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## The Rajasthan Minor Irrigation Works Act, 1953

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# **THE RAJASTHAN MINOR IRRIGATION WORKS ACT, 1953**

(Act No. XII of 1953)

[Published in the Rajasthan Gazette No. 16, Part IV-A, dated 25-4  
1953.]

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### THE RAJASTHAN MINOR IRRIGATION WORKS ACT, 1953

(Act No. XII of 1953)

[Received the assent of the President on the 31st day of March, 1953 and Published in the Rajasthan Gazette No. 16, Part IV-A, dated 25-4-1953.]

As amended subsequently by the following Rajasthan Acts:-

1. No. 27 of 1957; &
2. No. 8 of 1962.

An Act to provide for the construction, improvement and maintenance of minor irrigation works in <sup>1</sup>[the State of Rajasthan].

Whereas it is expedient to make provision for the construction, improvement and maintenance of minor irrigation works in <sup>2</sup>[the State of Rajasthan]. It is hereby enacted as follows :—

#### PART I

##### Preliminary

**1. Short title, extent and commencement.**—(1) This Act may be called the Rajasthan Minor Irrigation Works Act, 1953.

<sup>3</sup>[(2) It extends to the whole of the State of Rajasthan.]

(3) It shall come into force on the date of its first publication in the <sup>4</sup>[Official Gazette].

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

(1) "construction" (with its grammatical variations and cognate expressions) includes improvement within a limited time and in a specific manner;

(2) "Minor Irrigation Work" or "work" means an irrigation, submer-sion, drainage, or protective work or system of such works, natural or artificial, of which the construction or maintenance by the State Government appears to that <sup>5</sup>[State Government] to call for action under this Act:

Provided that the cost of such construction or in the case of maintenance, the value of such work or works does not exceed Rs. 15,000/-.

(3) "owner" includes a mortgagor or mortgagee in possession; but does not include a mortgagor or mortgagee out of possession or a lessee for a term of years nor, where a superior and an inferior right of ownership co-exist, the owner of the superior right; and

1 Subs. by Raj. Act No. 27 of 1957 [13-8-1957].

2 Subs. by Raj. Act No. 27 of 1957 [13-8-1957].

3 Subs. by Raj. Act No. 27 of 1957 [13-8-1957].

4 Subs. by Raj. Act No. 27 of 1957 [13-8-1957].

5 Subs. by Raj. Act No. 27 of 1957 [13-8-1957].



<sup>1</sup>[(4) X X X]

## PART II

## Preparation of Scheme

**3. Preliminary order of State Government.**—The State Government may direct the Collector or any other person to make inquiry whether it is desirable to undertake the construction or maintenance of a minor irrigation work of any description in any specified local area.

**4. Publication of Preliminary Order.**—(1) The Collector shall, thereupon publish a notice in the village or villages concerned specifying the place at which and the date (which shall not be earlier than forty-two days after the date of such publication) on which the inquiry shall be held, and shall also, subject to any rule made under section 49, cause a copy of the notice to be served on any owner whose land he believes to be likely to be affected by the proposed construction or maintenance.

(2) The notice shall set forth the general character of the proposed construction or maintenance, and shall invite all persons having interest likely to be affected thereby to submit any objection or suggestion that they may desire to make on or before a date specified in the notice and to produce any evidence in support of such objection or suggestion on the date appointed for the holding of the inquiry.

**5. Implied consent of owners.**—Every owner of land likely to be affected by construction or maintenance who falls within the period allowed by the notice to submit any objection or suggestion in the manner prescribed, shall be deemed for the purposes of this Act to have given his consent thereto.

**6. Inquiry and report by Collector.**—(1) If the Collector or other person appointed to make the inquiry after considering any objection or suggestion duly submitted and taking such evidence as he thinks necessary, finds that the owners of at least one-half of the land likely to be affected by the construction or maintenance of the work consent, or are deemed to consent, to such construction or maintenance, he shall embody his proceedings in a report to be submitted to the State Government and shall in such report make proposals as to the manner in which the State Government is to be compensated or to recoup itself for any expenditure, whether capital or recurring, incurred by it.

(2) If the owner of more than one-half of the land affected or likely to be affected are opposed to the construction or maintenance of the work, a report to this effect only shall be submitted to the State Government.

**7 Notification by <sup>2</sup>[the State Government] directing draft scheme to be prepared.**—Upon receipt of the report referred to in sub-

section (1) of the preceding section, the State Government may, after such further inquiry if any, as it thinks fit, publish a notification in the <sup>1</sup>[Official Gazette] directing the preparation of a draft scheme of construction or maintenance or of both.

**8. Powers of officer preparing Draft schemes.**—Upon such publication, any officer empowered by the State Government in this behalf by general or special order may enter, or depute any other person to enter, upon any lands within the area specified in section 3, or on any lands adjacent thereto, for the purpose of doing any act necessary in his opinion for the preparation of the draft scheme, provided that reasonable notice shall be given before entry is made into any building or any enclosed court or garden attached to a dwelling house.

**9. Compensation for damages caused by entry under section 8.**—In case of entry under section 8, the officer empowered under that section shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under that 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 Collector, and such decision shall be final.

**10. Draft scheme.**—(1) The officer empowered by the State Government under section 8, shall submit a draft scheme to the State Government, and such scheme shall, so far as he deems necessary, embody the following particulars and be accompanied by the following documents, namely:—

- (a) a specification and plan of the work which it is proposed to construct or maintain and an estimate of the capital or recurring expenditure involved thereby;
- (b) the estimated time required for the completion of a scheme of construction;
- (c) a statement detailing—
  - (i) the land and interests in land which in his opinion it will be necessary to acquire in order to carry out the scheme;
  - (ii) the portion of such land and interests therein which can be acquired by negotiation;
  - (iii) the portion of such land and interests which it will be necessary to acquire under the law relating to compulsory acquisition of land; and
  - (iv) an estimate in each case of the expenditure required for the purpose of acquisition;
- (d) the extent to which it will be necessary in his opinion to make compensation for damage caused to property by the carrying out of the scheme and the expenditure required for

<sup>1</sup> Omitted by Raj. Act No. 27 of 1957 [13-8-1957].

<sup>2</sup> Subs. by Raj. Act No. 27 of 1957 [13-8-1957].

<sup>1</sup> Subs. by Raj. Act No. 27 of 1957 [13-8-1957].



this purpose:

- (e) the area which will be benefited by the scheme;
- (f) the method of management of the work;
- (g) with reference to section 19, the method or methods by which the State Government will be recouped or compensated for expenditure incurred by in;
- (h) where all or any of the owners within the benefited area agree—
  - (i) to make themselves responsible to the State Government for any expenditure incurred by the State Government from time to time in the execution of the scheme or for future interest at a specified rate thereon or for both, or
  - (ii) to pay any fixed contract sum or sums (along with interest at a specified rate on arrears thereof) to the State Government for the execution by the State Government of the scheme;

an agreement to either executed by such owners:

- (i) the description of any river or stream flowing in a natural channel or of any lake or other natural collection of still water, whereof the water should be applied or used for the purpose of the work;
- (j) any other matter which is required by the circumstances of the case.

(2) Such scheme shall also embody any particulars and be accompanied by any documents required by any rules made under section 49.

(3) Any agreement referred to in clause (h) of sub-section (1) may provide that on payment of the amount expressed therein, the work shall vest in and be maintained by the owners executing the agreement subject to the provisions of Part III.

**11. Publication of Draft scheme.**—(1) When the draft scheme has been prepared to the satisfaction of the State Government, a notice giving such particulars as are required by rule in this behalf and stating at what place and times the scheme will be open to inspection shall be punished by affixing a copy of the notice in a prominent place in each village of which the land is in the opinion of the Collector likely to be affected by the scheme, if carried out.

(2) The Collector may also serve notice to the same effect on any owner or occupier of land likely to be affected by the scheme, or on the agent of such owner or occupier.

(3) On publication of the notice under sub-section (1), any person likely to be affected by the scheme may within one month from the date of such publication present in writing to the Collector any objection which he may have to the scheme.

(4) The Collector shall forward to the State Government all objection which may be presented to him together with any remark that he may desire to make in respect of such objections.

**12. Adoption by the State Government of approved scheme.**—(1) After such modification of the draft scheme as appears to be required by any objection made under the previous section or otherwise, the State Government may, if it thinks fit to proceed with the scheme, notify the same as approved by publication in the <sup>1</sup>[Official Gazette] and thereafter it shall be entitled to carry out such approved scheme in accordance with the provisions of this Act:

Provided that if the scheme has in the opinion of the State Government been substantially altered, the provisions of section 11, shall apply to the amended scheme.

(2) The publication under sub-section (1) of a scheme as approved shall be conclusive proof that any consent recorded therein has been duly obtained, that the scheme will benefit the area specified therein in that behalf (hereinafter called the benefited area), and that the scheme has in all respects been duly prepared and approved.

**13. Operation of a notified scheme as a notification declaring application of specified waters.**—The intimation in a scheme notified under sub-section (1) of section 12 of the intention to apply or use the water of any river or stream flowing in a natural channel; or of any lake or other natural collection of still water, for the purpose of the work to which the scheme relates, shall operate as notification declaring that the said water will be so applied or used on the expiration of three months from the date of the notification.

**14. Modification of approved scheme or substitution of new Scheme.**—The State Government may from time to time modify any approved scheme notified under section 12 or substitute another scheme in its stead, and the provisions of this Act applicable to a scheme notified under section 12, shall thereafter be applicable to any scheme so modified or substituted:

Provided that any consent, publication or other thing required by this Act in respect of a scheme shall be necessary also in respect of the alteration of a scheme or the substitution of a new scheme for an existing one.

### PART III

#### Construction and Maintenance

**15. Appointment of Officer-in-charge.**—The State Government may, by general or special order, appoint an officer (hereinafter called the Officer-in-charge) to be incharge of the construction or maintenance of a minor irrigation work in respect of which an approved

<sup>1</sup> Subs. by Raj. Act No. 27 of 1957 (13-8-1957).



scheme has been published.

**16. Powers of Officer-in-charge.**—(1) The Officer-in-charge and any officer to whom he is subordinate, shall have the following powers namely :—

- (a) at any time after the expiration of three months from the date of the notification under section 12, to enter on any land, remove any obstructions, close any channels and do any other thing necessary for the use or application of the water of any river or stream following in a natural channel or of any lake or other natural collection of still water;
- (b) to prohibit by order in writing any person from doing anything which in his opinion diminishes, or is likely to diminish the efficiency of the work;
- (c) to require by order in writing any owner or occupier of land within the benefited area to take or permit such action in respect of any property therein belonging to him or in his possession, as may appear necessary for the preservation or maintenance of the work or may appear to be necessary for the purpose of increasing or extending within the benefited area, by means of distributaries or otherwise, the benefit of the work;
- (d) to enter or authorise any other person to enter upon any land for the purpose of constructing or maintaining the work, or of preventing or remedying the effect of any accident to the same, or of inspecting or regulating the use of the water supplied, or of measuring lands irrigated by the work or chargeable with any water rate or other sum, or of doing any other thing necessary for the proper regulation and management of the work;
- (e) to require in cases of urgency any owner or occupier of land receiving benefit from the work to assist in procuring at market rates such labour, as may be necessary for the preservation or maintenance of the work;
- (f) to do or prevent being done anything in respect of which an order has been issued by him under clauses (b) and (c), provided that the person so ordered has failed to obey the order within the time specified in the order, and provided also that no action shall be taken under this clause in respect of an order issued under clause (c) until such order has become final under section 17;
- (g) to issue an order in writing 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

the failure of the person to whom the order has been issued to comply within a reasonable time, himself to take the required action at the cost of such person which shall be recoverable under section 28.

(2) The power conferred by clause (c) of sub-section (1), shall include the power to order the transfer by one person to another, on the payment of compensation to be determined in the manner described in section 42, of a water-course or of any land or right in land required for the construction of a water-course.

**17. Appeal against order of Officer-in-charge.**—(1) Order issued by the officer-in-charge under section 16, shall be subject to appeal in writing made within fifteen days to such officer or officers, as the State Government directs by rule, but, unless appealed against in the prescribed manner, shall be final.

(2) The order of the appellate authority shall be final.

**18. Land Acquisition.**—(1) Any land or interest in land which, in the opinion of the State Government, it is necessary to acquire in pursuance of a scheme notified under section 12 shall, for the purposes of the law relating to compulsory acquisition of land be deemed to be required for a public purpose.

(2) For the purposes of such law, the market value of such land or interest shall be deemed to be the market value at the time of the issue of the preliminary order under section 3.

#### PART IV

#### Recovery of Expenditure

**19. Alternative modes of recoupment by Government.**—The State Government may compensate or recoup itself for any expenditure which it incurs, or agrees to incur, in the carrying out of any approved scheme of construction or maintenance or of both, in any one or more of the following methods, namely:—

- (a) by the levy from the owners of land within the benefited area, whether such benefit takes the form of direct irrigation, percolation, submersion, improvement of the water supply in wells or drainage of excessive water or otherwise, of a uniform rate or of differential rates imposed on such land in accordance with rules made by the State Government; or
- (b) by the recovery from any owners executing an agreement under clause (h) (i) or clause (h) (ii) of sub-section (1) of section 10 of any sums due thereunder; or
- (c) by the realisation of miscellaneous income arising from the management by the State Government of the work.

**20. Appeal against rates.**—(1) An appeal against the assessment of levy of any rate under this Act shall lie to such officer as is empowered



by rule in this behalf.

(2) In every appeal, the costs shall be at the discretion of the officer deciding the appeal.

(3) Costs awarded under this section against the appellant shall be recoverable as though they were an arrear of land revenue due from the appellant.

**21. Limitation of appeal.**—No appeal shall lie in respect of any rate unless it is preferred within thirty days from the time when the demand for the rate is first made.

**22. Exclusion of jurisdiction of ordinary Courts.**—No objection shall be taken to any assessment, nor shall the liability of any person to be assessed or rated by questioned in any manner, or by any other authority, than is provided in or under this Act:

Provided that nothing in this section shall prevent any person from obtaining a declaration in the Civil Court that he is not liable to such assessment on the ground that he is not the owner of the land in respect of which the assessment has been made, and the assessing officer shall be bound by such declaration.

**23. Rate by whom payable when charged on land held by several occupiers.**—Where a rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land, who may recover from such joint owners any sums so paid on their behalf.

**24. Enhancement and abatement of rent.**—(1) Notwithstanding anything contained in any enactment to the contrary, but subject to any rules made in this behalf, where benefits are received from a minor irrigation work constructed or maintained under this Act, such benefits, whether due to the supply of direct irrigation or to percolation, submersion, improvement of the water supply in wells or drainage or excessive water or otherwise shall be deemed a ground for enhancement of rent.

(2) In like manner, the loss or discontinuance of any benefits received from a minor irrigation work shall be deemed a ground for abatement of rent.

**25. Procedure in enhancement and abatement.**—Except as may be otherwise provided by rules made under section 49, all claims under the proceeding section in any local areas shall be made by suit to be instituted in a Revenue Court empowered to try suits for the enhancement or abatement or rent in such local area.

**26. Appointment of charges due under clause (b) of section 19.**—Where any sum is recoverable under clause (b) of section 19 from owners for the time being of land within the benefited area, they shall be jointly and severally liable for the same.

**27. Enforcement of agreement previous to Act.**—(1) All agreements made within a period of twelve years prior to the date on which this Act comes into force regarding the construction, repair and maintenance of a minor irrigation work which might have been constructed or maintained under this Act, had it been in force shall, so far as the terms thereof are consistent with this Act, be deemed to have, been made under this Act, and shall have force accordingly.

(2) Nothing in sub-section (1) shall apply to any such agreement in respect of a minor irrigation work unless and until the State Government declares the work by notification in the <sup>1</sup>[Official Gazette] to be subject to the provisions of this section.

**28. Certified dues and debts recoverable as land revenue.**—Any sum lawfully due under this Act and certified by the Officer-in-charge to be so due and any sum not otherwise recoverable under this Act but due under and agreement referred to in section 27 which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from any person liable for the same, as if it were an arrear of land revenue.

**29. Lambardars may be required to collect dues.**—The Collector may require the Lambardar, if any, of any local area to collect any sums recoverable under this Act from an owner or occupier of any land or water in such local area, and deposit the amount so collected in the State Treasury as directed by the Collector. In the event of an owner or occupier of such land or water failing to pay any dues so required, it shall be recovered from him as an arrear of land revenue.

**30. Saving in respect of fines.**—Nothing in sections 28 and 29 applies to fines.

## PART V

### Penalties and Preventive Action

**31. Offences.**—whoever without proper authority, and voluntarily does any of the following acts, namely :—

- (1) damages, alters, enlarges or obstructs any work;
- (2) interferes with, increases or diminishes the supply of water in or the flow of water from, through, over or under any work;
- (3) being responsible for the maintenance of any work or of any part thereof or using any work or any part thereof, neglects to take proper precautions for the prevention of water therefrom or uses such water in an unauthorised manner;
- (4) corrupts or fouls the water of any work so as to render it less fit for the purposes for which it is ordinarily used;

<sup>1</sup> Subs. by Raj. Act No. 27 of 1957 [13-8-1957].



- (5) destroys or moves any level-mark or water gauge fixed by the authority of a public servant;
- (6) Passes, or causes animals or vehicles to pass, on or across any work contrary to rules made under this Act;
- (7) Violates any rule made under this Act, the breach of which is declared to be punishable or disobeys any lawful order of the Collector or other officer;

shall be liable on conviction before a Magistrate to imprisonment for a period not exceeding one month or to fine not exceeding fifty rupees or, where the offence is a continuing one, to further fine which may extend to ten rupees for every day on which the offence continues after due date of first conviction.

**32. Saving.**—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 punished twice for the same offence.

**33. Summary arrest.**—Any person in charge of or employed upon any work may remove from the lands or buildings belonging thereto or may take into custody without a warrant and take (or send) forthwith to a Magistrate or to the nearest police station to be dealt with according to law, any person who within his view commits any of the following offences:—

- (a) wilfully damages or obstructs any work;
- (b) without proper authority interferes with the supply of flow of water to or from any work so as to endanger, damage or render less useful such work.

**34. Definition of "work" in this Part.**—In this Part, the word "work" shall be deemed to include all lands occupied by the [State Government] for the purpose of a minor irrigation work in respect of which an approved scheme has been published and all buildings, machinery, fences, gates and other erection, trees, crops, plantations or other produce, occupied by or belonging to the [State Government] upon such lands.

## PART VI

### Jurisdiction and Procedure

**35. Preparation of record and rights.**—(1) The Collector shall, whenever the State Government, by special order or by rules made under this Act, so directs, prepare or revise for any minor irrigation work in respect of which an approved scheme has been published, a record showing all or any of the following matters, namely:—

- (a) the custom or rule of irrigation;

<sup>1</sup> Subs. by Raj. Act No. 27 of 1957 [13-8-1957].

- (b) the rights to water and the conditions on which such rights are enjoyed;
- (c) the rights as to the erection, repair, reconstruction and working of mills, and the conditions on which such rights are enjoyed; and
- (d) such other matters, as the State Government may by rule prescribe in this behalf.

(2) Entries in the record so prepared or revised 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 State Government by this Act.

(3) When a record showing all or any of the matters enumerated in sub-section (1) has been framed at any settlement such record shall be deemed so have been made under this section.

(4) Every person interested shall be bound to furnish to the Collector or to any person acting under the direction of the Collector, all information necessary for the correct preparation of a record under this section.

**36. Settlement of disputes between private persons.**—(1) Subject to the provisions of section 41, whenever a dispute arises between two or more persons in regard to any right or liability arising from the construction or maintenance under this Act of a minor irrigation work in respect of which an approved scheme has been published or arising from the issue of any order under this Act in respect of such work, any such person may apply in writing to the officer-in-charge of work stating the matter in dispute.

(2) That officer shall thereupon give notice to the other persons interested that on a day to be named in the notice, he will proceed to inquire into the said matter.

(3) On the day fixed for the inquiry, or on any subsequent day, the aforesaid officer shall pass an order determining the matter in dispute, unless he transfers (as he is hereby empowered to do) the matter to the Collector who, in such case, shall inquire into and pass an order determining the said matter.

(4) An order under sub-section (3), may award compensation to any person who is a party to the proceedings against any other such person for any injury sustained; and any compensation so awarded shall be recoverable upon application made to the Revenue Court having jurisdiction in the area concerned, as if it had been awarded by a decree of that Court.

(5) The order of the officer-in-charge of the work or of the Collector, as to the use or distribution of water, shall be final so far as it applies



to any crop sown or growing at the time when such order is made, and, so far as it applies to any future crop, shall remain in force until and except so far as it is set aside by a subsequent order passed in a fresh dispute under this section or by a decree of a Civil Court passed in a suit or proceeding within its jurisdiction.

(6) For the purpose of sub-section (5), a dispute shall be deemed to be a fresh dispute when it arises out of different or changed circumstances.

**37. Compensation for damage caused by the applications or use of water.**—(1) No compensation shall be awarded for any damage caused by:—

- (a) stoppage or diminution of percolation or floods, or
- (b) deterioration of climate or soil, or
- (c) stoppage of navigation or of the means of drifting timber or watering cattle, or
- (d) displacement of labour.

(2) No right to any of the advantages referred to in clauses (a), (b) and (c) of sub-section (1), shall be acquired as against the State Government under Part IV of the Indian Limitation Act, 1908 or under the Indian Easements Act, 1882, of the Central Legislature as adapted to <sup>1</sup>[the State of Rajasthan].

(3) Compensation may be awarded in respect of all or any of the following matters, namely:—

- (i) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under-ground, in use at the date of the notification under section 12.
- (ii) stoppage or diminution of supply of water to any work erected for purposes of profit or any channel, whether natural or artificial, in use at the date of the said notification.
- (iii) 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.
- (iv) damage done in respect of any right to a water course or the use of any water to which any person is entitled under Part IV of the Indian Limitation Act, 1908 or under the Indian Easements Act, 1882, of the Central Legislature, as adapted to <sup>2</sup>[State of Rajasthan], and

<sup>1</sup> Subs. by Raj. Act No. 27 of 1957 [13-8-1957].

<sup>2</sup> Subs. by Raj. Act No. 27 of 1957 [13-8-1957].

- (v) any other substantial damage, not falling under the provisions of sub-section (1) and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

(4) No right to any such supply of water as is referred to in clause (i) or clause (ii) or clause (iii) of sub-section (3), in respect of a work or channel in use at the date of the notification under section 12, shall be acquired, as against the State Government, except by grant or under Part IV of the Indian Limitation Act, 1908 or under the Indian Easements Act, 1882, of the Central Legislature, as adapted to <sup>1</sup>[the State of Rajasthan].

**38. Notice for a limitation of claims for compensation.**—(1) As soon as is practicable after the issue of the notification under section 13, the Collector 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 section 13 in the manner specified in the said notification and that claims for compensation in respect of the matters mentioned in sub-section (3) of section 37 may be made before him.

(2) No such claim for compensation shall be made after the expiration of one year from the stoppage, diminution or damage in respect of which compensation is claimed, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

**39. Enquiry into claims and determination of amount of compensation.**—(1) The Collector shall proceed to inquire into each such claim and to determine the amount of compensation, if any, which should be given to the claimant.

(2) In determining such amount, 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.

(3) Except as otherwise provided in this Act, the provisions of the law relating to compulsory acquisition of land for the time being in force, shall apply to all enquiries under this section.

(4) Any sum of money payable as compensation under section 37, shall become due three months after the claim therefor is made.

(5) 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

<sup>1</sup> Subs. by Raj. Act No. 27 of 1957 [13-8-1957].



willful neglect or refusal of the claimant to receive the same.

**40. Variations in rent.**-(1) Every tenant holding under an unexpired lease or having a right of occupancy or Khatedari, 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 37, takes place, may claim an abatement of the rent previously payable by him for the said land on the ground that such stoppage or diminution reduces the value of the holding.

(2) 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 the abatement. Such enhancement shall not affect the liability of the tenant to enhancement of rent on any grounds other than that of restored water supply.

**41. Compensation relating to water-courses.**-(1) Where the transfer of any water-course or of any land or interest in land required for the construction of a water-course, is directed by an order made under section 16, upon payment of compensation, the Collector shall, on the application of any person affected by such order, proceed to determine the compensation in accordance with the provisions of the law for time being in force relating to compulsory acquisition of land, 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.

(2) If any sum or rent charge awarded under sub-section (1) is not paid when lawfully demanded by the person entitled to receive the same, the amount shall be recovered by the Collector, 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.

**42. Compensation for damage caused by entry under section 16 (1) (d).**-In every case of entry under clause (d) of sub-section (1) of section 16 upon any lands adjacent to a minor irrigation work for the purpose of preventing or remedying the effect of any accident to the work, the officer-in-charge 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 officer-in-charge shall refer the matter to the Collector who shall proceed to award compensation for the damage in a gross sum of money. The decision of the Collector shall be final.

**43. Compensation for damage caused in other cases.**-Where any damage other than damage of the description referred to in sections 9, 16(2), 37, 41(1) and 42 is caused to a person by the exercise with reference to a minor irrigation work of any of the powers conferred by this Act, the officer-in-charge of the work shall, subject to any rules

made under section 49 in this behalf, tender reasonable compensation to the person sustaining the damage and in case of dispute as to the sufficiency of the amount tendered, he shall forthwith refer the matter for decision to the Collector and such decision shall be final.

**44. Limitation of claims for compensation for damage.**-No claim for compensation for damage under this Act other than a claim under section 37 shall be made after the expiration of one year from the accrual of the damage unless good cause is shown by the claimant for not making his claim within that period.

**45. Bar to suits against officers.**-No suit or other legal proceeding shall lie against any officer of the <sup>1</sup>[State Government] or any person acting under the directions of an officer of the <sup>2</sup>[State Government] for anything done or intended to be done in good faith under this Act.

**46. Powers to summon and examine witnesses.**-Any officer empowered by or under this Act to conduct any inquiry or to assess compensation may exercise all such powers connected with the summoning and examining of witnesses, as are conferred on Civil Courts by the Code of Civil Procedure, 1908, and the inquiry or proceeding shall be deemed a judicial proceeding.

## PART VII

### Miscellaneous

**47. Vesting of work.**-Every work shall be deemed to be vested in the persons or authority for the time being entrusted with the construction or maintenance thereof by the terms of a scheme notified under section 14.

**48. Delegation of powers by the State Government.**-The State Government may delegate any of its powers under this Act to the Board of Revenue or to <sup>3</sup>[X X X] other officer and in such case references to the State Government shall be construed as references to the Board of Revenue <sup>4</sup>[X X X] or to other officer, as the case may be.

**49. Power of the State Government to make rules.**-(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 power, such rules may be made as to all or any of the following matters, namely:—

- (a) the nature, scope and extent of works to be undertaken under this Act;
- (b) the conduct of an inquiry under section 3 and other matters relating to the preparation of a draft scheme:

<sup>1</sup> Subs. by Raj. Act No. 27 of 1957 [13-8-1957].

<sup>2</sup> Subs. by Raj. Act No. 27 of 1957 [13-8-1957].

<sup>3</sup> Omitted by Raj. Act No. 8 of 1962 [23-4-1962].

<sup>4</sup> Omitted by Raj. Act No. 8 of 1962 [23-4-1962].



- (c) the publication and service of notices under sections 4 and 11;
- (d) the particulars and documents to be embodied in or submitted with a draft scheme;
- (e) the rates leviable from owners and the methods of assessing the same and time of payment;
- (f) the officer to whom an appeal shall lie under section 20
- (g) the procedure to be adopted in proceedings held under section 24 or section 40 for the enhancement or abatement of rent;
- (h) the remuneration of persons collecting sums for the State Government under section 29 and their indemnification against expenses properly incurred in collection;
- (i) the delegation by the State Government of any powers conferred upon it under this Act;
- (j) any other matter that may be or is required to be prescribed by this Act; and
- (k) generally to give effect to the provisions of this Act.

(3) In making any rule under this section, the State Government may declare that a breach of such rule is punishable under this Act.

(4) All rules made under this section shall be published in the <sup>1</sup>[Official Gazette] and on such publication shall have effect, as if enacted in this Act.

#### 50. Interpretation <sup>2</sup>[X X X].

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<sup>1</sup> Subs. by Raj. Act No. 27 of 1957 [13-8-1957].

<sup>2</sup> Omitted by Raj. Act No. 27 of 1957 [13-8-1957].