid.
7. Wal.
8. Chavli.
9. Kulthi.
10. Peas.
11. Lentil.
12. Lang.

SCHEDULE II

1. Cotton.
2. Tobacco.

THE SAURASHTRA GROWTH OF FOOD-CROPS ORDINANCE, 1948*

Ordinance No. XIX of 1948

An Ordinance to provide for regulating the cultivation of crops with a view to growing more food-grains in Saurashtra.

WHEREAS it is expedient to provide for regulating the cultivation of crops with a view to growing more food crops in the State of Saurashtra.

NOW THEREFORE in exercise of the powers conferred by clause 3 of Article IX of the Covenant entered into by the Rulers of Kathiawad, the Raj-Pramukh is pleased to make and promulgate the following Ordinance.

1. (i) This Ordinance may be called the Saurastra Growth of Foodcrops Ordinance, 1948. Short title, extent and commencement.

(*ii*) It extends to the whole of the State of Saurashtra.

(iii) It shall come into force at once.

2. In this Ordinance, unless there is anything repugnant in the subject or context,— Definitions.

(1) "Cultivator" means a person who is actually in possession of agricultural land whether as an owner, occupant, tenant or otherwise and includes a company or a joint family or group of persons in joint actual possession;

(2) "Cultivator's holding" means the aggregate of all lands in the actual possession of a cultivator;

(3) "Scheduled foodcrop" means a crop specified in Schedule I;

(4) "Scheduled crops" means crops specified in Schedule II;

(5) "Government" means Government of Saurashtra;

(6) "Tenant" means a lessee, whether holding under an instrument, or under an oral agreement, and includes a mortgagee of a tenant's rights with possession.

(7) "Occupant" means a holder in actual possession of unalienated land, other than a tenant; provided that where the holder in actual possession is tenant, the landlord or superior landlord, as the case may be, shall be deemed to be occupant.

* The ordinance has now been replaced by another order of similar type.

Powers to prescribe maintenance of existing proportion of foodgrowing foodcrops.

3. The Government may by order published in the official Gazette and in such other manner as it may consider expedient, direct that in any specified area every cultivator shall grow scheduled foodcrops in such area of this holding in the twelve months immediately following the date of the order as bears to the total areas of his holding a proportion not less than that which the area of such crops grown by him in the twelve months previous to the date of the order bore to the total area of his then holding:

Provided that where a cultivator had no holding in the twelve months previous to the date of the order or where information regarding the area of the scheduled foodcrops grown in a cultivator's holding during the said twelve months is not available the proportion for the purpose of this section shall be deemed to be such as may be fixed in the order.

Explanation.—Where a scheduled foodcrop is grown as a mixed crop with any crop other than a scheduled foodcrop, the area under such scheduled foodcrops shall for the purposes of this section be deemed to be such proportion of the mixed crop area as may be fixed in this behalf by the Government either generally or in any particular area or for particular mixed crop by notification published in the *Saurashtra Gazette*.

Powers to prescribe maximum proportion on non-foodcrops and minimum proportion of foodcrops to be grown.

4. If the Government is satisfied that it is necessary in the interest of the State of Saurashtra to increase the production of scheduled foodcrops in any local area, it may by an order published in the official Gazette and in such other manner as it may consider expedient,—

(*a*) prescribe the minimum proportion of the cultivator's holding in which scheduled foodcrops shall be grown after the date of the order in any cultivator's holding in that area during the twelve months immediately following the date of the order;

(*b*) prescribe the proportion in excess of which scheduled non-foodcrops shall not be grown after the date of the order in any cultivator's holding in that area during the twelve months immediately following the date of the order.

Explanation.—Where a scheduled foodcrops is grown as a mixed crop with any crop other than a scheduled foodcrop the area under such scheduled foodcrops shall for the purposes of this section be deemed to be such proportion of the mixed crop area as may be fixed in this behalf by the Government either generally or in relation to any particular mixed crop by notification published in the *Saurashtra Gazette*.

Power to prohibit growing of non-food crops in successive years.

5. The Government may by an order published in the official Gazette and in such other manner as it may consider expedient direct that in any area specified in the order scheduled non-foodcrops shall not be grown after the date of this order in that part of cultivator's holding in which they were grown in the previous twelve months.

Power to rescind or amend orders.

6. The Government may add to amend, vary or rescind any order issued under section 3, 4 or 5 if in its opinion the circumstances of a season or any other reason make this desirable.

Power of Government to amend schedules.

7. The Government may, by notification in the official Gazette, direct additions to or omissions from the list of crops specified in Schedule I or Schedule II either generally or with reference to any particular area specified in any such notifications, and the Schedule shall, on the issue of the notification, be deemed to be amended accordingly.

Power to exempt.

8. The Government may wholly or partially exempt any cultivator's holding or class of such holding from any or all the provisions of this ordinance or any order made thereunder.

Effect of orders inconsistent with contracts to the contrary.

9. An order issued under this ordinance shall have effect notwithstanding any contract to the contrary between the cultivator and any other person's interest in the agricultural land affected by such order.

Fixation and guarantee of prices of food crops.

10. The Government shall, by an order published in the official Gazette and in such other manner as it may consider expedient, fix and guarantee prices for all cereal foodcrops grown in any cultivator's holding in each of the areas in respect of which an order under section 3 or 4 is issued.

Reduction of revenues or irrigation dues and rent.

11. (1) The Government may remit any part of land revenue or irrigation dues if in its opinion it is necessary to do so in respect of any area to which any order under section 4 applies.

(2) Whenever remission is granted in any area under sub-section (1), rents payable by a cultivator to his superior holder in such area shall be adjusted in the manner prescribed by the Government.

Determination of rent.

12. (1) In the areas where this section takes effect under the provisions of sub section (2) of section 1, it shall be lawful for a tenant who is compelled to grow scheduled foodcrops on any land by the operation of an order under section 4 to apply in writing to the Mamlatdar, or Revenue Officer specially authorised in that behalf, within whose jurisdiction the land is situated, for determination of the rent to be paid by him in respect of the land; and ther upon notwithstanding anything contained in any law for the time being in force, or any usage or agreement or decree or order of a Court of Law, the rent payable by the tenant in respect of the land on which scheduled foodcrops are compulsorily grown shall

be the rent determined under this section The application shall be made in such form as may be prescribed by rules and shall be filed before the end of the tenancy year terminating on the 31st March.

(2) On receipt of an application under sub-section (1) the Mamlatdar shall give notice to the landlord and after holding a formal inquiry in the manner prescribed by Government shall determine the rent of the land.

(3) Any party aggrieved by the decision of the Mamlatdar under sub-section (2) may, within one month from such decision, file an appeal before the Deputy Collector in charge of the Taluka or Mahal in which the land is situated.

(4) The Deputy Collector in appeal may for reason to be recorded in writing annul, reverse, modify or confirm the decision of the Mamlatdar or he may direct further inquiry to be made on any point or take additional evidence as he may think necessary.

(5) The following factors shall be taken into consideration in determining the rent :—

(*i*) the rental values of similar lands used for purposes of growing scheduled foodcrops in the locality;

(*ii*) the prices of scheduled foodcrops in the locality;

(*iii*) improvements, if any, made in the land by the landlord during the tenancy year;

(*iv*) assessment payable in respect of the land; and

(*v*) such other factors as may be prescribed by rules.

(6) The Mamlatdar and the Deputy Collector in proceedings under this section shall have the same powers as are vested in Courts in respect of the following matters under th Code of Civil Procedure, 1908, as adapted and applied in trying a suit, namely :—

(*i*) proof of facts by affidavit;

(*ii*) summoning and enforcing the attendance of any person and examining him on oath; and

(*iii*) compelling the production of documents.

The Mamlatdar and the Deputy Collector may have also such other powers as may be prescribed by rules.

(7) The Mamlatdar or the Deputy Collector may award costs in any proceedings under this section and such costs, together with the cost of execution, shall be recoverable from the party ordered to pay them as an arrear of land revenue.

(8) Every order passed by the Mamlatdar under this Ordinance if not appealed against and every order passed by the Deputy Collector in appeal, shall hold good only in respect of the tenancy year concerned and shall not be called in question in any court.

(9) Notwithstanding anything contained in the law relating to Court-fees for the time being in force in the State of Saurashtra, every application under this section to the Mamlatdar and every appeal to the Deputy Collector shall bear a Court-fee stamp of such value as may be prescribed by rules.

(10) Any party to proceeding under this section may appear by any person authorised in writing to act on his behalf.

Explanation.—For the purpose of this section the word "Mamlatdar" includes a Mahalkari and any other officer appointed by the Government to perform the duties of a Mamlatdar in respect of any area under sub-section (2) of this section.

13. (1) If any cultivator contravenes any order made under this Ordinance he shall be punishable with fine which may extend to five hundred rupees in relation to every acre or less of land in respect of which the order is contravened. **Penalty.**

Explanation.—If the cultivator is a company or a joint family, the principal officer of such company or the *karta* of the joint family, as the case may be, shall be deemed to be the cultivator.

(2) Any court trying such contravention may direct that any crop not being a scheduled foodcrop in respect of which the Court is satisfied that the order has been contravened shall be forfeited to the State of Saurashtra or, if the crop has been disposed of, such sum as may be equivalent to the fair value of the crop as may be determined by the Court shall be recovered as an arrear of land revenue.

14. The powers conferred on the Saurashtra Government under this Ordinance may, subject to such restrictions and conditions as it may impose, be delegated by it in whole or in part to the Collectors or Deputy Collectors. **Delegation of powers.**

15. The Government may by notification in the official Gazette make rules for carrying out the provisions of this Ordinance. **Powers to make rules.**

SCHEDULE I

1. Rice.
2. Wheat.
3. Jowar: (a) Kharif, (b) Rabi.
4. Bajri.

SCHEDULE II

1. Cotton.
2. Oil seeds—such as til, erdi, groundnuts and others.
3. Tobacco.
4. Pulses of all kinds

THE HYDERABAD RESTRICTION OF CASH CROPS CULTIVATION REGULATION, 1944

Preamble. WHEREAS the present conditions demand to restrict the cultivation of cash crops and to increase the cultivation of foodcrops;

AND WHEREAS the only method to achieve this object in the opinion of the Government is to levy a tax on the cultivation of cash crops and on the sales of their produce; It is hereby ordered as follows —

Short title, extent and commencement. **1.** This Regulation may be called the "Restriction of Cash Crop Cultivation Regulation" and shall come into force in the whole of H.E.H. the Nizam's Dominions from the date of its publication in the Jarida.

Definitions. **2.** In this Regulation unless there is anything repugnant in the subject or context,—

[1][(*a*) Cash crop means a crop of groundnut or such other crop, not being a crop of cotton, as may from time to time be notified by Government in the Jarida;]

(*b*) "Approved Mixture" means growing of food and non-food crops in the specified areas in such proportion as may from time to time be prescribed;

(*c*) "Actual holder of agricultural Land" means such persons who is in actual possession of agricultural land whether such possession is in the capacity of a mortgagee, pattedar, shikmidar, hissedar or as a mishikmi or in any other capacity;

(*d*) "Sale" with all its grammatical variations and cognate expressions means every transfer of the produce of a cash crop by one person to another in course of or in connection with trade or business or otherwise for cash or for any other consideration which may be converted into cash, made on promise of immediate or future payment of the consideration, but shall not include a mortgage, charge or any other pledge;

Explanation.—Sale shall include such transfer of the produce of a cash crop in which in spite of a promise to pay the consideration by instalment or otherwise the nature of the contract is such that the retention of title or ownership of the seller in the sale is deemed to be implied in some form or other till the consideration is fully paid;

[1] Substituted by Hyderabad Act XX of 1951.

(*e*) [1][Processing in respect of the produce of a cash crop includes decortication of groundnuts, expulsion of oil from groundnut and such other processes as may be prescribed in the rules made under this Regulation in respect of processing these crops or other prescribed cash crops.]

(*f*) "Prescribed" means such matters as may be fixed by rules made under this Regulation;

(*g*) Words and expressions used in this regulation but not specifically defined herein shall have the same meaning as assigned to them in the Hyderabad Land Revenue Act, VIII of 1317 Fasli.

Tax on cash crops.

[2][**3.** Subject to the provisions of section 7 of this Regulation every holder of agricultural land in any part of the Dominions inclusive of non-khalsa areas, who has cultivated cash crops in his land shall pay to Government a tax in respect of cultivation in addition to land revenue or other tax which may be recoverable under any law for the time being in force, at such rate as may from time to time be prescribed by the President-in-Council.]

The income from the Cash Crops Tax shall be credited to Government.

4. All the proceeds of the Cash Crops Tax shall be credited entirely to Government (Diwani)

Cash Crops Tax shall be recoverable as arrears of land revenue.

5. (1) The Cash Crops Tax due from a person under this Regulation shall be recoverable as arrears of land revenue and shall be recovered along with land revenue.

(2) In non-khalsa areas, the person responsible for the collection of land revenue shall recover on behalf of Government (Diwani) the Cash Crops Tax due under this Regulation and deposit the collected Tax in the nearest Government (Diwani) Treasury.

(3) The President-in-Council may allow remuneration for service to Patel, Patwari or other persons on the Cash Crops Tax revcovered at the prescribed scale.

Growing of approved mixture.

6. The President-in-Council may, by rules made under this Regulation, prescribe approved mixture for specified areas for the purposes of this Regulation :

Provided that the proportion of the area under food crops and cash crops shall not be varied until notice of such variation is given sufficiently before the cultivating season and no such variation shall affect a crop which has been sown before the variation was notified.

Privileges of growers of approved mixture.

7. (1) An actual holder of agricultural land who grows approved mixture shall be exempt from the liability to pay the Cash Crops Tax on the area of cash crops and he shall have the right to sell the food crop grown by him to Government at the price fixed by Government from time to time. Delivery may be made at the nearest godown of Hyderabad Commercial Corporation or such other Government godown or place as may be notified.

---

[1] Substituted by Hyderabad Act XX of 1951.

[2] As amended by Regulation, dated 26th Azur 57 Fasli, published in Jarida No. 6 of 10th Dai 1357 F.

(2) Every grower of approved mixture may for the purpose of acquiring his rights mentioned in sub-section (1) submit an application to the concerned Girdawar or to such other officer as may be appointed by the President-in-Council in this behalf. Such Girdawar or officer, to whom such application is submitted shall, after local inspection, forward the application with his opinion to the Tehsildar who shall either admit or reject the application.

(3) When an application under sub-section (2) has been rejected the Taluqdar may, either *suo-motu* or on an appeal submitted to him confirm or vary the order of the Tehsildar.

(4) The Subedar may, either *suo-motu* or on an application being submitted vary the order passed by the Taluqdar according to his discretion and his decision in this behalf shall be conclusive.

Commercial Tax on Cash Crops.

8. (1) Besides the tax which shall be levied on cash crops under section 3 President-in-Council may impose a Commercial Tax on the sales or the processing in respect of the produce of cash crops at such rate as may be notified from time to time in the Jarida and which in no case shall be less than 5 per cent. and more than 15 per cent. of the sale price :

Provided that the Commercial Tax having once been paid on any quantity of such produce, no Tax shall be payable on any subsequent sale transactions.

(2) When a Commercial Tax is imposed under sub-section (1) on sale or processing the provisions of sections 3 to 7 with regard to the recovery of the Cash Crops Tax, the crediting of the proceeds of the said Tax and the privileges of growers of approved mixture shall apply to such tax in the same manner as if they were enacted with respect to the Commercial Tax alone.

Explanation.—For the purposes of levying the Commercial Tax on groundnut under this section, groundnut means both shelled and unshelled groundnut.

Bar of proceedings in Civil Courts.

9. No Civil Court shall entertain any suit or application in respect of a matter covering this Regulation or institute any other proceedings in that behalf.

Utilisation of Taxes.

10. The proceeds of the taxes recovered under this Regulation shall be credited to a separate fund which the Government shall utilise at its discretion to induce and entice the growing of food in the maximum quantity and for allied purposes of the same kind.

Power to make rules.

11. The President-in-Council may frame rules for carrying into effect the provisions of this Regulation which shall not be inconsistent with the provisions of this Regulation.

[1] Substituted by *ibid.*

THE WEST BENGAL LAND DEVELOPMENT AND PLANNING ACT, 1948

West Bengal Act XXI of 1948

An Act to provide for the acquisition and development of land for public purposes

WHEREAS it is expedient to provide for the acquisition and development of land for public purposes;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the West Bengal Land Development and Planning Act, 1948.

(2) It extends to the whole of West Bengal; but it shall not apply to the Calcutta Municipality as defined in clause (*b*) of section 2 of the Calcutta Improvement Act, 1911, or to any area to which that Act has been extended under sub-section (3) of section 1 thereof before the commencement of this Act.

Ben. Act V of 1911.

[1][*Explanation.*—For the purposes of this Act, the Calcutta Improvement Act, 1911, shall not be deemed to have been extended under sub-section (3) of section 1 of that Act to any area if section 167 only of that Act has been extended to such area.]

(3) It shall come into force on the date on which the West Bengal Land Development and Planning Ordinance, 1948, ceases to operate.

West Ben. Ord. II of 1948.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the expressions "land", "Collector" and "Company" respectively have the same meanings as in the Land Acquisition Act, 1894 ;

I of 1894.

(*b*) "development scheme" means a scheme for the development of land for any public purpose;

(*c*) "notified area" means an area declared under sub-section (1) of section 4 to be a notified area;

(*d*) "public purpose" includes—

(*i*) the settlement of immigrants who have migrated into the [1][State] of West Bengal on account of circumstances beyond their control,

(*ii*) the establishment of towns, model villages and agricultural colonies,

(*iii*) the creation of better living conditions in urban and rural areas, and

(*iv*) the improvem nt and development of agriculture, forestry, fisheries and industries;

(*e*) "rules" means rules made uhder this Act.

---

[1] Added by W. B. Act 29 of 1951.

[2] Substituted by the Adaptation of Laws Order, 1950.

Appointment of the prescribed authority.

3. The [1][State] Government may appoint, in accordance with the rules, an authority (hereinafter referred to as the prescribed authority) for carrying out the purposes of this Act.

Declaration of notified area.

4. (1) The [1][State] Government may, by notification in the official Gazette, declare any area specified in the notification to be a notified area if it is satisfied that any land in such area is needed or is likely to be needed for any public purpose and th Collector shall cause public notice of the substance of such notification to be given at convenient places in the locality in such manner as he may think fit.

(2) Thereupon it shall be lawful for any person either generally or specially authorised by such Government in this behalf and for his servants and workmen,—

to enter upon and survey and take levels of any land in such area ;

to dig or bore into the subsoil :

to do all other acts necessary to ascertain whether the land is suitable for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries and line by placing marks and cutting trenches; and

where otherwise the survey cannot be completed and the levels taken and the boundaries and lines marked, to cut down and clear away any part of any standing crop, fence or jungle :

Provided that the person so authorised shall, at the time of such entry, pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue officer of the district, and such decision shall be final.

Preparation and sanctioning of development scheme.

5. (1) The [1][State] Government may direct the prescribed authority, or, if it so thinks fit in any case, authorise any Company or local authority, to prepare, in accordance with the rules, a development scheme in respect of any notified area and thereupon such scheme shall be prepared accordingly and submitted, together with such particulars as may be prescribed by the rules, to the [1][State] Government for its sanction.

(2) A development scheme submitted to the [1][State] Government under sub-section (1) may be sanctioned by it either without any modification or subject to such modifications as it may deem fit.

[1] Substituted by *ibid.*

Declaration for acquisition of land needed for development scheme.

6. (1) When a development scheme is sanctioned under sub-section (2) of section 5 and the [1][State] Government is satisfied that any land in the notified area for which such scheme has been sanctioned is needed for the purpose of executing such scheme, a declaration to the effect that such land is needed for a public purpose shall, unless already made in pursuance of section 7, be made by the [1][State] Government.

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

Special provision in cases of urgency.

7. In cases of urgency, if in respect of any notified area the [1][State] Government is satisfied that the preparation of a development scheme is likely to be delayed, the [1][State] Government may, at any time, make a declaration under section 6, in respect of such notified area or any part thereof though no development scheme has either been prepared or sanctioned under section 5.

Application of Act I of 1894 subject to special provision for compensation.

8. A declaration under section 6 shall be conclusive evidence that the land in respect of which the declaration is made is needed for a public purpose and, after making such declaration, the [1][State] Government may acquire the land and thereupon the provisions of the Land Acquisition Act, 1894 (hereinafter in this section referred to as the said Act), shall, so far as may be, apply :

I of 1894.

Provided that—

(*a*) if in any case the [1][State] Government so directs, the Collector may, at any time after a declaration is made under section 6, take possession, in accordance with the rules, of any *beel*, *baor*, tank or other watery area, or any other waste or arable land in respect of which the declaration is made and thereupon such land shall vest absolutely in the [1][Government] free from all encumbrances ;

Explanation.—For the purposes of this clause the decision of the [1][State] Government as to whether any land is or is not waste or arable land shall be final ;

(*b*) in determining the amount of compensation to be awarded for land acquired in pursuance of this Act the market value referred to in clause *first* of sub-section (1) of section 23 of the said Act shall be deemed to be the market value of the land on the date of publication of the notification under sub-section (1) of section 4 for the notified area in which the land is included subject to the following condition, that is to say,—

---

[1] Substituted by *ibid.*

if such market value exceeds by any amount the market value of the land on the 31st day of December, 1946, on the assumption that the land had been at that date in the state in which it in fact was on the date of publication of the said notification, the amount of such excess shall not be taken into consideration.

Power to dispose of land without development.

9. Notwithstanding anything elsewhere contained in this Act or in any rule or order made thereunder, the [1][State] Government may, if it so considers expedient, retain, let on hire, lease, sell, exchange or otherwise dispose of any land acquired in pursuance of this Act :

Provided that—

(*a*) where the [1][State] Government decides to lease or sell any land acquired in pursuance of this Act, the person or persons from whom the land was so acquired shall, in such manner as the [1][State] Government may direct, be offered a prior right to take on lease or to purchase the land on such terms and conditions as may be determined by the [1][State] Government;

(*b*) if, in any case two or more persons claim to exercise a right offered under clause (*a*), the right shall be exercisable by such of the claimants as the [1][State] Government may determine.

Execution of development scheme and disposal of land.

10. (1) The [1][State] Government may direct the prescribed authority to execute any development scheme sanctioned under sub-section (2) of section 5 or cause it to be executed in accordance with the rules and upon the execution of the scheme as so directed the lands comprised therein shall be disposed of by the Collector in such manner as may be directed by the [1][State] Government.

(2) If the [1][State] Government so thinks fit, it may also empower a Company or a local authority to execute, at its own cost, any such development scheme and to dispose of the lands comprised therein on such terms and conditions including conditions relating to the manner of disposal of land as may be settled by the [1][State] Government and embodied in an agreement to be entered into by the [1][State] Government and the Company or local authority, as the case may be.

Withdrawal of power from Company or local authority to execute development scheme or to dispose of land.

11. If, at any time, the [1][State] Government is satisfied that any of the terms or conditions contained in an agreement referred to in sub-section (2) of section 10 is not being complied with, it may, by order served in accordance with the rules on the Company or local authority, as the case may be, withdraw the power conferred on it to execute any development scheme or to dispose of the lands comprised therein or both and may thereafter make such arrangement in that behalf as it may deem fit and proper.

[1] **Substituted** by *ibid.*

Protection of action taken under this Act.

12. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Delegation of powers.

13. The [1][State] Government may, by notification in the official Gazette, direct that any or all of the powers conferred upon it by this Act shall be exercisable also by such authority subject to such conditions, if any, as may be specified in the notification.

Power to make rules.

14. (1) The [1][State] Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the designation, constitution and manner of appointment of the prescribed authority ;

(*b*) the preparation of development schemes and the particulars to be submitted with development schemes referred to in sub-section (1) of section 5 ;

(*c*) the manner of taking possession of land referred to in clause (*a*) of the proviso to section 8 ;

(*d*) the execution of development schemes referred to in section 10 ;

(*e*) the manner of service of orders referred to in section 11.

Continuance of action taken under West Bengal Ordinance II of 1948.

15. Any appointment or rules made or any notification issued or anything done or any action taken or any proceeding commenced in exercise of any power conferred by or under the West Bengal Land Development and Planning Ordinance, 1948, shall on the said Ordinance ceasing to operate, be deemed to have been made, issued, done, taken or commenced in exercise of powers conferred by or under this Act as if this Act had commenced on the 27th day of April, 1948.

West Bengal Ord. II of 1948.

[1] Substituted by *ibi d*.

THE UNITED PROVINCES RURAL DEVELOPMENT (REQUISITIONING OF LAND) ACT, 1948

Act No. XXVII of 1948

An Act to provide for the requisitioning of land to promote the improvement and development of agriculture and economic condition in rural areas.

WHEREAS it is expedient to requisition land required for the development of agriculture and economic condition in rural areas and to prescribe an expeditious procedure for the determination of compensation to be paid on account of such requisition ;

It is hereby enacted as follows .—

Short title, extent and commencement.

1. (1) This Act may be called the United Provinces Rural Development (Requisitioning of Land) Act, 1948.

(2) It shall extend to the whole of the [1][Uttar Pradesh].

(3) This section shall come into force at once and the remaining sections shall come into force on such date and in such areas not being areas for the time being included in any municipality, cantonment area or notified area as the [1][State] Government may by notification in the official Gazette specify in this behalf.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context—

(1) "Compensation Officer" and "Requisitioning Authority" mean the Compensation Officer and the Requisitioning Authority appointed as such by general or special order by the [1][State] Government provided that such person shall be the Collector or an Assistant Collector nominated by the Collector.

(2) "Public purpose" means for and in connection with any of the following objects, that is to say,

(i) making, enlarging or deepening of tanks for purposes of irrigation;

(ii) composting of village refuse or preparation of any other form of manure ;

[1] Substituted by the Adaptation of Laws Order, 1950.

(iii) construction of *guls* for irrigation ;

(iv) plant nurseries ;

(v) any other object which the [1][State] Government may, after publication in the Gazette and after considering any objection or suggestion which may be received by notification in the Gazette, declare essential for development of agriculture or imp ovement of the life of community in rural areas.

(3) "Land" includes tanks and things attached to the earth or permanently fastened to anything attached to earth.

(4) "Prescribed" means prescribed by the rules made under this Act.

(5) [1][State] Government" means the Government of the [1][Uttar Pradesh].

(6) The expressions "Rent" and "Sayar" shall have the meaning respectively assigned to them in the United Provinces Tenancy Act, 1939.

Procedure of requisition.

3. If in the opinion of the Requisitioning Authority it is necessary or expedient so to do for a public purpose, it may, by order, requisition any land by serving on the owner and occupier thereof and, when the owner or the occupier is not readily traceable, or the ownership or the right to occupation of the land is in dispute, or owing to the number of persons entitled as owner or occupier it is not reasonably convenient to serve every one of them separately, by publishing, in such manner as may be specified in that behalf, a notice stating that the Requisitioning Authority, has decided to requisition it in pursuance of this section, and may make such further orders including orders relating to the disposal, possession and enjoyment of any trees and other crops of any person st nding on such land as appear to it to be necessary or expedient in connection with the requisiti ning.

Use of requisitioned land.

4. Where any land has been requisitioned under section 3 the Requisitioning Authority or such other authority as may be prescribed may use it in such manner as may appear to it to be expedi nt for any public purpose.

Powers of the Requisitioning Authority.

5. (1) The R quisitioning Authority may with a view to r quisition any land under section 3 or determining the compensation ther for by ord r—

(*a*) require any p rson to furnish to such authority as may be specified in the order such information in his possession relating to the prop rty as may be so specified, and

(*b*) direct that the wner or the occupier or person in possession of the land shall not, without the permission of the authority making the order, dispose of it till the expiry of such period as may be specified in the order.

[1] Substituted by *ibid*.

(2) Without prejudice to the powers conferred by sub-section (1) any person or authority appointed in this behalf by the Requisitioning Authority may enter any land and inspect it for the purpose of determining whether, and if so in what manner, an order under section 3 should be made in relation to such land, or with a view to securing compliance with any order made under section 3.

Application for requisition by a Society or Union.

6. A Society or a Union registered under the Co-operative Society Act, 1912, or a *Gaon Sabha* under the United Provinces *Panchayat Raj* Act, 1947, may in the prescribed manner apply to the Requisitioning Authority to requisition any land for a public purpose specified in the application.

Declaration by the requisitioning Authority on an application by a Society or Union.

7. If the Requisitioning Authority, after such inquiry and in such manner as it may deem fit, is satisfied that the land mentioned in the application under section 6 in needed and is suitable for a public purpose, it shall make a declaration to that effect and except as provided in section 14 the same shall be final and conclusive.

Requisition of land after declaration under section 7.

8. Whenever any land shall have been so declared under section 7 to be needed or suitable for a public purpose, the Requisitioning Authority may, subject to the general control of the [1][State] Government, requisition such land and the provisions of this Act, in so far as they may be applicable, shall apply to such land.

Payments of compensation.

9. (1) Where any land is requisitioned under section 3 there shall be paid to every person interested such compensation as may be agreed upon in writing between such person and the Requisitioning Authority in respect of—

(*a*) the requisitioning of such land, and

(*b*) any damage done druing the period of requisitioning to such land other than that which may have been sustained by natural causes.

Explanation.—For the purposes of this sub-section the deepening of a tank, making of pits for composting village refuse is not damage done to the land.

(2) Where no such agreement can be reached, the Requisitioning Authority shall refer matter with his recommendation as to the amount of compensation and the reasons therefor to the Compensation Officer and also direct the person claiming compensation to appear before such officer on such date as may be specified and the Compensation Officer shall, on the date fixed in that behalf or on any other date to which the hearing may be postponed, hear such person and after such further inquiry as he may deem fit, determine the amount of compensation which shall, except as provided in section 12, be final and conclusive.

(3) The Compensation Officer shall in fixing the amount of compensation have regard to—

(*a*) the rent, if any, assessed on the land which has been requisitioned;

---

[1] Substituted by *ibid.*

(*b*) the *sayar* income, if any, derived from such land;

(*c*) the value of any trees which as a result of the requisition have to be r moved from the land; and

(*d*) the purpose for which it has been requisitioned and shall also take into consideration the benefit which the use of such land is likely directly or indirectly to confer on any other property owned or occupied by such person.

But he shall not take into consideration—

(i) the value of trees, except trees mentioned in clause (*c*), which may continue to be possessed and enjoyed by the person entitled thereto,

(ii) the value of any crops which may be existing on the land at the time of the requisition and may be removed by him after such time as the Requisitioning Authority may specify in that behalf,

(iii) the value of any right of any person in or over the requisitioned land enjoyment whereof has not been suspended or otherwise prohibited.

(4) The compensation fixed under sub-section (1) determined under sub-section (2) shall be paid in such manner as the parties may agree or as the case may be, the Compensation Officer may direct.

Release from requisition.

10. (1) Where any land requisitioned under section 3 or 8 is to be released from requisitioning, the Requisitioning Authority may, after making such inquiry, if any, as it considers necessary, specify by order in writing the person who appears to it to be entitled to the possession of such land.

(2) The delivery of possession of such land to the person specified in the order made under sub-section (1) shall be a full discharge of any liability of the [1][State] Government to deliver possession to such person as may have rightful claim to possession thereof but shall not prejudice any right in respect of such land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(3) Where the person to whom the possession of any land requisitioned under section 3 or 8 is to be delivered cannot be found or is not readily traceable or has no agent or other person empowered to accept delivery on his behalf, the [1][State] Government shall publish in the official Gazette a notice declaring that such land is released from requisitioning and shall cause a copy thereof to be affixed on some conspicuous part of such land.

(4) When a notice referred to in sub-section (3) is published in the official Gazette, the land specified in such notice shall cease to be subject to requisitioning on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof.

---

1 Substituted by *ibid.*

(5) Upon delivery of possession under sub-section (2) or (4), the [1][State] Governmnet shall, save as directed by any order made under section 9, not be liable for any compensation or other claims in respect of such land.

Vesting of the management and superintendence of requisitioned land.

11. The Requisitioning Authority may vest the management and superintendence of any land requisitioned under this Act in the Co-operative Society or the Union or the *Gaon Sabha* on such t rms and conditions as may be prescribed and any land so entrusted to any society, union or *gaon sabha* shall be managed in such manner as may be prescribed.

Review of the order passed by the Requisitioning Authority.

12. The [1][State] Government or the prescribed Authority may review the order passed by the Requisitioning Authority under section 7 or by the Compensation Officer under sub-section (2) of section 9, if it is satisfied that grave injustice has been done to a party.

Dues of the [1][State] Government recoverable as arrears of land revenue.

13. Any charges payable to the [1][State] Government by a Co-operative Society, Union or *Gaon Sabha* or the members of such body under the provisions of this Act or the rules may be recovered from the society, union or *sabha* or thei members, as the case m y be, as arrears of land revenu .

Court not to question any order passed under the Act.

14. (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any court except as provided in this Act.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred under this Act, a court shall within the meaning of Indian Evidence Act, 1872, presume that such order was so made by that Authority.

Protection of persons acting under the Act.

15. (1) Except as provided in this Act no suit or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders m de thereund r.

(2) No suit or other legal proceeding shall lie against the [1][State] Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Rule-making power.

16. (1) The [1][State] Government may make rules consistent with this Act for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may prescribe :—

(*a*) the particulars which shall be entered in any application for requisition made by a co-operative society or union or a *gaon sabha* ;

---

1 Substituted by *ibed.*

(*b*) the procedure to be followed in inquiries held by the Compensation Officer, or the Requisitioning Authority ;

(*c*) the charges and the terms and conditions subject to which the management and superintendence may be vested in a co-operative society, union or *gaon sabha* ;

(*d*) the manner and the principles on which the rents and *sayar* may be determined in the case of requisitioned land ;

(*e*) the authority which can review under section 12 the order passed by the Requisitioning Authority and the procedure to be followed by it; and

(*f*) any other matter which is to be or may be prescribed.

THE ORISSA DEVELOPMENT OF INDUSTRIES, IRRIGATION, AGRICULTURE, CAPITAL CONSTRUCTION AND RESETTLEMENT OF DISPLACED PERSONS (LAND ACQUISITION) ACT 1948

Orissa Act XVIII of 1948

An Act to provide for the speedy acquisition of land for the development of industries, irrigation, agriculture, capital construction, resettlement of displaced persons and for matters incidental thereto for the Province of Orissa.

WHEREAS it is expedient to provide for the speedy acquisition of land for the purposes of the development of industries, irrigation, agriculture, capital construction, resettlement of displaced persons and for matters incidental thereto in the Province of Orissa ;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Orissa Development of Industries, Irrigation, Agriculture, Capital Constructions and Resettlement of Displaced Persons (Land Acquisition) Act, 1948.

(2) It extends to the whole of the [1][State] of Orissa.

(3) It shall come into force on such date or dates and in such areas as the [1][State] Government may, by notification, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "capital construction" means the construction of the capital of the [1][State] of Orissa ;

(*b*) "competent authority" means the Collector and includes any other person appointed by the [1][State] Government by notification to perform all or any of the functions of a competent authority under this Act;

(*c*) "development of industries" shall mean and include the construction of the Hirakud Dam and other dams and reservoirs, hydro-electric projects and such other schemes or projects as the [1][State] Government may, by notification from time to time, specify in this behalf ;

(*d*) "displaced person" means any person who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or fear of such disturbances in any area

[1] Substituted by the Adaptation of Laws Order, 1950.

now forming part of Pakistan, has been displaced from or has left his place of residence in such area after the 1st day of March 1947 and who has subsequently been residing in India; or any person who has been or may be displaced on account of construction or proposed construction of any of the projects referred to in sub-clause (*c*) above ;

(*e*) "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth.

Notice of acquisition of land.

3. (1) Whenever it appears to the [1][State] Government that it is necessary or expedient to acquire speedily any land for the purpose of the development of industry, irrigation, agriculture, capital construction or the resettlement of displaced persons or any matter incidental thereto, a notification to that effect shall be published in the Gazette stating the area and the boundaries of the land proposed to be acquired and the competent authority shall cause public notice of the substance of such notification to be given at convenient places on or near the land to be acquired.

I of 1894.

(2) Any notification issued under the provisions of section 4 of the Land Acquisition Act, 1894, for the acquisition of land for a public purpose in respect of the Hirakud Dam, reservoir and other necessary requirements of the Mahanadi Valley Scheme or Machkund Hydro-Electric Project or the Capital Construction Scheme before the commencement of this Act shall be deemed to be publication of notification under sub-section (1).

Service on owner or occupier affected by notice of acquisition.

4. (1) As soon as may be after the publication of the notification under section 3, the competent authority shall cause to be served by registered post on the owner of the land and also on the occupier in cases where the owner is not in occupation of the land or where the person to be served is not readily traceable or the ownership of the land is in dispute, shall publish in the Gazette, a notice stating the particulars specified in section 3. A copy of such notice shall be affixed to some conspicuous part of the land proposed to be acquired and shall be proclaimed by the beat of drums.

I of 1894.

(2) Any notice issued under the provisions of section 4 of the Land Acquisition Act, 1894, for the acquisition of land for a public purpose in respect of the Hirakud Dam, reservoir and other necessary requirements of the Mahanadi Valley Scheme or Machkund Hydro-Electric Project or the Capital Construction Scheme before the commencement of this Act shall be deemed to be a service of notice on the owner or occupier for the purpose of sub-section (1).

Vesting and taking possession of land.

5. (1) When a notice of acquisition is served or is published under section 4, the land shall vest absolutely in the [1][State] Government free from all encumbrances on the date the notice is so served or published in the Gazette.

(2) The competent authority may, at any time after the land has become so vested, proceed to take possession thereof :

---

[1] Substituted by *ibid.*

Provided that such authority shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention to do so, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) The competent authority shall at the time of taking possession of such land where there are standing crops and trees (if any) prepare a record in the prescribed manner of such crops and trees (if any) and shall offer to the persons interested compensation in respect thereof, and, in case such offer is not accepted, the value of such crops and trees shall be allowed for in awarding compensation for the land under the provisions herein contained.

Objections to acquisition.

6. (1) Any person interested in any land which has become vested in the [1][State] Government under section 5 may, within one month from the vesting thereof, file his objection, if any, to the acquisition before the competent authority and such authority may, after making such enquiry as it thinks fit, either dismiss the objection or release the land in respect of which objection has been filed from acquisition.

(2) If any land is released from acquisition under sub-section (1), it shall be deemed to revest in the person originally entitled thereto and any encumbrance which may have been extinguished under section 5 shall revive.

(3) The provisions of sub-sections (1) and (2) shall not apply where in respect of any notification or notice referred to in sub-section (2) of section 3 or section 4 proceedings have been commenced or action has been taken prior to the commencement of this Act, under sub-section (2) of section 5-A of the Land Acquisition Act, 1894. I of 1894.

Method of determining compensation.

7. (1) Where any land has been acquired under this Act, there shall be paid compensation, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say—

(*a*) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement ;

(*b*) where no such agreement can be reached, the [1][State] Government shall appoint as arbitrator a person qualified for appointment as a Judge of a High Court ;

(*c*) the [1][State] Government may, in any particular case, nominate a person having expert knowledge as to the nature and condition of the land acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose ;

---

[1] Substituted by *ibid.*

(*d*) at the commencement of the proceedings before the arbitrator, the [1][State] Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation;

(*e*) The arbitrator in making his award, shall have due regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 : I of 1894.

Provided that the market value referred to in the first clause of sub-section (1) of section 23 of the said Act shall be deemed to be the market value of such land on the date of publication of the notice under section 3, or as the case may be, the preliminary notification under sub-section (1) of section 4 of the Land Acquisition Act, 1894, referred to under sub-section (2) of section 3 or on the first day of September, 1939, with an addition of fifty per cent. whichever is less : I of 1894.

Provided further that where under any law or custom having the force of law the lands are not saleable the market value of such lands shall be such multiple as may be prescribed of the deduced rent to be calculated in the prescribed manner with addition of fifty per cent.:

Provided further that where such land has been held by the owner thereof under a purchase made before the 1st day of October, 1948, or as the case may be, the date of publication of the preliminary notification under section 4 of the Land Acquisition Act, 1894, referred to in sub-section (2) of section 3, but after the first day of September, 1939, by a registered document, or a decree or pre-emption between the aforesaid dates, the compensation shall be the price actually paid by the purchaser or the amount on payment of which he may have acquired the land in the decree for pre-emption, as the case may be. I of 1894.

(2) The arbitrator shall, in awarding any compensation under this section, apportion the amount thereof between such persons, if any, as may appear to him to be entitled thereto.

(3) An appeal shall lie to the High Court from the award of the arbitrator appointed under this Act, and the decision of the High Court shall be final.

8. The compensation awarded shall be paid by the competent authority to the person entitled thereto according to the award : Payment of compensation.

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

9. The [1][State] Government or the competent authority may, with a view to determining the compensation payable under this Act, by order require any person to furnish to such authority as may be specified in the order such information in his possession relating to the land that may be so specified. Power to secure information.

[1] Substituted by *ibid.*

Disposal of land.

10. Subject to such rules as may be made by the [1][State] Government, the competent authority may use or deal with any land acquired under the provisions of this Act in such manner and subject to such conditions as may appear to it to be expedient.

Penalties.

11. Whoever wilfully obstructs any person in lawfully taking possession of any land under this Act or refuses to furnish any information as required by section 9 shall be punishable with imprisonment which may extend to one month or with fine which may extend to fifty rupees or with both.

Application of section 51 of Act I of 1894.

12. The provisions of section 51 of the Land Acquisition Act, 1894, shall apply in respect of the stamp duty chargeable on award or agre ment mad under this Act. I of 1894.

Protection for action done in good faith.

13. No suit, prosecution or othe legal pro eeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

Power to make rules.

14. (1) The [1][State] Government may make rules to carry out the objects of this Act and for the guidance of officers in all matters connected with its enforcement.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the manner in which land acquired under this Act may be used or dealt with ;

(*b*) the procedure to be followed in arbitrations under this Act ;

(*c*) the principles to be followed in apportioning in the costs of proceedings before the arbitrator and on appeal ;

(*d*) the principles to be followed in determining the mode of fixing and the mode of pa ment of c m-pensation as respects different classes of or different descriptions of interest held in lands or the manner in which d duced rent in respect of non-saleable lands are to be calculated ;

(*e*) preparation of a record under sub-section (3) of section 5.

---

1 Substituted by *ibid.*

THE DELHI AND AJMER-MERWARA LAND DEVELOPMENT ACT, 1949

Act No. LXVI of 1948

An Act to provide for the preparation and execution of land development schemes, the reclamation of waste-land and the control of private forests and grass-land, in the Provinces of Delhi and Ajmer-Merwara.

WHEREAS it is expedient to provide for the preparation and execution of land development schemes, the reclamation of waste-land and the control of private forests and grass-land in the Provinces of Delhi and Ajmer-Merwara ;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

Short title extent and commencement.

1. (1) This Act may be called the Delhi and Ajmer-Merwara Land Development Act, 1948.

(2) It extends to the [1][State] of Delhi and Ajmer-[2][ ].

(3) It shall come into force in each of the said Provinces on such date as the Chief Commissioner of that Province may, by notification in the official Gazette, appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Board" means the Land Development Board constituted for the [1][State] under section 3;

(*b*) "owner", in relation to any land, means—

(i) a person having a proprietary right in the land and includes a usufructuary mortgagee of such right and in the [1][State] of Ajmer-[2][ ], an *istimrardar*, a *jagirdar*, a *muafidar*, and a *bhumia*; and

(ii) a tenant of the land as hereinafter defined ;

(*c*) "prescribed" means prescribed by rules made under this Act;

(*d*) "reclamation" includes cultivation, afforestation and any other improvement of land; and

(*e*) "tenant" includes a usufructuary mortgagee of the rights of a tenant.

---

[1] Substituted by the Adaptation of laws order, 1950.

[2] Omitted by *ibid.*

CHAPTER II

LAND DEVELOPMENT BOARDS AND LAND DEVELOPMENT SCHEMES

Constitution of Land Development Boards.

3. (1) As soon as may be after the commencement of this Act, the Chief Commissioner shall, by notification in the official Gazette, appoint an officer to be called the Land Development Commissioner and constitute for the [1][State] a Land Development Board consisting of the following members, namely :—

(*a*) the Land Development Commissioner, who shall be the Chairman of the Board,

(*b*) two official members who shall be persons of experience in agriculture or irrigation engineering, and

(*c*) two non-official members.

(2) A non-official member may, at any time by notice in writing to the Chairman, resign his office.

(3) The Chief Commissioner may, at any time, remove from the Board any member who is guilty of any action involving moral turpitude.

(4) No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Board.

(5) If there is a difference of opinion among the members of the Board regarding any question the decision of the majority of the members present and voting shall prevail, and in case of equality of votes the Chairman shall have a casting vote.

(6) The Board may appoint one of the official members to be the Secretary of the Board.

(7) The Chief Commissioner may invest the Land Development Commissioner with all or any of the powers of a Deputy Commissioner or a Collector under any law for the time being in force in the [1][State] of Delhi or Ajmer-[2][ ], as the case may be.

Matters on which land development schemes may provide.

4. (1) The Board shall prepare a land development scheme for the [1][State] providing for one or more of the following matters, namely :—

(*i*) preservation and improvement of soil ;

(*ii*) prevention of soil erosion ;

(*iii*) improvement of water supply by the utilization of water in rivers or rivulets, tube wells, boring or construction of wells, conservation of rain water by constructing dams, or by use of power ;

(*iv*) improvement in the methods of cultivation ;

(*v*) introduction of dry farming methods;

(*vi*) supply of seed, improved implements of agriculture, manure and fertilizers ,

---

[1] Substituted by *ibid.*

(*vii*) development of horticulture and planting of fruit trees ;

(*viii*) reclamation of land lying waste through water-logging, accumulation of sand, growth of jungle, soil erosion or any other cause;

(*ix*) cultivation of land lying uncultivated owing to the negligence or incapacity or absence of the owner ;

(*x*) regulation or prohibition of grazing and browsing;

(*xi*) control and maintenance of tree-growth ;

(*xii*) regulation or prohibition of firing of vegetation;

(*xiii*) planting or sowing of trees, shrubs and grasses for the purpose of afforesting uncultivable land or providing shelter-beds against wind or sand or for any other purpose;

(*xiv*) protection from locusts and other pests; and

(*xv*) any other matter which may be prescribed.

(2) Every scheme prepared under sub-section (1) shall contain the following particulars, namely :—

(*i*) the objects of the scheme ;

(*ii*) details of the area to be covered by the scheme;

(*iii*) the work or kind of work to be carried out under the scheme ;

(*iv*) the agency or agencies through which the work shall be carried out;

(*v*) the approximate estimated cost of the scheme and the method of financing it;

(*vi*) the duties and obligations, financial or other, of the Government as well as of the owners of the area concerned; and

(*vii*) any other particulars which may be prescribed.

Inquiry into, and sanctioning of schemes.

5 (1) The Chief Commissioner shall, after the Board has prepared the scheme under section 4—

(*a*) appoint an Inquiry Officer, and

(*b*) cause the scheme to be published in the manner prescribed inviting suggestions from persons affected by it within such time and in such manner as may be prescribed.

(2) The Chief Commissioner shall, after considering the record of the inquiry and the report of the Inquiry Officer and after consulting the Board, submit the scheme with his report to the Central Government which may either sanction the scheme with or without modification or reject it.

Publication of schemes.

6. Every scheme sanctioned under section 5 shall be published by the Land Development Commissioner in the prescribed manner and shall come into force on such date as may be specified by him.

Power to make regulations.

7. The Board may, by notification in the official Gazette, make regulations for the purpose of carrying out the objects of the scheme or in respect of any matter supplementary or incidental thereto, and any regulations so made shall also be published by the Board in the manner prescribed.

Power to make grant or advance loan

8. (1) The Land Development Commissioner may, with the approval of the Board, make a grant or advance a loan to any person for carrying out any work under any scheme on such terms and conditions as may be prescribed.

(2) The amount of loan, or any instalment thereof or interest thereon which may be due but not repaid in accordance with the terms and conditions of the loan may, without prejudice to any other remedy provided by law, be recovered as arrears of land revenue.

Penalty.

9. (1) In making any scheme or any regulation under section 7, the Board may provide that the contravention of such provisions of the scheme or of such regulations as may be specified by it, shall be punishable with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) No person shall be prosecuted for any contravention specified in sub-section (1) except on complaint in writing by the Land Development Commissioner.

Works to be carried out by Government at owner's expense.

10. (1) Where under the scheme any work is to be carried out on any land at the expense of the owner or owners thereof, and such owner, or any one of such owners, is willing to carry out the work, he may give notice to that effect in writing to the Land Development Commissioner within twenty-one days of the coming into force of the scheme.

(2) On receipt of such notice the Land Development Commissioner shall furnish the owner with full details of the work, and fix the date before which the owner shall carry out the work.

(3) If the owner fails to carry out the work to the satisfaction of the Land Development Commissioner before the date fixed by him, or if the owner at any time informs the Land Development Commissioner in writing of his inability to do so, the Land Development Commissioner may get the work carried out by such agency as he thinks fit and the expenses incurred by him in carrying out the work shall be recovered from the owner as arrears of land revenue.

(4) Where any work is carried out in pursuance of this section by one or more of several owners, the other owners shall be liable to contribute towards the expenses incurred by him or them such amount as the Board may determine.

Contribution by owners of other land benefiting by work

11. Where under the scheme any work is carried out by the owner or by the Land Development Commissioner at the expense of the owner, and the work is in the opinion of the Board likely to benefit any other land in the area covered

by the scheme, the owners of such other land shall be liable to contribute towards the expenses of carrying out the work such amount as the Board may determine :

Provided that the Chief Commissioner may remit the whole or any part of the contribution so payable in respect of any work carried out on land belonging to the Government.

Recovery of contributions.

12. The amount of contribution determined by the Board under sub-section (4) of section 10 or section 11 shall be paid by the persons concerned within such time as may be specified by the Board, and in default of such payment shall be recovered from those persons as arrears of land revenue and paid to the persons entitled to the contribution.

Power to carry out works and recover expenses from owners.

13. Notwithstanding anything contained in the scheme, the Board may direct that the work to be carried out or remaining to be carried out on any land by the owners thereof shall be carried out by the Land Development Commissioner, and that the whole or any specified part of the expenses of carrying out the work shall be recovered as arrears of land revenue from the owners of the land in such proportion, at such times, and in such instalments, as the Board may fix, having regard to the amount to be recovered and the nature and extent of the rights of the owners in the land.

Statement and map showing details of work.

14. (1) On the completion of any work under the scheme, the Land Development Commissioner shall prepare—

(*a*) a statement in such form, and containing such particulars, as may be prescribed, and

(*b*) a map showing the location and other material details of the work.

(2) Every statement and map so prepared shall, on approval by the Board, form part of the settlement record, or, as the case may be, the record-of-rights of the estates specified in the statement, and the said record shall wherever necessary be corrected in accordance with the statement.

Repairs and renewals of work.

15. If any person shown in a statement prepared under section 14 as liable to maintain and keep in repair the work fails to effect such repairs or renewals, or to do so within such time, as the Land Development Commissioner may by order specify, the Land Development Commissioner may get the repairs or renewals done by such agency as he thinks fit, and the expenses incurred by him in so doing shall be recovered from the said person as arrears of land revenue.

Enhancement of rent on account of improvement effected by work.

16. Where any land in which a tenant has a right of occupancy has benefited by work carried out under the scheme by or at the expense of the owner of the land, and the tenant has not made any contribution to the expenses thereof, the Revenue Officer having jurisdiction shall, on application made by the owner in this behalf, enhance, in accordance with such principles as may be prescribed, the rent payable by the tenant in respect of the land, anything contained in any law to the contrary notwithstanding.

Rights of entry, etc.

17. (1) Any member, officer, subordinate or workman of the Board or any other person authorised by the Land Development Commissioner in this behalf may, after giving such notice as may be prescribed to the owner in possession of any land, enter upon and survey the land, or do any acts, or carry out any work in or on the land for the purpose of preparing, inquiring into or executing any land development scheme under the provisions of this Chapter.

(2) Every such member, officer, subordinate, workman or person shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

Appeals.

18. Any person aggrieved by—

(*a*) a determination of the Board under sub-section (4) of section 10 or section 11; or

(*b*) the making of an entry, or the failure to make an entry, in a statement prepared under section 14; or

(*c*) the order of the Land Development Commissioner under section 15; or

(*d*) the order of a Revenue Officer under section 16,

may, within the prescribed time and in the prescribed manner, appeal to the prescribed authority, and, notwithstanding anything contained in any law to the contrary, the decision of such authority, and, where no appeal is preferred, the determination, order or statement aforesaid shall be final and shall not be called in question in any court.

Power of control.

19. The Central Government may from time to time call for any report or give any direction to the Board, and the Board shall submit such report and carry out such direction.

CHAPTER III

RECLAMATION OF WASTE-LAND

Definitions.

20. In this Chapter—

(*a*) "date of taking possession" means the date on which temporary possession of the land is taken on behalf of the Government under section 21;

(*b*) "waste-land" means any land lying waste through water-logging, accumulation of sand, growth of jungle, soil erosion or any other cause, or lying uncultivated, for not less than three consecutive years.

Order for taking possession of waste-land.

21. (1) If the Board is satisfied that for purposes of executing any scheme of reclamation of waste-land sanctioned under section 5, it is necessary that temporary possession of any waste-land should be taken, it may, by order in writing, direct the Land Development Commissioner to take temporary possession of such land on behalf of the Government on such date as may be specified in that o der.

(2) The order shall be made in such form and brought to the notice of the owner of the land in such manner, as may be prescribed.

(3) On the date specified in the order, the Land Development Commissioner or an officer authorised by him shall enter upon and take possession of the land on behalf of the Government.

Amendment for reclamation.

22. When the land has been taken possession of, the Land Development Commissioner may, with the approval of the Board, arrange for its reclamation—

(*a*) by retaining it under his management for such period as he thinks fit, or

(*b*) by settling it for such period and on such terms as may be fixed by the Board with th person who on the date of taking possession was in lawful possession of the land or was entitled to such possession, or, if such person is dead, with his successor in interest, or

(*c*) if such person refuses to take the land for such period or on such terms, by settling it with any other person, or

(*d*) by a combination of the methods aforesaid :

Provided that the total period for which the land is retained or settled under this section shall not exceed ten years.

Claim for arrears of rent not to be enforced against Government, etc.

23. No claim of the landlord to any a rears of rent accrued or due in respect of the land for the period prior to the date of taking possession shall thereafter be enforc d by any court, whether in execution of a decree or otherwise, against the Government or against any person holding the land under the Government or by the issue of any process against the land.

Termination of possession on completion of reclamation.

24. (1) When the reclamation of the land is in the opinion of the Land Development Commissioner complete and, in any case, before the expiry of a period of ten years rom the date of taking possession the Land Development Commissioner shall, after making an inquiry in the prescribed manner and by order in writing,—

(*a*) declare that possession of the land shall be restored on such date as may be specified in the order to the owner who on the date of taking possession was in lawful possession of the land, or was entitled to such possession, or if he is dead, to his successor in interest:

(*b*) determine the person to whom possession is to be so restored;

(*c*) where such person is a tenant, determine the rent payable on account of the use or occupation of the land; and

(*d*) where the land or any part thereof has been afforested regulate the cutting of trees in such land.

(2) On the date specified in the said order, possession of the land shall be deemed to have been delivered by the Government to the person determined under clause (*b*) of sub-section (1).

(3) The delivery of possession of the land to the person determined under clause (*b*) of sub-section (1) shall be final and full discharge of the Government from all liability in respect of such delivery, but shall not prejudice any right in respect of the land to which any other person may be entitled, by due process of law, to enforce against the person to whom the possession of the land has been so delivered.

Compensation for period of possession.

25. (1) As soon as may be after the date of taking possession of the land, the Land Development Commissioner shall make an enquiry in the prescribed manner and determine—

(*a*) in respect of any land which on the said date was in the occupation of a tenant—

(*i*) the annual rent payable by him, and

(*ii*) the average net annual income, if any, after deducting rent, derived by him during the three years immediately preceding the said date, and

(*b*) in respect of any other land, the average net annual income, if any, without deducting any land revenue payable, derived by the owner during the three years immediately preceding the said date.

(2) There shall be payable by the Government as compensation on each anniversary of the date of taking possession until the date referred to in sub-section (2) of section 24—

(*a*) in respect of such land as is referred to in clause (*a*) of sub-section (1), the amount determined under sub-clause (*i*) thereof to the landlord, and the amount determined under sub-clause (*ii*) thereof to the tenant, and

(*b*) in respect of any other land, the amount determined under clause (*b*) of sub-section (1) to the owner.

(3) For the purposes of this section "landlord" means, the person under whom the tenant holds land and to whom the tenant is, or but for a special contract would be liable to pay rent for that land, and any reference to an owner, landlord or tenant shall be deemed to include a reference to the predecessors and successors in interest of the owner, landlord or tenant.

Accounts.

26. The Board shall maintain, in such form and in accordance with such rules as may be prescribed, an account of all receipts and payments by the Government in respect of the land, and any owner of, or other person having an interest in, the land may, on payment of a fee of eight annas, inspect the account

Recovery of net expenditure incurred by Government.

27. (1) The net expenditure incurred by the Government on the reclamation of the land under the provisions of this Chapter or such part of that expenditure as the Chief Commissioner may by general or special order direct, together with interest calculated at the prescribed rate and in the prescribed manner, shall be recovered as arrears of land revenue from the person to whom possession of the land is delivered by the Government under sub-section (2) of section 24.

(2) The amount to be recovered under sub-section (1) from any person shall be decided by the Board.

Appeals.

28. Any person aggrieved by an order under section 21, section 24, section 25 or sub-section (2) of section 27 of the Board or the Land Development Commissioner, as the case may be, may, within the prescribed time and in the prescribed manner, appeal to the Chief Commissioner, and the decision of the Chief Commissioner on such appeal, and where no appeal is preferred, the order aforesaid shall be final and shall not be called in question in any court.

Continuance of liability for land revenue rates and cesses.

29. The taking and retaining of possession of any land on behalf of the Governmenunder the provisions of this Chapter shall not affect the liability of any person for the payment of land revenue, rate or cess in respect of the land for any period whether before or after the date of taking possession.

CHAPTER IV

Control over Forests and Lands not being the Property of Government

Amendment of Act XVI of 1927 in Delhi.

30. The following amendments shall be made in the Indian Forest Act, 1927, in its application to the [1][State] of Delhi, namely :—

(1) in sub-section (1) of section 35 of the said Act,—

(*a*) for the words "any forest or waste-land" the words "any forest, waste-land or grass-land" shall be substituted ;

(*b*) for clauses (*b*) and (*c*) the following clauses shall be substituted, namely :—

" (*b*) the cutting of trees and timber;

(*c*) the disposal of any forest produce;

(*d*) the firing or clearing of vegetation;

[1] Substituted by the Adaptation of Laws Order, 1950.

(*e*) the cutting, storage and conservation of grass or leaf fodder; or

(*f*) the admission, herding or pasturing of cattle"; and

(*c*) after clause (*v*) the following shall be added :—

"(*vi*) for any other purpose conducive to public welfare.";

(2) in sub-section (2) of section 37 of the said Act, for the words "not less than three" the words "not less than seven" shall be substituted; and

(3) in sub-section (1) of section 38 of the said Act, for the word "two-thirds" the word "one-half" shall be substituted.

Application of Chapter V, Act XVI of 1927 to Ajmer-Merwara.

31. Without prejudice to the provisions of sub-section (3) of section 1 of the Indian Forest Act, 1927, the provisions of Chapter V of that Act shall apply to the [1][State] of Ajmer-Merwara as they apply to the [1][State] of Delhi.

CHAPTER V

Supplementary

Power to make rules.

32. (1) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the conduct of business by the Board and the procedure to be followed at meetings of the Board ;

(*b*) the procedure to be followed by Inquiry Officers under section 5;

(*c*) the manner of publication under sections 5, 6 and 7;

(*d*) the principles on which the amounts of contribution are to be determined by the Board under sub-section (4) of section 10, or section 11;

(*e*) the form of the statement under section 14 and the particulars to be stated therein;

(*f*) the principles of enhancement of rent under section 16 ;

(*g*) the manner of giving notice under sub-section (1) of section 17 ;

(*h*) the authority to whom appeal may lie and the time and manner of such appeal under section 18 ;

(*i*) the form of notice under section 21 and the manner of its service ;

[1] Substituted by *ibid.*

(*j*) the manner of inquiry under section 24 and sub-section (1) of section 25 ;

(*k*) the form and method of maintaining accounts under section 26 ;

(*l*) the rate of interest and the method of its calculation under sub-section (1) of section 27 ;

(*m*) the time and manner of appeal under section 28 ; and

(*n*) any matter which may be prescribed

Protection of action taken under the Act.

33. (1) No suit, prosecution or other proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

(2) Save as otherwise expressly provided by or under this Act, no suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act

THE TRAVANCORE-COCHIN LAND DEVELOPMENT ACT, 1950

Act XXXVI of 1950

Peamble. WHEREAS it is considered necessary to provide for the preparation and execution o schemes for the control and prevention of soil erosion by constructing terraces and other anti-erosion works, and to provide generally for the preparation and execution of other schemes for the improvement of cultivation of lands, reclamation of waste ands, preservation of forests and such other matters ;

It is hereby enacted as follows :—

Short title, extent and commencement. **1.** (1) This Act may be called the Travancore-Cochin Land Development Act, 1950.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) It shall come into force at once.

Definitions. **2.** In th s Act, unless there is anything repugnant in the subject or context,—

(*i*) "Board" means the Land Development Board constituted under section 3;

(*ii*) "Collector" means the Collector of the District;

(*iii*) "Inquiring Officer" means an officer appointed as such by the Board ;

(*iv*) "Land Development Officer" means an Officer appointed as such by Government ;

(*v*) 'Owner" includes the person for the time being receiving or entitled to receive, whether on his own account or as agent, trustee, guardian manager or receiver for another person, the rent or profit derivable from land, a tenant. an occupant, or a mortgagee in possession of land ;

(*vi*) "Prescribed" means prescribed by rules made under this act ; and

(*vii*) 'Work" means any work carried out or to be carried out under any scheme under this Act.

Land Development Board. **3.** Government shall constitute a Land Development Board consisting of a Chairman and four members of whom two at least shall be non-officials.

4. (1) Whenever it appears to the Board that it is desirable to provide for the better preservation and protection of land in any area or to provide for any or all of the matters specified herein, the Board may direct the preparation of a land development scheme or any such area. A scheme may make provision for any or all of the following matters, namely:— Power of the Board to direct preparation of land development schemes and matters for which the scheme may be prepared.

(*a*) preservation and improvement of soil ;

(*b*) prevention of soil erosion;

(*c*) improvement of water supply;

(*d*) improvements in the method of cultivation and type of farming ;

(*e*) increased production of food crops ;

(*f*) reclamation of water-logged or otherwise waste lands ;

(*g*) prohibition or control of grazing ;

(*h*) control and maintenance of tree-growth :

(*i*) regulation or prohibition of cutting down or destroying of trees and other growths, setting on fire trees, timber, forest produce or other wild growth ;

(*j*) planting or sowing of trees, shrubs and grasses for the purpose of afforesting uncultivable land or for providing shelter beds against wind or sand or for any other purposes; and

(*k*) such other matters not inconsistent with the objects of this Act as may be prescribed.

(2) On a direction being issued by the Board under sub-section (1), the Land Development Officer shall prepare in accordance with such instructions as the Board may issue, a draft scheme containing the following particulars, namely:—

(*a*) the objects of the scheme;

(*b*) the boundaries and approximate area of the land to be included in the scheme;

(*c*) the persons including Government who will be affected by the scheme;

(*d*) the works to be carried out under the scheme and the owners of the land who shall carry them out;

(*e*) the agency or agencies through which such work shall be carried out;

(*f*) where any work under the scheme is likely to benefit persons other than the owners of the lands by whom it is carried out, the names of such persons and the proportion, if any, in which they shall pay to the owners carrying out the work their contribution towards the cost of the work; and

(*g*) such other particulars as may be prescribed.

(3) The draft scheme so prepared shall be submitted to the Board, which may either approve the scheme with or without modifications or may reject it and prepare or cause to be prepared, a fresh scheme in lieu thereof.

Publication of scheme and inviting objections.

5. (1) Copies of the scheme as approved or prepared or caused to be prepared by the Board under sub-section (3) of section 4 together with the connected maps and plans, if any, shall be forwarded to the Collector and shall be made available by him for inspection by the public free of charge in every village and at the headquarters of the taluk, in which the lands proposed to be included in the scheme are situated, at such places as the Collector may direct.

(2) A notice shall be published in the Gazette and also in such newspapers, if any, circulating in the locality as the Collector may direct :—

(*a*) intimating that the scheme has been prepared and that copies thereof have been kept and may be inspected by the public free of charge at the places aforesaid and also that copies of the scheme may be obtained on payment of the cost thereof (which shall be specified in the notice) from the Collector or the Tehsildar and also from any other officer specified in the notice;

(*b*) requiring all persons affected by the scheme who wish to object to it or to any part thereof, to submit their objections in writing to the Inquiring Officer or to appear before him and state their objections, within thirty days of the publication of the notice or within such longer period as may be specified therein ;

(3) Separate notices to the same effect shall also be served in the prescribed manner on all owners of the lands affected by the scheme and in so far as such service may be practicable on all persons shown in the village records as interested in such lands.

Report of the Inquiring Officer.

6. The Inquiring Officer shall inquire into all the objections received or recorded by him and submit them to the Board together with his report thereon and his recommendations, if any, for the modification of the scheme.

Power of the Board to sanction scheme with or without modification.

7. (1) After considering the objections and the report and recommendations of the Inquiring Officer submitted under section 6 and any further report which the Board may require the Inquiring Officer to submit, the Board may—

(*a*) sanction the scheme with or without modifications, or

(*b*) reject the scheme and direct that in lieu thereof a fresh scheme be prepared and submitted for sanction.

(2) The decision of the Board under sub-section (1) shall be published in the manner provided in sub-section (2) of section 5.

(3) Any person aggrieved by the decision of the Board under this section may appeal to Government within thirty days from the date of publication and Government may pass such order thereon as they think fit.

(4) The scheme as sanctioned under sub-section (1), subject to any modification that may be made in appeal under sub-section (3), shall be published in the Gazette and also in every village and at the headquarters of the taluk in which the lands included in the scheme are situated, at such places and in such manner as the Collector may direct. Copies of the scheme shall also be sold at the offices of the Collector and of the Tehsildar and at such other offices and at such prices as the Collector may specify.

Effect of scheme.

8. On the date on which the scheme is published in the Gazette under sub-section (4) of section 7, it shall come into force and shall have effect as if it were enacted in this Act.

Power to enforce scheme.

9. (1) After the scheme has come into force as provided for in section 8, the Board shall direct the Land Development Officer to execute it.

(2) The Land Development Officer shall give notice in the prescribed form to all the owners of the lands included in the scheme requiring them to carry out within a specified period such works as they are liable to carry out under the scheme.

(3) If any owner fails to carry out any work to the satisfaction of the Land Development Officer, before the date fixed by him or at any time expresses in writing to the Land Development Officer his inability to carry out the work, the Land Development Officer may himself get the work carried out and the expenses incurred by the Land Development Officer for the said purpose shall be recovered from the owner in such equated annual instalments as may be specified by the Board and subject to such rules as may by prescribed, provided that on default of payment of three instalments, the unpaid balance shall become payable in a lump.

(4) Where the owner of any land included in the scheme is Government, the Department of Government which has the control or the management of such land or the Land Development Officer directed in this behalf by Government, shall carry out the works which Government are liable to carry out under the scheme.

Liability of persons whose lands are not included in the scheme to contribute

10. (1) If, in consequence of any work carried out under section 9 at the expense of the owner of any land under the scheme, any other person including Government is or is likely, in the opinion of the Board, to be benefited by such work, that person shall pay by way of contribution such amount as the Board may determine:

Provided that, before any person is required to pay any such contribution, he shall be given a reasonable opportunity of making his representation, if any, in regard to the matter :

Provided further that Government may in such cases as they deem fit, waive in whole or in part their claim for contribution by any person in respect of any work carried out by Government on lands owned by them.

(2) The amount determined by the Bo rd under sub-section (1) shall be paid within such time either in lump or in such equated annual instalments together with interest thereon, as may be specified by the Board. On the failure of any person to pay the amount within the specified time or on default of payment of three instalments the unpaid balance (which shall be deemed to become payable in a lump on the occurrence of the default) the Collector or any person authorised by him in this behalf shall recover the amount or the unpaid balance, as the case may be, from him and shall pay the same to the owner.

Reference to Court.

11. (1) Any owner or other person liable to pay the expenses under section 9 or to contribute towards expenses under section 10 and who objects to the amount of such liability, may, within one month from the date of the order fixing such liability to pay or to contribute by written application to the Board, stating the grounds on which objection is taken, require that the matter may be referred for the determination of the Court. The Board shall thereupon, cause a reference to be made to the Court by the Collector. If satisfactory grounds are shown for not aplyping for reference within one month, the delay may be condoned.

(2) The procedure laid down under the Land Acquisition Act for the time being in force relating to references to Court under the said Act shall, as far as may be, apply to references to Court under this section.

Explanation.—"Court" in this section shall mean the District Court having jurisdiction over the area in which such work is carried out.

Grant of loan for carrying out work under any scheme.

12. (1) The Land Development Officer may with the approval of the Board and subject to such rules as may be prescribed advance a loan to any person for carrying out any work under any scheme on such terms and conditions as may be specified.

(2) The amount of loan or any instalment thereof or interest thereon which may be due but not repaid in accordance with the terms and conditions of the loan may without prejudice to any other remedy provided by law be recovered as arrears of land revenue.

Right of entry.

13. For the purposes of preparing, sanctioning, inquiring into or executing any scheme or for inspecting any work any of the following officers or persons may, after giving such notice as may be prescribed to the owner, enter upon, survey and mark out such land and do all such other acts as may be necessary for the purpose of preparing, inquiring into or executing any scheme or for the purpose of inspecting works already carried out, as the case may be, under a scheme:—

(*a*) the Land Development Officer,

(*b*) the Inquiring Officer,

(*c*) the Collector,

(*d*) the Chairman or any member of the Board,

(*e*) any officer or person authorised by the Board or by any of the officers referred to in clauses (*a*), (*b*) and (*c*).

Maintenance, repair and use of works carried out under the scheme.

14. (1) The Land Development Officer shall, as soon as may be after the execution of the work, prepare a statement setting out .—

(*a*) the names of the owners of the lands included in the scheme ;

(*b*) a map and plan, if any, showing the situation, nature and dimensions of the said works;

(*c*) in regard to each such work, the owner or owners liable to maintain and repair it, and the extent of the liability of each such owner ;

(*d*) the rights, if any, of the owners or any of them as regards the use of any such works; and

(*e*) such other matters as may be prescribed.

(2) After a statement as aforesaid has been prepared, a notice shall be published in the manner prescribed intimating that a statement has been prepared and that it may be inspected at such places as may be specified in the notice.

(3) Against any entry in the statement so published an appeal shall lie to the Collector within two months from the date of publication of the notice referred to in sub-section (2). The Collector may also revise the statement from time to time subject to such rules as may be prescribed; and whenever the statement is revised, notice shall be given of the fact of such revision in the prescribed manner.

Obligations of persons to maintain and repair works.

15. (1) Every owner shown in the statement prepared under section 14 as liable to maintain and repair the works, shall, to the satisfaction of the Collector and within such time as the Collector may fix, maintain and repair the work in respect of which he is shown as liable in the said statement.

(2) If any such owner fails to maintain or repair the work within the time fixed by the Collector under sub-section (1), the Collector shall cause the work to be maintained or repaired and the expenses incurred thereby shall be recovered from the owner and such other person, if any, liable to contribute.

Amounts to be recoverable as arrears of land revenue.

16. All amounts payable to, or recoverable by, Government, the Board or any officer of Government under this Act, shall be recoverable as arrears of land revenue.

Permission to owners to increase rent on account of improvements effected.

17. Notwithstanding anything contained in any other law for the time being in force or in any contract, it shall be lawful for the owner of any land included in the scheme as liable to carry out the work to enhance the rent payable by a tenant holding under him if such tenant is benefited by the work under the scheme and there has been increase in the yield of the holding. The enhancement of rent shall be by such amount in proportion to the increase in the yield and subject to such conditions as may be prescribed.

The Board shall decide whether or not there has been any increase in yield, and if there has been, the quantity of such increase and the extent to which the tenant has benefited thereby, and the decision of the Board shall be final.

Delegation of power.

18. The Collector may delegate to any revenue officer subordinate to him not below the rank of a Tehsildar any of the powers conferred on him by or under this Act.

Certain officers to be public servants.

19. The Chairman and members of the Board and all officers and persons authorised or appointed under any of the provisions of this Act shall be deemed to be public servants within the meaning of section 15 of the Travancore or Cochin Penal Code.

Protection of persons acting in good faith; limitation of suits and prosecutions

20. (1) No suit or other proceeding shall lie against Government or the Board for any act done or purporting to be done under this Act or any rule made hereunder

(2) No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act or the rules thereunder.

(3) No suit or prosecution shall be instituted against any public servant or person duly authorised under this Act in respect of anything done or intended to be done under this Act unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Power to make rules.

21. (1) Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made to determine the following matters, namely :—

(*a*) the matters to be prescribed under sub-sections (1) and (2) of section 4;

(*b*) the form of the notice and the manner in which such notice shall be given under section 9;

(*c*) the matters to be prescribed under section 14, sub-section (1), clause (*e*) ;

(*d*) the manner in which and the offices where the statement prepared under section 14 shall be kept and maintained ;

(*e*) the extent of enhancement of rent and the conditions subject to which the enhancement may be made under section 17; and

(*f*) any other matter to be prescribed under this Act.

(3) The power to make rules conferred by this section shall be subject to the condition of previous publication.

(4) All Rules made under this section shall be laid before the Legislative Assembly as soon as possible after they are made and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid

THE MADHYA BHARAT REQUISITIONING OF LAND (RURAL DEVELOPMENT) Bill*, 1950

Bill No. XIV of 1950.

A Bill to provide for the requisitioning of land to promote the improvement and development of agriculture and economic condition in rural areas in Madhya Bharat.

WHEREAS it is expedient to requisition land required for the development of agriculture and economic condition in rural areas and to prescribe an expeditious procedure for the determination of compensation to be paid on account of such requisition in Madhya Bharat; it is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called "The Madhya Bharat Requisitioning of Land (Rural Development) Act, Samvat 2006."

(2) It extends to the whole of Madhya Bharat.

(3) This section shall come into force at once and the remaining sections shall come into force on such date and in such area as the Government may by notification in the Government Gazette specify in this behalf.

Definition.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Competent authority" means an authority appointed by the Government by notification in the Government Gazette to be the competent authority for any local area;

(2) "Land" includes tanks and benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth ;

(3) "Prescribed" means prescribed by rules made under this Act ;

(4) "Public purpose" means a purpose having or being connected with any of the following objects, that is to say:—

(*i*) making, enlarging or deepening of tanks and channels for purposes of irrigation ;

(*ii*) composting of refuse or preparation of any other form of manure ;

(*iii*) plant nurseries ;

* The Bill has since been passed into an Act.

(*iv*) any other object which the Government may by notification in the Government Gazette declare to be essential for the development of agriculture or improvement of the life of community in rural areas ;

(5) "Government" means the Government of Madhya Bharat;

(6) "Requisition" means to take possession of any land or require any land to be placed at the disposal of the requisitioning authority.

Application for requisition by competent authority.

3. A competent authority may, in the prescribed manner, apply to the Government to requisition any land which in its opinion is necessary or is likely to be needed for a public purpose.

Requisition of land.

4. On receipt of an application under section 3, the Government shall hold such inquiry as may be prescribed and, if satisfied that the land specified in the application is needed or is likely to be needed for a public purpose, the Government may, by order in writing, requisition such land.

Requisitioned land may be placed at the disposal of competent authority.

5. The Government may, subject to such terms and conditions as it deems fit place any land requisitioned under section 4 at the disposal of the competent authority on whose application the land was requisitioned.

Payment of compensation.

6. (1) Where any land is requisitioned under this Act there shall be paid as compensation to persons having an interest in such land an amount which shall be determined by an officer authorised in this behalf by the Government.

(2) Such officer shall, after holding an inquiry in the prescribed manner, determine the amount of compensation and in determining such compensation he shall have regard to all the circumstances of the case, and in particular shall be guided by the provisions of the Laws relating to Land Acquisition in force, for the time being [sub-section (1) of section 23 and section 24 of the Land Acquisition Act, 1894 (I of 1894), as adopted in the United State of Gwalior, Indore and Malwa (Madhya Bharat)].

(3) Where there are several persons interested in the land such officer shall decide the dispute, if any, as to the apportionment of the amount of compensation or any part thereof or as to the persons to whom the same or any part thereof is payable.

(4) An appeal shall lie against the decision of such officer under sub-section (2) or sub-section (3) to the District Judge within whose jurisdiction the requisitioned land is situate :

Provided that no such appeal shall lie where the amount of compensation determined does not exceed Rs. 500.

(5) Every appeal under sub-section (4) shall be made within a period of sixty days from the date of the decision appealed against.

Power to take possession.

7. Any officer authorised in this behalf by the Government by general or special order, may take possession of any land in respect of which an order has been made under section 4 and may take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of such officer, be reasonably necessary for taking possession of such land.

Release from requisition.

8. (1) Where any land requisitioned under this Act is no longer required for the public purpose for which it was requisitioned, the competent authority at whose instance the land was requisitioned shall send an intimation in writing to that effect to the Government.

(2) Where the Government is satisfied that the land is no longer required for a public purpose, the Government may release the land from requisition and upon such release the land shall be restored, as far as possible, in the same condition in which it was on the date on which the Government was put in possession thereof, and the Government shall pay compensation for damage, if any, caused to the land otherwise than by reasonable use thereof or irresistible force :

Provided that nothing in this sub-section shall apply to any structures, trees or crops standing on the land on the date on which the Government took possession thereof and in respect of which compensation has been paid.

(3) An officer authorised in this behalf by the Government shall, after holding such inquiry as he deems fit, determine the amount of compensation payable under sub-section (2).

(4) The decision of such officer shall, subject to an appeal to the Government, which shall be made within a period of thirty days from the date of the decision, be final.

(5) Where any land is to be released from requisition, the Government may, after making such inquiry, if any, as it deems fit, specify by order in writing the person to whom possession of the land shall be given.

(6) The delivery of possession of the land to the person specified in an order made under sub-section (5) shall be full discharge of the Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of the land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(7) Where the person to whom possession of any requisitioned land is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the Government shall cause a notice declaring that the land is released from requisition to be affixed on some conspicuous part of the land and shall also publish such notice in the Government Gazette.

(8) When a notice referred to in sub-section (7) is published in the Government Gazette, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the Government shall not be liable for any compensation or other claim in respect of the land for any period after the said date.

Power to obtain information.

9. (1) Any officer authorised in this behalf by the Government by general or special order may, with a view to carrying out the purposes of this Act, by order require any person to furnish to him such information in such person's possession relating to any land which is requisitioned or is intended to be requisitioned.

(2) Every person required to furnish such information as is referred to in sub-section (1) shall be deemed to be legally bound to do so within the meaning of sections 176 and 177 of the Indian Penal Code (LV of 1860), as adopted in Madhya Bharat.

Service Orders.

10. Every order made under section 4 or section 9 shall be served on the person affected thereby—

(*i*) in the manner provided for the service of a summons under the Code of Civil Procedure, 1908 Act V of 1908), as adopted in Madhya Bharat,

(*ii*) in such other manner as may be prescribed.

Power to enter and inspect land.

11. Without prejudice any powers otherwise conferred by this Act, any officer or person empowered in this behalf by the Government by general or special order may enter and inspect any land for the purpose of determining whether the land is needed or is likely to be needed for a public purpose.

Powers of inquiry.

12. For the purpose of holding any inquiry under this Act the authorised officer shall have the same powers as are vested in civil courts in respect of :—

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the production of documents; and

(*c*) issuing commissions for the examination of witnesses

Delegation functions.

13. The Government may by order published in the Government Gazette, direct that any power conferred or any duty imposed on it by this Act, shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged by such officer, not being lower in rank than a Suba, as may be so specified.

Saving as orders.

14. (1) No order made in exercise of any power conferred by or under this Act shall be called in any Court.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a Court shall within the meaning of the Evidence Act for the time being in force, presume that such order was so made by that authority.

Protection of action taken under the Act.

15. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or any order made thereunder.

(2) Save as otherwise expressly provided under this Act no suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything in good faith done or intended to be done under this Act or any order made thereunder.

Officers to be deemed public servants

16. Every officer authorised or empowered by the Government to exercise any power or to perform any duty under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code as adopted in Madhya Bharat.

Power to make rules.

17. (1) The Government may, by notification in the Government Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*i*) the form of application under section 3;

(*ii*) the manner of holding an inquiry under section 4 or section 6;

(*iii*) the manner of serving an order made under section 4 or section 9;

(*iv*) the levy of court fees in respect of appeals under sections 6 and 8.

Repeal.

18. As soon as this Act comes into force all Acts and other laws relating to the Requisition of Land (Rural Development) in force in any part of Madhya Bharat, which may be repugnant or inconsistent with the provisions of this Act shall to the extent of such repugnancy or inconsistency, stand repealed :

Provided that all actions taken and orders passed under them shall be deemed to have been taken or passed under this Act.

INDEX

PAGE

Accounts—Keeping of—

The Bihar Waste Lands Act, Sec. 6 30
The Delhi Ajmer-Merwara Land Development Act, Sec. 26 455

Acquisition—

The Assam Land (Requisition and Acquisition) Act, Sec. 4 342
The Bhopal Reclamation and Land Development Ordinance, Sec. 11 . . 50
The Bihar Public Irrigation and Drainage Works Act, Sec. 9 250
The Bihar Private Irrigation Works Act, Chapter VI 166
The Bombay Khar Lands Act, Sec. 20 102
The East Punjab Conservation of Manure, Act, Sec 8 55
The East Punjab Reclamation of Land Act, Sec 5 47
The Malabar Irrigation Works Act, Sec. 4 260
The Orissa Development Act, Sec. 3 413
The West Bengal Development and Planning Act, Sec. 6 403
The West Bengal Land (Requisition and Acquisition) Act Sec. 4 333

Appeals—

The Assam Agricultural Pests and Diseases Act, Sec. 12 375
The Bombay Irrigation Act, Sec. 67 135
The C. P. (Madhya Pradesh) Irrigation Act, Sec 23 185
The Cochin Preservation of Eries Act, Sec. 7 311
The Delhi and Ajmer-Merwara Land Development Act, Secs. 18, 26 . . 422 425
The East Punjab Land Utilization Act, Sec. 14 22
The Jammu and Kashmir Land Preservation Act, Sec. 17 94
The Kumaon Nayabad and Waste Land Act, Secs. 17 to 20 . . . . 39 40
The Madras Agricultural Pests and Diseases Act, Sec. 12 . . . 341
The Madras Irrigation Tanks (Improvement) Act, Sec. 6 313
The Malabar Irrigation Act, Sec. 9 262
The Rewa State Agricultural Pests & Diseases Act, Sec. 12 . . . . 3 3
The West Bengal Tank Improvement Act, Secs. 26, 27 306

Application—For Irrigation—

The Bihar Private Irrigation Works Act, Secs. 28 and 31 165,166
The Bombay Irrigation Act, Secs. 18 and 75 . . . . . 118 138
The Cochin Irrigation Regulation, Sec. 6 232
The Madhya Bharat Irrigation Act, Secs. 16, 21 . . . . . 270 272

Application—For Requisition—

The Madhya Bharat Land Requisition Act, Sec. 3 435
The U. P. Rural Development Act, Sec. 6 465

Application—For Tractor Cultivation—

The East Punjab Tractor Cultivation Act, Sec. 3 8
The Madhya Bharat Tractor Cultivation Act, Sec. 3 65

PAGE

Board—

The Bombay Khar Lands Act, Secs. 3, 4, 5, 6, 7, 10, 11 and 20 . . . 97—99
The Bombay Land Improvement Schemes Act, Chapter II 80
The Bhopal Development of Lands and Reclamation Ordinance, Sec. 5 . . 48
The Delhi and Ajmer-Merwara Land Developmen Act, Sec. 3 . . . 418
The Mysore Irrigation Act, Chapter IX 227
The Travancore-Cochin Land Development Act, Sec. 3 4128
The Travancore Irrigation Act, Sec. 32 151

Budget (of Board)—

The Bombay Khar Lands Act, Secs. 37 and 38 105

Funds (of Board)—

The Bombay Khar Lands Act, Secs. 32 & 34 104

Betterment Charges—

The Bombay Irrigation Act, Secs. 49—56B 129,130
The Madhya Bharat Irrigaiton Act, Sec. 46 279

Cash Crops (Tax on)—

The Hyderabad Restriction of Cash Crops Cultivation Regulations, Secs. 3 and 8 399,400

Claims—Adjustment of—

The Madhya Bharat Irrigation Act, Sec. 19 271

Committees—

The C. P. and Berar (Madhya Pradesh) Cultivation of Fallow Lands Act, Sec. 5B 7
The C. P. and Berar (Madhya Pradesh) Reclamation of Lands Act, Sec. 4 . 34
The East Punjab Conservation of Manure Act, Secs. 5 to 8, 15, 10, and 18 . 55—57
The Madhya Bharat Kans Eradication Act, Sec. 4 45

Compensation—

The Assam Land (Acquisition and Requisition) Act, Sec. 7 327
The Assam Agricultural Pests and Diseases Act, Secs. 9, 16, 17 374,376
The Assam Embankment and Drainage Act, Sec. 8 319
The Bhopal Land Reclamation Ordinance, Sec. 9 49
The Bihar Private Irrigation Works Act, Chapter VI-B 174
The Bihar Public Irrigation and Drainage Works Act, Secs. 8 and 16 . . 249,252
The Bombay Agricultural Pests and Diseases Act, Secs 9 and 10 . . . 357
The Bombay Irrigation Act, Part V 124
The Bombay Khar Lands Act, Secs. 21 and 23 102
The Coorg Agricultural Pests and Diseases Act, Secs. 10, 11 . . . . 348, 349
The Delhi and Ajmer-Merwara Land Development Act, Sec. 25 . . . 424
The East Punjab Utilization of Land Act, Sec. 4 21
The Jammu and Kashmir Land Preservation Act, Secs. 7 and 14 . . . 91, 94
The Madhya Bharat Irrigation Act, Secs. 7, 8, 14, 15, 16 and 35 . . . 268—277
The Madhya Bharat Kans Eradication Act, Sec. 8 46
The Madhya Bharat Rural Development Act, Sec. 6 437
The Madhya Pradesh (C. P. and Berar) Irrigation Act, Sec. 91C . . 207
The Madhya Pradesh (C. P.) Reclamation of Lands Act, Sec. 8 . . . 34
The Madras Agricultural Pests and Diseases Act, Sec. 10 341
The Madras Irrigation Tanks (Improvement) Act, Sec. 5 313
The Malabar Irrigation Works Act, Sec. 6 261
The Mysore Irrigation Act, Chapter V 220
The Orissa Development Act, Sec. 7 414,415
The Rewa Agricultural Pests & Diseases Act, Secs. 9 & 10 363

Compost (Preparation)—

The Madhya Bharat Municipal Refuse Act, Sec. 3 59
The Madhya Bharat Village Refuse Act, Sec. 3 61

PAGE

Courts—Jurisdiction etc. and Constitution—

The Assam Land (Requisition and Acquisition) Act, Sec. 8 327
The Kumaon Nayabad and Waste Lands Act, Chapters III and IV . . 38
The Madhya Bharat Irrigation Act, Part VIII 284
The Madras Irrigation Works Act, Sec. 8 244
The Malabar Irrigation Act, Sec. 7 262
The Mysore Irrigation Act, Sec. 55 230
The Rewa State Agricultural Pests and Diseases Act, Sec. 18 . . 364
The U. P. Rural Development Act, Secs 14 410
The West Bengal Development and Planning Act, Sec. 12 405
The West Bengal Land (Acquisition and Requisition) Act, Sec. 8 . . 332
The West Bengal Tank Improvement Act, Sec. 29 306

Definitions—

(Central) The Essential Supplies (Temporary Powers) Act, Sec. 2 . . . 378
(Central) The Destructive Insects and Pests Act, Sec. 2 334
The Ajmer Land Utilisation Act (See U. P. Act) 12
The Assam Agricultural Pests and Diseases Act, Sec. 2 372
The Assam Embankment & Drainage Act, Sec. 12 315
The Assam Land Requisition and Acquisition Act, Sec. 2 393
The Bhopal Reclamation and Development of Land Ordinance, Sec. 2 . . 47
The Bhopal Land Utilization Act (See U. P. Act) 12
The Bihar Private Irrigation Works Act, Sec 2 152
The Bihar Public Irrigation and Drainage Works Act, Sec. 2 . . . 246
The Bihar Waste Lands Act, Sec. 2 28
The Bombay Agricultural Pests and Diseases Act, Sec 2 354
The Bombay Growth of Food Crops Act, Sec. 2 387
The Bombay Irrigation Act, Sec. 3 115
The Bombay Khar Lands Act, Sec 2 96
The Bombay Land Improvement Schemes Act, Sec. 2 78
The C. P. & Berar (Madhya Pradesh) Cultivation of Fallow Land Act, Sec. 2 3
The C. P. (Madhya Pradesh) Irrigation Act, Chapter I 181
The C. P. & Berar (Madhya Pradesh) Reclamation of Lands Act, Sec. 2 . 33
The Cochin Irrigation Regulation, Sec. 2 231
The Cochin Preservation of Eries Act, Sec. 2 310
The Cochin Proclamation 386
The Coorg Agricultural Pests and Diseases Act, Sec. 2 346
The Delhi Land Utilization Act (See U. P. Act) 17
The Delhi and Ajmer Land Development Act, Sec. 2 417
The East Punjab Agricultural Pests and Diseases Act, Sec. 2 . 366
The East Punjab Conservation of Manure Act, Sec. 2 54
The East Punjab Reclamation of Land Act, Sec. 2 42
The East Punjab Seeds and Seedlings Act, Sec. 2 52
The East Punjab Tractor Cultivation Act, Sec. 2 63
The East Punjab Utilization of Land Act, Sec. 2 20
The East Punjab Land Preservation Act, Sec. 2 67
The Himachal Pradesh Agricultural Pests and Diseases Act (See Punjab Act) . 366
The Hyderabad Restriction of Cash Crops Regulation, Sec. 2 398
The Jammu and Kashmir Land Preservation Act, Sec. 2 89
The Kumaon Nayabad and Waste Lands Act, Sec. 3 36
The Madhya Bharat Irrigation Act, Sec. 2 266
The Madhya Bharat Kans Eradication Act, Sec. 2 44
The Madhya Bharat Municipal Refuse Act, Sec. 2 59
The Madhya Bharat Requisition of Land (Rural Development) Act, Sec. 2 . 436

PAGE

Definitions—contd.

The Madhya Bharat Utilization of Land Act, Sec. 2 23
The Madhya Bharat Tractor Cultivation Act, Sec. 2 61
The Madhya Bharat Village Refuse Ordinance, Sec. 2 61
The Madras Agricultural Pests and Diseases Act, Sec. 2 337
The Madras Irrigation Works Act, Sec. 2 241
The Madras Irrigation Tanks (Improvement) Act, Sec. 2 312
The Malabar Irrigation Works Act, Sec. 2 259
The Mysore Cultivation of Fallow Land Act, Sec. 2 8
The Mysore Irrigation Act, Sec. 2 215
The Mysore Minor Tank Restoration Act, Sec. 2 288
The Orissa Development Act, Sec. 2 412
The Patiala Destructive Insects and Pests Act, Sec. 2 351
The Rewa State Agricultural Pests and Diseases Act, Sec. 2 360
The Saurashtra Growth of Food Crops Ordinance, Sec 2 . . . 393
The Travancore Plant Pests and Plant Diseases Regulation, Sec. 2 . . . 343
The Travancore Irrigation Act, Sec. 2 143
The Travancore and Cochin Land Development Act, Sec. 2 428
The U. P. Land Utilization Act, Sec. 2 12
The U. P. Rural Development Act, Sec. 2 406
The West Bengal Land (Requisition and Acquisition) Act, Sec. 2 . . . 329
The West Bengal Land Development and Planning Act, Sec. 2 . . . 401
The West Bengal Tank Improvement Act, Sec. 2 290

Documents—Information—

The Bombay Land Improvement Scheme Act 19 85
The Bengal Tank Improvement Act, Sec. 32 307
The Orissa Development Act, Sec. 9 415

Eries (Information)—

The Cochin Preservation of Eries Act, Sec 3. 310

Fishing—Rights—

The Bombay Khar Lands Act Sec. 24 103

Food Crops—

Growth Prices and Proportion etc.—

(Central) The Essential Supplies (Temporary Powers) Act, Sec 3 . . . 379
The Bombay Growth of Food Crops Act, Secs. 3-5 and 9 388-389
The East Punjab Utilization of Land Act, Sec. 5 21
The Hyderabad Restriction of Cash Crops Regulations, Sec. 6 . . . 399
The Madhya Bharat Land Utilization Act, Sec. 5 25

Grants—

The C.P. (Madhya Pradesh) Irrigation Act, Sec. 80 204
The Kumaon Nayabad and Waste Lands Act, Chapter II 37

Grass—Sale—

The U. P. Land Utilization Act, Sec. 4 13
The U. P. Land Utilization Act, as extended to (i) Ajmer Sec. 4. (ii) Delhi Sec. 4 16,18

Holdings—Re-shaping—

The Bhopal Reclamation and Development of Land Ordinance, Sec. 12 . . 50

PAGE

Inspectors—Appointment—

The Assam Agricultural Pests and Diseases Act, Sec. 20. 376
The Bombay Agricultural Pests and Diseases Act, Sec. 14 358
The Coorg Agricultural Pests and Diseases Act, Sec. 20 350
The East Punjab Agricultural Pests, Disease and Noxious Weeds Act, Sec. 10 . 370
The Madras Agricultural Pests and Diseases Act, Sec. 19 342
The Rewa Agricultural Pests and Diseases Act, Sec. 19 364

Kans—Declaration, Survey and Eradication—

The Bhopal Reclamation and Development of Land Ordinance, Sec. 6 . . 48
The C P. (Madhya Pradesh) Reclamation of Land Act, Secs. 3—5 . . . 33—34
The East Punjab Reclamation of Lands Act, Sec. 4 42
The Madhya Bharat Eradication of Kans Act, Sec. 5 45

Labour—

The Bombay Irrigation Act, Part VII 132
The C. P. (Madhya Pradesh) Irrigation Act, Sec. 36 190
The Madhya Bharat Irrigation, Part VII 283
The Mysore Irrigation Act, Chapter VII 224
The Travancore Irrigation Act, Sec. 24 149

Lands—Uncultivated—

The East Punjab Utilization of Lands Act, Sec. 3 20
The Kumaon Navabad and Waste Lands Act, Chapter II 37
The Madhya Bharat Land Utilization Act, Sec. 3 24
The U. P. Land Utilization Act, Sec. 3 12

Land—Fallow—Cultivation of—

The C. P. and Berar (Madhya Pradesh) Cultivation of Fallow Lands Act, Sec. 3 4
The Madhya Bharat Land Utilization Act, Sec. 4 25
The Mysore Cultivation of Fallow Lands Act, Sec. 5 9

Land—Lease—

The C. P. and Berar (Madhya Pradesh) Cultivation of Fallow Land, Act, Sec 5A 6
The East Punjab Utilization of Land Act, Secs. 5 and 6 21
The Kumaon Nayabad and Waste Lands Act, Sec. 22 40
The Mysore Cultivation of Fallow Lands Act, Sec. 7 10

Land—Possession of—

The Bhopal Reclamation and Development of Land Ordinance, Sec. 10 . . 50
The Bihar Waste Lands Act, Secs. 3—4 & 8 . . . . . 29—31
The Delhi and Ajmer-Merwara Land Development Act, Secs. 21 & 22 . . 423
The Madhya Bharat Land Development Act, Sec. 7 438
The East Punjab Utilization of Land Act, Sec 3 20

Loans—

The Bombay Khar Lands Act, Sec. 26 103
The Delhi and Ajmer-Merwara Land Development Act, Sec. 8 . . . 420
The Travancore and Cochin Land Development Act, Sec. 12 432

Movement—Restriction—

(Central) The Destructive Insects and Pests Act, Sec. 3 334
The Assam Agricultural Pests and Diseases Act, Sec. 3 373
The Bombay Agricultural Pests and Diseases Act, Sec. 3 355
The Coorg Agricultural Pests and Diseases Act, Sec. 3 347
The Punjab Agricultural Pests, Diseases and Noxious Weeds Act, Sec. 3 . . 367
The Patiala Destructive Insects and Pests Act, Sec. 2 351
The Rewa State Agricultural Pests and Diseases Act, Sec. 3 361
The Travancore Plant Pests and Plant Diseases Regulation, Sec. 4 . . 344

PAGE

Notice—Declaration of Insects, Pests, etc.—

(Central) The Destructive Insects and Pests Act, Sec. 2 334
The Assam Agricultural Pests and Diseases Act, Sec. 3 373
The Bombay Agricultural Pests and Diseases Act, Sec. 3 355
The Coorg Agricultural Pests and Diseases Act, Sec. 3 347
The East Punjab Agricultural Pests, Diseases and Noxious Weeds Act, Sec. 3 . 367
The Madras Agricultural Pests and Diseases Act, Sec. 3 338
The Rewa Agricultural Pests and Diseases Act, Sec. 3 361
The Travancore Plant Pests and Plant Diseases Act, Sec. 3 343

For Possession and entry, etc.—

The Assam Land (Requisition & Acquisition) Act, Sec. 5 325
The Jammu & Kashmir Land Preservation Act, Sec 16 94
The Orissa Development Act, Sec. 4 413
The Madhya Bharat Irrigation Act, Sec. 14 269
The Travancore Plant Pests and Plant Diseases Regulation, Sec. 6 . 344

For compliance with Order—

The Assam Agricultural Pests and Diseases Act, Sec 4 373
The Bombay Agricultural Pests and Diseases Act, Sec. 4 355
The Madras Agricultural Pests and Diseases Act, Sec. 4 338
The Punjab Agricultural Pests, Diseases and Noxious Weeds, Act, Sec. 4 . . 367
The Rewa Agricultural Pests and Diseases Act, Sec. 4 361
The Travancore Plant Pests and Plant Diseases Regulation, Sec. 7 . . . 344

Officers— Appointment & Powers.

The Bombay Khar Lands Act, Sec. 9 99
The Bombay Irrigation Act, Secs 4, 77 117,139
The C. P. (Madhya Pradesh) Irrigation Act, Chapter II . . 184
The Cochin Irrigation Regulation, Sec. 4 232
The Madhya Bharat Irrigation Act, Sec. 5 268
The Travancore Irrigation Act, Sec. 3 144

Panchayats—

The Bihar Private Irrigation Works Act, Chapter IV 163
The Cochin Irrigation Regulation, Sec. 6 233
The C.P. (Madhya Pradesh) Irrigation Act, Sec. 62 198
The Mysore Irrigation Act, Chapter IX 227

Penalty—

(Central) The Destructive Insects and Pests Act, Sec. 5-A 336
The (Central) Essential Supplies Temporary Powers Act, Sec. 7 . . . 381
The Assam Land (Requisition and Acquisition) Act, Sec. 10 . . . 328
The Assam Agricultural Pests and Diseases Act, Sec. 14 376
The Assam Embankment & Drainage Act, Secs. 12 & 13 320
The Bombay Agricultural Pests and Diseases Act, Sec. 13 358
The Bombay Growth of Food Crops Act, Sec. 11 391
The Bombay Irrigation Act, Part VIII 133
The Bombay Khar Lands Act, Sec. 39 105
The Bombay Land Improvement Schemes Act, Sec. 12-A 83
The Cochin Preservation of Eries Act, Sec. 5 310

PAGE

Penalty—contd.

The Coorg Agricultural Pests and Diseases Act, Sec. 16 349
The Delhi and Ajmer-Merwara Land Development Act, Sec. 9 . . . 420
The East Punjab Agricultural Pests, Diseases and Noxious Weeds Act, Sec. 9 . 369
The East Punjab Conservation of Manures Act, Sec. 13. 56
The East Punjab Seeds and Seedlings Act, Sec. 6 53
The East Punjab Utilization of Land Act, Secs. 8 and 9 22
The Jammu and Kashmir Land Preservation Act, Sec. 18 94
The Kumaon Nayabad and Waste Lands Act, Sec. 24 41
The Madhya Bharat Irrigation Act, Part IX 285
The Madhya Bharat Land Utilization Act, Sec. 7 27
The Madras Agricultural Pests and Diseases Act, Sec. 15 341
The Malabar Irrigation Act, Sec. 18 264
The Mysore Irrigation Act, Chapter X 228
The Orissa Development Act, Sec. 11 416
The Patiala Destructive Insects and Pests Act, Sec. 9 352
The Rewa Agricultural Pests and Diseases Act, Sec. 14 363
The Saurashtra Growth of Food Crops Ordinance, Sec. 13 397
The Travancore Plant Pests and Plant Diseases Act, Sec. 9 345
The U P. Land Utilization Act, Sec 7 13
The West Bengal Land (Requisition and Acquisition) Act, Sec. 10 . . . 332
The West Bengal Tank Improvement Act, Sec. 35 307

Powers—Delegation—

The (Central) Essential Supplies (Temporary Powers) Act, Sec. 4 . . . 381
The Assam Agricultural Pests and Diseases Act, Sec 21 376
The Bhopal Reclamation and Development of Land Ordinance, Sec. 15 . . 51
The Bihar Private Irrigation Works Act, Sec. 6 157
The Coorg Agricultural Pests and Diseases Act, Sec. 21 351
The Bombay Agricultural Pests and Diseases Act, Sec. 16 359
The Bombay Growth of Food Crops Act, Sec 12 391
The Bombay Land Improvements Schemes Act, Sec 21 85
The East Punjab Agricultural Pests and Noxious Weeds Act, Sec. 12 . . 370
The East Punjab Conservation of Manures Act, Sec. 19 57
The East Punjab Reclamation of Land Act, Sec. 7 43
The East Punjab Utilization of Land Act, Sec 12 22
The Madhya Bharat Rural Development Act, Sec. 13 439
The Madhya Bharat Tractor Cultivation Act, Sec. 7 66
The Madras Agricultural Pests and Diseases Act, Sec. 20 342
The Madras Irrigation Works Act, Sec. 7 244
The Madras Land Improvement Schemes Act, Sec. 19 114
The Saurashtra Growth of Food Crops Ordinance, Sec. 14 397
The West Bengal Land Development and Planning Act, Sec. 13 . . . 405
The West Bengal Tanks Improvement Act, Sec. 34 307

To enforce Measures—

The Assam Agricultural Pests and Diseases Act, Sec 6 374
The Bombay Agricultural Pests and Diseases Act, Sec. 7 356
The C. P. (Madhya Pradesh) Reclamation of Land Act, Sec. 9 . . . 35
The East Punjab Conservation of Manure Act, Sec. 12 56

PAGE

To enforce Measures—contd.

The East Punjab Preservation of Land Act, Sec. 5A 69
The East Punjab Reclamation of Land Act, Sec. 4 42
The Jammu and Kashmir Land Preservation Act, Secs. 8 and 9 . . . . 91—92
The Madhya Bharat Eradication of Kans Act, Sec. 9 46
The Madhya Bharat Municipal Refuse Act, Sec. 5 59
The Madhya Bharat Village Refuse Act, Sec. 4 61
The Rewa State Agricultural Pests and Diseases Act, Sec. 6 361

To enter Land—Inspection etc.

The Assam Agricultural Pests and Diseases Act, Sec. 5 374
The Assam Embankment and Drainage Act, Secs. 3 and 8 316
The Assam Land (Requisition and Acquisition) Act, Sec. 9 327
The Bihar Private Irrigation Works Act, Sec. 39 176
The Bombay Agricultural Pests and Diseases Act, Sec 5 355
The Bombay Land Improvement Schemes Act, Sec. 16 85
The Delhi and Ajmer-Merwara Land Development Act, Sec. 17 422
The East Punjab Agricultural Pests, Diseases and Noxious Weeds Act, Sec. 5 . 367
The East Punjab Conservation of Manure Act, Sec 11 56
The East Punjab Reclamation of Lands Act, Sec. 3 42
The East Punjab Improved Seeds & Seedlings Act, Sec. 5 53
The Jammu and Kashmir Land Preservation Act, Sec. 12 93
The Madhya Bharat Irrigation Act, Sec. 14 269
The Madhya Bharat Rural Development Act, Sec. 11 439
The Madras Agricultural Pests and Diseases Act, Sec. 5 339
The Madras Irrigation Works Act, Sec. 6 244
The Madras Land Improvement Schemes Act, Sec. 15 113
The Malabar Irrigation Act, Sec. 17 264
The Mysore Irrigation Act, Sec. 5 217
The Travancore-Cochin Land Development Act, Sec. 13 433
The Travancore Plant Pests and Plant Diseases Act, Sec. 6 344
The West Bengal Land (Requisition and Acquisition) Act, Sec. 9 332
The West Bengal Tanks Improvement Act, Sec. 31 307

Exemptions —

Bombay Growth of Food Crops Act, Sec. 7 389
C.P. and Berar (Madhya Pradesh) Cultivation of Fallow Lands Act, Secs. 4 and 5. 5

To make Rules—

The Destructive Insects and Pests Act (Central), Sec 4D 335
The Assam Agricultural Pests and Diseases Act, Sec. 22 377
The Assam Land (Requisition and Acquisition) Act, Sec. 13 328
The Assam Embankment and Drainage Act, Secs 17 322
The Bhopal Reclamation and Development of Land Act, Sec. 17 51
The Bihar Private Irrigation Works Act, Sec. 40 177
The Bihar Public Irrigation and Drainage Works Act, Sec. 31 257
The Bihar Waste Lands Act, Sec. 12 32
The Bombay Agricultural Pests and Diseases Act, Section 17 359
The Bombay Growth of Food Crops Act, Sec. 13 391
The Bombay Khar Lands Act, Sec. 46 106
The Bombay Land Improvement Schemes Act, Secs. 10A and 24 82,86
The Cochin Irrigation Regulation, Sec. 34 239

PAGE

To make Rules—contd.

The C.P. and Berar (Madhya Pradesh) Reclamation of Lands Act, Sec. 13 . 35
The C.P. and Berar (Madhya Pradesh) Cultivation of Fallow Lands Act, Sec. 6 7
The Coorg Agricultural Pests and Diseases Act, Sec. 22 350
The Delhi and Ajmer-Merwara Land Development Act, Sec. 32 . . . 426
The East Punjab Agricultural Pests, Diseases and Noxious Weeds Act, Sec. 13 . 370
The East Punjab Conservation of Manures Act, Sec. 23 57
The East Punjab Reclamation of Lands Act Sec. 9 43
The East Punjab Improved Seed and Seedlings Act, Sec. 8 53
The East Punjab Tractor Cultivation Act, Sec. 9 64
The East Punjab Utilization of Land Act, Sec. 16 22
The Hyderabad Commercial Crops Regulations Act, Sec. 11 400
The Jammu and Kashmir Land Preservation Act, Sec. 20 95
The Kumaon Nayabad and Waste Lands Act, Sec. 25 41
The Madhya Bharat Eradication of Kans Act, Sec. 12 46
The Madhya Bharat Irrigation Act, Sec. 76 286
The Madhya Bharat Land Utilization Act, Sec. 9 27
The Madhya Bharat Village Refuse Act, Sec. 8 61
The Madhya Bharat Tractor Cultivation Act, Sec. 8 66
The Madras Agricultural Pests and Diseases Act, Sec. 21 342
The Madras Irrigation Tank (Improvement) Act, Sec. 7 314
The Madras Irrigation Works Act, Sec. 11 244
The Malabar Irrigation Act, Sec. 20 265
The Madras Land Improvement Schemes Act, Sec. 23 114
The Mysore Cultivation of Fallow Lands Act, Sec. 12 11
The Mysore Irrigation Act, Sec 56 230
The Orissa Land Development Act, Sec. 14 416
The Patiala Destructive Insects and Pests Act, Sec. 7 352
The Rewa Agricultural Pests and Diseases Act, Sec. 21 364
The Saurashtra Growth of Food Crops Ordinance, Sec. 1 397
The Travancore Irrigation Act, Sec. 30 150
The Travancore-Cochin Land Development Act, Sec. 21 434
The Travancore Plant Pests and Plant Diseases Act, Sec 10 . . . 345
The U.P. Rural Development Act, Sec. 16 410
The U.P. Land Utilization Act, Sec. 10 14
The West Bengal Land Development and Planning Act, Sec. 14 . . . 405
The West Bengal Land (Requisition & Acquisition) Act, Sec. 13 . . 333
The West Bengal Tanks Improvement Act, 1939, Sec. 37 308

To notify Areas—

The C. P. (Madhya Pradesh) Reclamation of Land Act, Sec. 3 . . . 33
The Jammu and Kashmir Land Preservation Act, Sec. 3 89
The Punjab Conservation of Manures, Act, Sec. 3 54
The Punjab Land Preservation Act, Sec. 3 68
The Punjab Reclamation of Land Act, Sec. 4 42
The West Bengal Land Development and Planning Act Sec 4 . . . 402

Preamble—

The (Central) Destructive Pests and Insects Act . 334
The (Central) Essential Supplies (Temporary Powers) Act . . 358
The Assam Land (Requisition and Acquisition) Act . . . 323
The Assam Agricultural Pests and Diseases Act 472
The Assam Embankment and Drainage Act 315
The Bhopal Reclamation and Development Ordinance . . . 147

PAGE

Preamble—contd.

The Bihar Private Irrigation Works Act 152
The Bihar Public Irrigation and Drainage Works Act 246
The Bihar Waste Lands Act 28
The Bombay Agricultural Pests and Diseases Act 354
The Bombay Growth of Food Crops Act 387
The Bombay Irrigation Act 115
The Bombay Khar Lands Act 96
The Bombay Land Improvement Schemes Act 78
The C. P. & Berar (Madhya Pradesh) Cultivation of Fallow Land Act . . 3
The C. P. (Madhya Pradesh) Irrigation Act 181
The C. P. & Berar (Madhya Pradesh) Reclamation of Land Act . . . 33
The Cochin Irrigation Regulations 231
The Cochin Preservation of Eries Act 310
The Cochin Proclamation 386
The Coorg Agricultural Pests and Diseases Act 346
The Delhi and Ajmer-Merwara Land Development Act 417
The East Punjab Agricultural Pests and Diseases Act 366
The East Punjab Conservation of Manure Act 54
The East Punjab Improved Seeds and Seedlings Act 52
The East Punjab Land Preservation Act 67
The East Punjab Reclamation of Land Act 42
The East Punjab Tractor Cultivation Act 63
The East Punjab Utilization of Land Act 20
The Himachal Pradesh Agricultural Pests and Disease, Act 371
The Hyderabad Restriction of Cash Crops Regulation 398
The Jammu and Kashmir Land Preservation Act 89
The Kumaon Nayabad and Waste Lands Act 36
The Madhya Bharat Irrigation Act 266
The Madhya Bharat Municipal Refuse Act . . . 59
The Madhya Bharat Requisition of Land (Rural Development) Act . . 436
The Madhya Bharat Utilization of Land Act 23
The Madhya Bharat Tractor Cultivation Act 65
The Madhya Bharat Villages Refuse Ordinance 61
The Madras Agricultural Pests and Diseases Act 337
The Madras Irrigation Works Act 241
The Madras Irrigation Tanks (Improvement) Act 312
The Malabar Irrigation Works Act 259
The Mysore Cultivation of Fallow Land Act 8
The Mysore Irrigation Act 215
The Mysore Minor Tank Restoration Act 288
The Orissa Development Act 412
The Patiala Destructive Insects and Pests Act 351
The Rewa State Agricultural Pests and Diseases Act 360
The Saurashtra Growth of Food Crops Ordinance 393
The Travancore Irrigation Act 143
The Travancore Land Development Act 428
The U.P. Land Utilization Act 12
The U.P. Rural Development Act 406
The West Bengal Land (Requisition and Acquisition) Act 329
The West Bengal Land Development and Planning Act 401
The West Bengal Tanks Improvement Act 290

PAGE

Prescribed Authority—

The West Bengal Land Development and Planning Act, Sec. 3 . . . 402

Rates and Fees—

The Assam Embankment and Drainage Act, Sec. 9(ii) 319
The Bihar Public Irrigation and Drainage Works Act, Chapter VII . . . 254
The Bombay Irrigation Act, Chapter VI 127
The Delhi and Ajmer-Merwara Land Development Act, Sec. 29 . . . 425
The Madhya Bharat Irrigation Act, Part V 278
The Malabar Irrigation Act, Secs. 12-15 263
The Mysore Irrigation Act, Chapter IV 219
The West Bengal Tanks Improvement Act, Section 17 301

Recovery of Expenditure—

The Assam Agricultural Pests and Diseases Act, Sec. 8 374
The Assam Embankment and Drainage Act, Sec. 9 320
The Bhopal Reclamation and Development of Land Ordinance, Sec. 8 . . 49
The Bihar Private Irrigation Works Act, Sec. 7 157
The Bihar Public Irrigation & Drainage Works Act, Secs. 13 and 22 . . 251, 255
The Bihar Waste Lands Act, Section 7 30
The Bombay Khar Lands Act, Secs. 25, 29, 30 and 41 . . . . . 103,—105
The Bombay Land Improvement Act, Sec. 25A 8-
The Cochin Preservation of Eries Act, Sec. 6 310
The C.P. (Madhya Pradesh) Reclamation of Lands Act, Sec. 7 . . . 34
The Cochin Irrigation Regulation, Sec. 15 234
The Coorg Agricultural Pests and Diseases Act, Sec. 9 . . . 348
The Delhi and Ajmer-Merwara Land Development Act, Secs. 12 and 27 . . 421,425
The East Punjab Agricultural Pests, Diseases and Noxious Weeds Act, Sec. 7(2) . 369
The East Punjab Tractor Cultivation Act, Sec. 7 64
The East Punjab Utilization of Land Act, Sec. 10 22
The Madhya Bharat Eradication of Kans Act, Sec. 7 45
The Madhya Bharat Tractor Cultivation Act, Sec. 6 66
The Madhya Bharat Village Refuse Act, Secs. 7 62
The Madras Agricultural Pests and Diseases Act, Sec. 8 340
The Madras Irrigation Works Act, Secs. 3—5 . . . . . 242,—244
The Madras Land Improvement Schemes Act, Secs. 11 and 16. . . . 111,—113
The Rewa State Agricultural Pests and Diseases Act, Sec 8 . . . 362
The Travancore-Cochin Land Development Act, Sec. 16 . . . 434
The Travancore Irrigation Act, Sec. 16 146
The U.P. Rural Development Act, Sec. 13 410
The West Bengal Tank Improvement Act, Sec. 24 305

Register—

The Bihar Public Irrigation and Drainage Works Act, Sec. 18 . . . 254

Registration—

The Bombay Land Improvement Schemes Act, Sec. 19 85

Rent and Revenue—

The Bombay Growth of Food Crops Act, Sec. 10 309
The Bombay Land Improvement Schemes Act, Sec. 18 85
The Saurashtra Growth of Food Crops Ordinance, Secs. 11 and 12 . . . 395
The Travancore and Cochin Land Development Act, Sec. 17 . . 434

PAGE

Repairs—

The Bihar Private Irrigation Works Act, Chapter II 184
The Bombay Land Improvement Schemes Act, Sec. 14 84
The Cochin Irrigation Regulation, Secs. 5 and 16 . . . . . 232, 235
The Delhi and Ajmer-Merwara Land Development Act, Sec. 15 . . . 421
The Madras Irrigation Works Act, Sec. 2 241
The Madras Land Improvement Schemes Act, Sec. 14 112
The Malabar Irrigation Act, Sec. 5 260
The Mysore Irrigation Act, Sec. 6 217
The Travancore-Cochin Land Development Act, Secs. 14 and 15 . . 433
The Travancore Irrigation Act, Secs. 4 and 5 144

Report—Duty to—

The Assam Agricultural Pests and Diseases Act, Sec. 13 375
The Bombay Agricultural Pests and Diseases Act, Sec. 12 358
The Coorg Agricultural Pests and Diseases Act, Sec. 14 349
The East Punjab Agricultural Pests Diseases and Noxious Weeds Act, Sec. 8 . 369
The Madras Agricultural Pests and Diseases Act, Sec. 13 341

Report—Scrutiny—Submission of—

The Bihar Public Irrigation and Drainage Works Act, Sec. 5 248
The Bombay Khar Lands Act, Secs 14 and 15 101
The Bombay Land Improvements Schemes Act, Sec. 9 81
The Delhi and Ajmer-Merwara Land Development Act, Secs. 5 and 7 . 419, 426
The Madras Land Improvements Schemes Act, Sec. 7 110
The Travancore-Cochin Land Development Act, Secs. 5 and 6 . . . 430

Requisition and Release—

The Assam Land (Requisition and Acquisition) Act, Sec. 3 324
The Madhya Bharat Rural Development Act, Secs. 4 and 8 . . . . 437 438
The Orissa Development Act, Sec. 3 413
The U. P. Rural Development Act, Secs. 3, 6, 7 and 10 . . . . . 407—409
The West Bengal Tank Improvement Act, Sec. 3 291
The West Bengal Land (Requisition and Acquisition) Act, Sec. 6 . . . 330

Rights, etc.—Records of—

The Bombay Irrigation Act, Sec. 76 139
The Jammu and Kashmir Land Preservation Act, Sec. 15 95
The Madras Lands Improvement Schemes Act, Sec. 13 112
The West Bengal Tank Improvements Act, Sec. 22 304

Seeds—Improved—

The East Punjab Seed and Seedlings Act, Sec. 4 52

Schemes—Enforcement and Execution—

The Bombay Land Imrpovement and Schemes Act, Sec. 11 9
The Madras Land Improvement Schemes Act, Sec. 8 110
The Travancore-Cochin Land Development Act, Sec. 9 431
The West Bengal Land Development and Planning Act, Sec. 5 . . . 402

PAGE

Schemes—Preparation, Publication of Modification—

The Assam Embankment and Drainage Act, Sec. 9. 319
The Bihar Public Irrigation and Drainage Works Act, Chapter II . . . 247
The Bombay Khar Lands Act, Secs. 12, 13 and 15 100,101
The Bombay Land Improvements Schemes Act, Secs. 5 and 9 81,83
The Delhi and Ajmer-Merwara Land Development Act, Secs. 4 and 6 . . 418
The Madras Land Improvement Schemes Act, Secs. 3–5, and 7 . . . 109,110
The Mysore Irrigation Act, Sec. 29 223

Short Title and Extent—

The (Central) Destructive Insects and Pests Act Sec 1 334
The (Central) Essential Supplies (Temporary Powers) Act Sec. 1 . . . 378
The Assam Agricultural Pests and Diseases Act, Sec. 2 372
The Assam Embankment and Drainage Act, Sec. 1 315
The Bhopal Reclamation and Development of Lands (Eradication of Kans) Ordinance, Sec. 1 47
The Bhopal Land Utilization Act, ... 19
The Bihar Private Irrigation Works Act, Sec 1 152
The Bihar Public Irrigation and Drainage Works Act, Sec. 1 246
The Bihar Waste Lands Act, Sec. 1 28
The Bombay Agricultural Pests and Diseases Act, Sec. 1 354
The Bombay Growth of Food Crops Act, Sec. 1 387
The Bombay Irrigation Act, Sec. 1 115
The Bombay Khar Lands Act, Sec. 1 96
The Bombay Land Improvement Schemes Act, Sec. 1 78
The Cochin Irrigation Regulation, Sec. 1 231
The Cochin reservation of Eries Act, Sec. 1 310
The Cochin Proclamation Act, ... 386
The Coorg Agricultural Pests and Diseases Act, Sec. 1 346
The Delhi Land Utilization Act, Sec. 1 17
The Delhi and Ajmer-Merwara Land Development Act, Sec. 1 417
The East Punjab Agricultural Pests and Diseases Act, Sec. 1 356
The East Punjab Conservation of Manure Act, Sec. 1 54
The East Punjab Improved Seeds and Seedlings Act, Sec. 1 52
The East Punjab Land Preservation Act, Sec. 1 67
The East Punjab Reclamation of Land Act, Sec. 1 42
The East Punjab Tractor Cultivation Act, Sec. 1 63
The East Punjab Utilization of Land Act, Sec. 1 20
The Himachal Pradesh Agricultural Pests and Diseases Act 371
The Hyderabad Restriction of Cash Crops Regulation Sec. 1 398
The Kumaon Nayabad and Waste Lands Act, Sec. 1 36
The Jammu and Kashmir Land Preservation Act, Sec. 1 89
The Madhya Bharat Irrigation Act, Sec. 1 266
The Madhya Bharat Kans Eradication Act, Sec. 1 44
The Madhya Bharat Municipal Refuse Act, Sec. 1 59
The Madhya Bharat Requisition of Land (Rural Development) Act, Sec. 1 . 436
The Madhya Bharat Utilization of Land Act, Sec. 1 36
The Madhya Bharat Tractor Cultivation Act, Sec. 1 65
The Madhya Bharat Village Refuse Ordinance, Sec. 1 61
The Madhya Pradesh (C.P. and Berar) Cultivation of Fallow Land Act, Sec. 1 3
The Madhya Pradesh (C.P.) Irrigation Act, Sec. 1 181
The Madhya Pradesh Reclamation of Land (Eradication of Kans) Act, Sec. 1 . 33
The Madras Agricultural Pests and Diseases Act, Sec. 1 337
The Madras Irrigation Works Act, Sec. 1 241
The Madras Land Improvement Schemes Act, Sec. 1 108

PAGE

Short Title and Extent—contd.

The Madras Irrigation Tanks (Improvement) Act, Sec. 1 312
The Malabar Irrigation Works Act, Sec. 1 259
The Mysore Cultivation of Fallow Land Act, Sec. 1 8
The Mysore Irrigation Act, Sec. 1 215
The Mysore Minor Tank Restoration Act, Sec 1 288
The Orissa Development Act, Sec. 1 412
The Patiala Destructive Insects and Pests Act, Sec. 1 351
The Rewa State Agricultural Pests and Diseases Act, Sec. 1 360
The Saurashtra Growth of Food Crops Ordinance Sec. 1 393
The Travancore Irrigation Act, Sec. 1 143
The Travancore-Cochin Land Development Act, Sec 1 428
The U.P. Land Utilization Act, Sec. 1 12
The U.P. Rural Development Act, Sec. 1 406
The West Bengal Land (Requisition and Acquisition) Act, Sec. 1 329
The West Bengal Land Development and Planning Act, Sec. 1 401
The West Bengal Tank Improvement Act, Sec. 1 290

Suits—Bar, etc.—

The Assam Land (Requisition and Acquisition) Act, Sec. 12 328
The Assam Agricultural Pests and Diseases Act, Sec. 18 356
The Bihar Private Irrigation Works Act, Sec. 48 180
The Bihar Public Irrigation and Drainage Works Act, Sec. 29 257
The Bihar Waste-Lands Act, Sec. 11 32
The Bombay Agricultural Pests and Diseases Act, Sec. 15 358
The Bombay Khar Lands Act, Sec. 45 106
The Bombay Land Improvement Schemes Act, Sec. 23 86
The C.P. Reclamation of Lands Act, Secs. 10 and 11 35
The Delhi and Ajmer-Merwara Land Development Act, Sec. 33 . . . 427
The East Punjab Agricultural Pests, Diseases and Noxious Weeds Act, Sec. 11 . 370
The East Punjab Conservation of Manure Act, Sec. 21 57
The East Punjab Reclamation of Lands Act, Sec. 8 43
The East Punjab Seeds & Seedlings Act, Sec. 7 53
The East Punjab Utilization of Land Act, Sec. 8 4
The Hyderabad Cash Crops Regulation, Sec. 9 . . . . . .
The Jammu & Kashmir Land Preservation Act, Sec. 19 . . . . .
The Madhya Bharat Irrigation Act, Sec. 72 286
The Madhya Bharat Land Utilization Act, Sec. 8 27
The Madhya Bharat Eradication of Kans Act, Sec. 11 46
The Madras Irrigation Tanks (Improvement) Act, Sec. 4 313
The Madras Irrigation Works Act, Sec. 9 241
The Madras Land Improvement Schemes Act, Sec. 21 144
The Malabar Irrigation Works Act, Sec. 19 265
The Orissa Development Act, Sec. 13 410
The Patiala Destructive Insects and Pests Act, Sec. 12 353
The Rewa Agricultural Pests and Diseases Act, Sec. 8 364
The Travancore-Cochin Land Development Act, Sec. 19 & 20 434
The U.P. Rural Development Act, Sec. 4 410
The U.P. Utilization of Land Act, Sec. 18 16
The West Bengal Land (Acquisition & Requisition) Act, Sec. 12 332
The West Bengal Tanks Improvement Act, Sec. 30 306

Tanks—

The Bengal Tanks Improvement Act, Sec. 2 291
The C.P. (Madhya Pradesh) Irrigation Act, Chapter IXA 207
The Mysore Minor Tank Restoration Act, Sec. 2 288

PAGE

Tractor Cultivation—

The East Punjab Tractor Cultivation Act, Sec. 3 63
The Madhya Bharat Tractor Cultivation Act, Sec. 3,4 65
The Bombay Irrigation Act, Part II 117
The Madhya Bharat Irrigation Act, Sec. 2 266

Water courses—

The Madhya Pradesh (C.P.) Irrigation Act, Sec. 4 181
The Mysore Irrigation Act, Chapter III 217

GIPN—S1—18M o Food—24-12-52—9 00.