

## **BIHAR IRRIGATION ACT, 1997**

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An Act to provide for and consolidate the law relating to Irrigation Embankment, Drainage, Levy & Assessment of Water rates, better contribution and matters related therewith.

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

### **CHAPTER – I PRELIMINARY**

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

#### **Definitions**

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

- a. "Assured irrigable Command" means an area declared to be an assured irrigable command area under section 50;
- b. "Beneficiary " means-
  - i. In relation to any irrigation channel, a person whose land is irrigated or is capable of being irrigated by any irrigation work of the State Government;
  - ii. In relation to any flood embankment work, a person whose land is protected or is likely to be protected by such embankment;
  - iii. In relation to any drainage work a person whose land is benefited or is likely to be benefited from such drainage work;
- c. "Betterment Contribution" means contribution levied under chapter XII of this Act;
- d. "Betterment levy officer" means such officer as the State Government may appoint to be the betterment levy officer in respect of any area of an irrigation work, or portion of an irrigation work;
- e. "Block" means an area defined as such under section 2 of the Bihar Panchayat Raj Act, 1993 (Bihar Act 19 of 1993);
- f. "Block Development Officer" means an officer appointed as such under section 2 of the Bihar Panchayat Raj Act, 1993 (Bihar Act 19 of 1993);
- g. "Canal Revenue" means and includes water rate, betterment contribution, water cess, license fee for fishing and navigation, sale of grass, trees and other produce from the land belonging to irrigation work, proceeds from lease of land belonging to irrigation work, and from water mills;
- h. "Collector" means the head revenue officer of a district and includes a deputy Commissioner or other officer appointed by the State Government to exercise all or any of the powers of a Collector;
- i. "Culturable commanded area" means all lands which are fit for cultivation under irrigable command of an irrigation work;
- j. "Canal" means and includes-

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

- iii. "Superintending Engineer" means an officer appointed by the State Government to be Superintending Engineer in charge of a Circle, an administrative unit of Water Resources Department who shall be responsible to the Chief Engineer for the administration and general professional control of irrigation works and officers of the department within his circle and includes any person appointed by the State Government, by notification to be Superintending Engineer for the purposes of this Act either generally or in respect of any proposed work or sanctioned work specified in such notification.
- iv. "Executive Engineer" means an officer appointed by the State Government to be Executive Engineer in charge of a division, an executive unit of Water Resources Department who shall be responsible to Superintending Engineer for execution and management of all works in his division and includes any person appointed by the State Government by notification to be Executive Engineer for the purpose of this Act either generally or in respect of any proposed or sanctioned work specified in such notification.
- v. "Divisional Canal Officer" means an Executive Engineer exercising control over a Division of an irrigation work, or a portion of an irrigation work and includes any person appointed by the State Government by notification to be Divisional Canal Officer for the purpose of this Act either generally or in respect of any proposed work or sanctioned work specified in such notification.
- vi. "Canal Officer" means an officer exercising control over a sub-division of an irrigation work or portion of an irrigation work and includes an officer to whom any of the function of a Canal Officer under this Act have been assigned by the State Government
- n "Improved Land" means the land fit for cultivation before the execution of any works under this Act but of which the productive powers have been increased by such works.
- o "Irrigation Work" means and includes-
  - i. All reservoirs, tanks, dams, barrages, weirs, canals, channels, domestic water supply works, pipes, ponds, springs-ponds, spring channels, aqueducts, sluices, lift irrigation through pumping installations, constructed, maintained or controlled by the State Government for the supply or storage of water;
  - ii. All works, embankments, structures, control structures including outlets, supply and escape channels, connected with such reservoirs, tanks, dams, barrages, weirs, canals, channels, domestic water supply works, pipes, ponds, spring ponds, spring channels, aqueducts, sluices, pumping installations and roads constructed for facilitating the construction or maintenance and operation of such works;
  - iii. All drainage works, flood embankments, wells and village channels;
  - iv. Any part of a river, stream, lake or natural collection of water or natural drainage and ground water to which the State Government has applied the provisions of this Act, and
  - v. All lands held by the State Government for the purpose of such reservoirs, tanks, dams, barrages, weirs, canals, channels, domestic water supply works, pipes, ponds, spring ponds, spring channels,

- aqueducts, sluices, pumping installations and all buildings, machinery, fences, gates and other erections upon such lands;
- p "Land" means and includes interest in land, benefit arising out of land and things attached to the earth or permanently fastened to anything attached to the earth;
- q "Lands under Irrigable Command" means such lands as are irrigated or capable of being irrigated by flow or lift from an irrigation work being under its command and shall include also such cultivated land which received in the opinion of the Executive Engineer, by seepage or otherwise from an irrigation work or by indirect flow, percolation or drainage from or through adjoining land, an advantage beneficial to the crop;
- r "Lift Irrigation" means irrigation by lifting water by means of a pump operated otherwise than by human or animal power
- s "Line of Navigation" means canal navigation;.
- t "Notification" means a notification published in the Official Gazette;
- u "Occupier" means and includes an occupier of land who cultivates or possesses the same for the time being;
- v "On -Farm Development" means and includes any of the following works:-
  - i. Land-levelling and land shaping including realignment of field boundaries;
  - ii. Providing of falls, culverts, other necessary structures and farm roads in the fields;
  - iii. Land reclamation by use of engineering, biological and chemical measures, including leaching;
  - iv. Contour bunding and nala bunding;
  - v. Such other works as may be necessary or incidental to development of land or ground or flow water potential and for optimising the utilisation of land and water resources;
- w. "Owner" means and includes every person having interest in the ownership of land or property and the rights and obligations attached to an owner under the provisions of this Act shall attach, jointly and severally to every person having such joint interest in the ownership;
- x. "Prescribed" means prescribed by rules made under this Act;
- y. "Probable Irrigable Command Area" means an area declared to be a probable irrigable command area under this Act;
- z. "Reclaimed Land" means land which was unfit for cultivation before the execution of any work under this Act, but which has been rendered productive by such work;
- aa. "Vessel" includes any ship, barge, boat, raft, timber, bamboos, or
- ab. floating materials propelled in any manner;
  - i "Village Channel" means a channel or a field channel by which water is led from canal into fields to be irrigated and includes all subsidiary works connected with any such channels except the head sluice through which water is supplied from a canal to such channel, constructed by owners or occupiers or beneficiaries or State Government on their behalf and at their cost and maintained by such owners or occupiers or beneficiaries or by the State Government at their cost and on their behalf; Government distributaries, sub-distributaries, minors and water courses will also be treated as village channels if these are turned over to the beneficiaries or their

representatives or Water Users Associations formed by the beneficiaries to be maintained and operated by them at their cost, either fully or with part Government grants and will be governed by provisions of Chapter X of this Act;

- ii. "Field Channel" is a channel constructed from an outlet to or into the irrigation chuk and includes all subsidiary works except the outlet through which water is supplied from an irrigation work;
- iii. "Farm channel" is a temporary or permanent channel constructed by the farmers in their fields for taking water from field channels for irrigation;

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

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

## **CHAPTER – II RIGHTS**

### **3. Rights of the State Government in Water**

- a. All rights in the water of any river, natural stream or natural drainage channel, natural lake or other natural collection of water shall vest in the State Government subject to the provisions of Article 262 and Entry 56 of list of seventh schedule of Constitution of India.
- b. When the State Government proposes to construct a canal it shall publish a notification declaring its intention and indicating the site of head work.
- c. No rights shall be acquired against the Government under the provisions of the Indian Easements Act 1882 (No.5 of 1882) in the water of any river, natural stream or natural drainage channel, lake or other natural collection of water, which supply water to a canal existing or under construction at the commencement of this Act or any of whose water will supply the canal when constructed.

### **4. Irrigation work to vest in Government**

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

### **5. Survey of lands used for obtaining earth for repairs**

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

## **CHAPTER – III POWERS OF OFFICERS**

### **6. Entry for enquiry**

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

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

### **7. Power to inspect and regulate the water supply**

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

### **8. Notice to occupier of building**

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

### **9. Power to make repairs**

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

### **10. Power to make temporary roadway, water channel or dam**

1. Whenever any person desires that a temporary roadway should be made over an irrigation work or that a temporary water channel should be made through any public embankment, or that a temporary dam should be constructed in any embanked river or public water-channel, he shall apply to the Executive Engineer in-charge.
2. Such Engineer shall transmit the application with his opinion to the Superintending Engineer, and shall await his order in respect thereof, unless he thinks

that there is special reason for the immediate execution of the work, in which case he may execute the same without awaiting for the orders of the Superintending Engineer.

3. If the proposed work is to be executed by an officer of the Government, the applicant, before the Commencement of the work, shall deposit the amount estimated by the Executive Engineer to be necessary to defray the expenses of, and incidental to making and removing such roadway, or of and incidental to making, closing, removing such water channel or dam.

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

#### **11. Power to take earth from lands**

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

### **CHAPTER – IV IRRIGATION**

#### **12. Notification when water to be supplied for public purposes**

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

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

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

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

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

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

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

## **CHAPTER V DRAINAGE AND PREVENTION OF WATER LOGGING**

### **13. Prohibition of obstructions**

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

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

### **14. Order to remove obstructions**

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

### **15. Removal of encroachment**

If, within the time so fixed, such person doesn't comply with the order, the canal officer may cause the encroachment to be removed or modified; the expenses involved in such removal or modification, shall be recovered from person concerned; Provided that the Divisional Canal Officer may, in cases of emergency, remove the encroachment before the publication of notification and the expenses incurred shall be recoverable from the person concerned.

## **16. Notification for construction of drainage work**

1. Whenever it appears to the State Government that any drainage work excluding field drainage is necessary in the interest of public health , or for improvement of any lands, or for proper cultivation or irrigation thereof or that protection from floods or other accumulation of water or injurious salt or from erosion by a river, is required for any lands, the state Government may by notification declare that the drainage work shall be constructed after a day to be mentioned in the said notification, not being earlier than three months from the date thereof.
2. As soon as practicable after the issue of a notification under sub section (i) the Divisional Canal Officer or any Officer duly empowered under this Act shall cause public notice to be given at convenient places, stating that the State Government intends to construct the drainage work excluding field drain.

## **17. Execution of drainage schemes**

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

## **CHAPTER – VI EMBANKMENT WORKS**

## **18. Execution of embankment work**

1. Whenever it appears to the concerned Divisional Officer (E.E) of the department that any of the following acts should be done, or works executed, that is to say;
  - a. that any embankment which connects public embankments or forms by function with the part of a line of embankments, or that any embankment or water channel which is necessary for the protection or drainage of the neighboring country, should be taken charge of and maintained by the officers of Government;
  - b. that any embankment, or any obstruction of any kind, which endangers the stability of a public embankment or the safety of any town or village, or which is likely to cause loss of property by interfering with the general drainage or flood drainage of any tract of lands, should be removed or altered;
  - c. that the line of any public embankment should be changed or lengthened or that a new public embankment should be constructed instead of any public embankment, or that any embankment should be constructed for the protection of any land or for the improvement of any water- channel, or that a sluice in any public embankment should be made;
  - d. that any sluice or water channel should be made, or that any public water channel should be altered for the improvement of the public health or for the protection of any village or cultivable land.
  - e. That any road which interferes with the drainage of any tract of land should be altered, or that any water- channel under or through such road should be constructed.
2. The concerned Divisional Officer (EE) shall cause to be prepared estimates of the cost of such works together with plans and specifications of the same as may be required, he shall also cause to be prepared from the survey map of the district, a map showing the boundaries of the lands likely to be affected by the said acts and work,

and he shall cause a general notice to be given on his intention to cause such works to be executed;

Provided that whenever it shall appear to the concerned Divisional officer (EE) that delay in execution of any works occasioned by proceeding commenced by a general notice under the Act would be attended with grave and imminent danger of life or property, he may forthwith cause the execution of such works to be began in anticipation of the completion of such proceeding provided further that without delay the estimates, specifications and plans of the proposed works together with a copy of the map as provided shall be prepared and general notice shall be given that the work mentioned therein has already been commenced.

### **19. Form of notice**

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

### **20. Application for new sluices, embankments and drainage**

If any person desires that-

- a sluice be made in any public embankment for the purpose of drainage or irrigation;

OR

- any new embankment be erected, or any existing embankment be lengthened, enlarged, repaired or removed, or that the line of any embankment be altered or that any new water channel be made, or that any water -channel be obstructed or diverted;

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

### **21. Operation of sluices**

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

## **CHAPTER – VII PRIVATE IRRIGATION WORKS**

### **22. Notice by collector for repair of existing irrigation work or construction of new work**

1. Whenever it appears to the Collector-

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

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

- a. cause in the prescribed manner a notice to be served on the owner of the land in which the irrigation work is situated and public notice to be given at

convenient places in every village in which such irrigation work is situated stating that he intends to take action under this chapter for the repair of the said work or for extending or altering it and specifying the date on which an inquiry shall be held,

- b. Serve a notice in the prescribed manner on every person known or believed to be under an obligation to maintain the irrigation work in an efficient state calling on him to show cause on the date specified in the notice why he should not be required to repair the said work or extend or alter it as aforesaid.

### **23. Inquiry By Collector**

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

- a. the necessity for repairing, extending or altering the said irrigation work,
- b. the nature of the works required for such repair, (extension or alteration),
- c. the obligation to maintain the irrigation work in an efficient state and the reasons why the person under such obligation has failed to repair it, and
- d. the probable cost of the proposed work of repair, extension or alteration.

### **24. Power of collector to order repair or construction**

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

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

### **25. Proceedings in emergencies**

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

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

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

### **26. Delegation by Collector of authority to repair or construct**

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

## **CHAPTER – VIII NAVIGATION WORKS**

### **27. Navigable channels**

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

### **28. Authority for navigable channels**

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

### **29. Appointment of superior and their power**

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

### **30. Mode of exercising power**

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

## **CHAPTER – IX VILLAGE CHANNELS**

### **31. Register of village channels to be kept**

1. The Canal Officer shall keep a register of all village channels whether already existing or constructed under this Act, and shall note thereon in respect of every village channel whether it is a public channel or a private channel and whether maintained at the cost of the Government or the owners, and shall register the names of the owners of every such private channel.

2. A village channel made as an extension of, or a branch to, an existing village channel shall be registered as a separate village channel; and so much of the length of any village channel as lies within the limits of any one village or mauza shall be entered on the register as a separate village channel. Every section of a village channel so separately entered on the register shall be deemed to be a separate village channel in respect of all rights and liabilities imposed by this Act. Provided that, whenever it appears to the canal officer for any special reason to enter upon his register as one village channel a section of village channel which includes portions lying within two or more villages or mouzas, the canal officer may, register such section as one village channel, and such section shall be deemed to be one village channel in respect of all rights and liabilities imposed by this Act.

### **32. Acquisition of village channel by agreement**

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

1. by taking over any village channel belonging to the Government;
2. by transfer of ownership of village channel from the owner thereof by private agreement. Explanation-"Person" in this chapter includes any number of persons acting jointly and also water users association.

### **33. Construction of new village channel**

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

### **34. Application for construction of new village channel**

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

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

### **35. Procedure for construction of village channel**

1. If the Canal Officer considers the construction of such village channel expedient, he may call upon the applicant to deposit any part of the expense as he may consider necessary.
2. Upon such deposit being made, the Canal Officer shall-
  1. Cause inquiry to be made into the most suitable alignment for the said village channel, and mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof,
  2. forthwith publish a notification in every village through which the village channel is proposed to be taken that so much of such land as is situated within such village has been so marked out, and shall send a copy of such notification to the collector of every district in which any part of such land is situated.
- 3.

- a. Such notification shall also call upon any person who wishes to be admitted a joint owner of such village channel to make his application in that respect within thirty days of the publication of such notification.
- b. If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such village channel and in the cost of acquiring such land, and shall be a co-owner of such village channel when constructed.

### **36. Acquisition of land**

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

### **37. Procedure after construction of village channel**

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

### **38. Canal officer may direct transfer of village channel**

1. Whenever a Canal Officer considers that the transfer of a village channel from the owner is necessary for the proper management of the irrigation from such village channel, he may cause a notice to be served on the registered owner to appear on a certain day, not less than fifteen days after service of the notice, and to prefer any objection to such transfer.
2. After hearing such objection, the Canal Officer may order that such village channel shall be transferred to such person as he may think fit, and that such person be registered as owner of the said village channel, provided that no person shall be registered as the owner of a village channel under this section, unless he has expressed in writing his willingness to be so registered, and until he has paid to the Canal Officer such sum as may be fixed by the Canal Officer.

### **39. Admission of joint owner of village channel**

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

#### **40. Payment for joint ownership**

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

#### **41. Rent for a transferred village channel**

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

#### **42. Rights and obligations of owner of village channel**

1. Every owner of a village channel shall be bound-
  1. to construct and maintain all works necessary for passage across such village channel of canals, village channels, drainage channels, and public road existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communication across it for the convenience of the occupants of neighboring lands;
  2. to maintain such village channel in a proper state of repair for the conveyance of water;
  3. to allow the use of it to others on such terms as may be declared equitable by the Canal Officer;
  4. to have supply of water by such village channel at such rates and on such terms as are prescribed by the State Government.
  5. To receive such rent for the use of village channel by other persons as the Canal Officer may award;
2. If any village channel transferred under this Act is disused for three years continuously, the right of the applicant or of his representative in interest, to occupy such village channel shall cease absolutely.

#### **43. If owner of village channel fails to execute work or repair, canal officer may do so.**

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

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

**44. Procedure when joint owner neglects or refuses to maintain the village channel**

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

**45. Divisional canal officer may authorise supply**

1. Whenever application is made to a Divisional Canal Officer for supply of water from an irrigation work, and it appears to him expedient that such supply should be given and that it should be conveyed through some village channel, he shall give notice to the persons responsible for the maintenance of such village channel to show cause on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed, and, after making enquiry on such day, the Divisional Canal Officer shall determine whether and on what conditions the said supply shall be conveyed through such village channel;  
Provided that such application is made for lands already included in the irrigation work.
2. Any person, aggrieved by the determination of the Divisional Canal Officer, may prefer an appeal to the Superintending Engineer within thirty days of such determination.
3. When the Divisional Canal Officer determines that supply of water of an irrigation work may be conveyed through any village channel as aforesaid, his decision shall, when confirmed or modified by the Superintending Engineer on appeal, be binding on the applicant and also on the person responsible for the maintenance of the said village channel.
4. Such applicant shall not be entitled to use such village channel until he has paid the expense of any alteration of such village channel necessary in order to his being supplied through it, and also such share of the first cost of such village channel as the Divisional Canal Officer or, as the case may be, Superintending Engineer may determine.
5. Such applicant shall also be liable for his share of the cost of maintenance of such village channel so long as he uses it.
6. The Canal Officer shall fix a sum as rent to be paid for the use of such village channel to the owner.

**46. Government may transfer distributary, minor or water course to water user Association**

1. Government may transfer any Government distributary, minor or water course to the Water User Association (s) formed by the beneficiaries or to a group of person who may be considered fit by the Government to be owner of the said channels for

their maintenance and operation. These channels , in such a case , will be considered as village channels and will accordingly be governed by the provisions of this chapter.

2. In case the management of distributary, sub-distributary or minor is handed over to the WUA, the WUA shall be supplied with authorised discharge at the head regulator of such channel. The Executive Engineer will ensure that the water so supplied will be in proportion to the area to be irrigated from that channel. In the case of deficient water supply in the parent channel, the shortage shall be equitably distributed to the various channel.

#### **47. Preparation of draft scheme for on-farm development**

1. Notwithstanding anything contained to the contrary in this Act and subject to the rules, that may be made by the State Government in this behalf, an officer designated by the State Government in this behalf may, on his own motion or on the application of not less than fifty percent of the owners or occupiers of land in the culturable commanded area, prepare a draft scheme to provide for on-farm development on a group or block of fields.

2. Every scheme prepared under sub-section (1) shall among other matters, set out the cost of the on-farm development works, sketch plan of the area proposed to be covered by the said scheme, and particulars of the owners or occupier to be benefited by the said scheme.

3. Every scheme shall, as soon as may be after its preparation, be published in such form and manner as may be prescribed inviting objections and suggestions with respect thereof within twenty-one days of the publication.

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

5. The officer designated by the State Government in this behalf may, at any time or on an application by any person aggrieved by the approved scheme made within a period of thirty days from the date of publication of the particulars of the scheme under sub- sections (4), revise the scheme approved by the said officer :- Provided that such revision shall not be made without affording the person affected an opportunity of being heard.

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

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

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

the owners or occupiers who fail or indicate their inability, to execute or get executed the works as required.

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

**48. Divisional Canal Officer may construct field drains on behalf of owners or occupiers**

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

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

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

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