

IRRIGATION ACTS OF THE STATES OF NORTH INDIA

PART - II

**(HIMACHAL PRADESH &
JAMMU & KASHMIR)**



INCID - इनसिड

**INDIAN NATIONAL COMMITTEE ON
IRRIGATION AND DRAINAGE**

(Constituted by the Ministry of Water Resources, Government of India)

March, 2005

New Delhi

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FOREWORD

The Indian National Committee on Irrigation and Drainage (INCID) has been entrusted with the task of preparing the state of art reports in different aspects of Irrigation and drainage in the country. In pursuance of this objective and function, it has been periodically bringing out publications on related subjects with the purpose of disseminating information among all concerned. In view of the large number of Irrigation Acts enacted by various States, INCID, in association with Central Water Commission (CWC), considered it desirable to compile and publish these Acts together so as to make them available for ready reference by water professionals and others concerned. CWC, the premier organization of the Government of India in the Ministry of Water Resources dealing with the various issues concerning water resources helped INCID by making available the requisite records and other information documented in this regard.

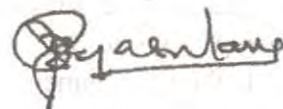
The system of riparian rights generated by common law regards all owners of land bordering upon the stream to be on equitable basis. A riparian owner demands his right to have the water come to him undiminished in quantity and quality and he has a duty to let the water go beyond his land without diminishing its quality and quantity. The acute need of water for raising crops in our country and the general British approach towards natural resources made the Government create a legislative framework for Irrigation. Different legislations were adopted in different parts of India and even extended to neighbouring states, such as, the Northern India Canal and Drainage Act 1873 which extends to Uttar Pradesh, Punjab and Delhi entitling the provincial Governments to use and control, for public purposes, the water of all rivers and streams flowing in natural channels and of all lakes and other natural collections of waters. The Bombay Irrigation Act, 1879, has also similar provisions. The Acts do not discuss the ownership of water. The Irrigation Laws recognize the rights of the State to use and control water in all rivers and natural collection of still water subject to the liability to compensate for displacement of existing riparian rights or rights acquired by prescription. However, "The Indian Easements Act 1882," made the first radical shift in the history of Indian Law by virtue of which the State Authorities have the right to regulate the collection, retention and distribution of the waters of the rivers and streams / natural channels and of natural lakes and ponds, or the water-flowing, collected, retained or distributed in or by any channel or other works, constructed at the public expense for irrigation.

As a first step to bring the available Acts and Codes at one place, INCID has now brought out in two volumes a compendium of Irrigation Acts in the Northern Region adopted by the states of Punjab and Uttar Pradesh including Uttaranchal, and Himachal Pradesh and Jammu & Kashmir.

INCID is indebted to Central Water Commission for having collected and made available the Irrigation Acts adopted by various States. INCID would also like to record the help and cooperation extended by Shri V.K. Chawla, Director (IP-S) and his staff in the Central Water Commission to make this publication a reality. Shri C.D. Khoche, and Shri S.C. Sud, Consultants in INCID deserve to be complimented for the efforts put in by them in editing the text and in facilitating to bring out this publication. The assistance rendered by the INCID Secretariat, particularly of Shri Vimal Kumar Gaur, Data Entry Operator (Gr.-I) is very much appreciated.

Special thanks are due to Shri D. Datta, Chairman and Managing Director, WAPCOS (India) Limited, for his support in providing all infrastructure facilities to INCID Secretariat.

It is hoped that this publication will be useful as a reference book to all concerned in the Water Resources Sector, particularly to those working in various State Irrigation Departments/Agencies.



(R. JEYASEELAN)
Chairman, INCID &
Central Water Commission

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HIMACHAL PRADESH

1. THE HIMACHAL PRADESH MINOR CANALS ACT, 1955

THE HIMACHAL PRADESH MINOR CANALS ACT, 1955

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THE HIMACHAL PRADESH MINOR CANALS ACT, 1955

(AUTHORISED TEXT)

AN

ACT

*to make better provision for the control and management of Minor Canals and to provide for
the levy of betterment charges thereon in the
Himachal Pradesh*

It is hereby enacted in the Sixth Year of Republic as follows:

**CHAPTER-1
PRELIMINARY**

1. Short title and extent- (1) This Act may be called the Himachal Pradesh Minor Canals Act, 1955.

(2) It shall extend to the whole of the State of Himachal Pradesh.

2. Operation of Act-(1) The provisions of this Act shall apply to the extent and in the manner hereinafter provided to every canal specified in either Schedule I or Schedule II, as the case may be.

(2) At any time after the commencement of this Act, the State Government may, from time to time, by Notification--

(a) include any canal under either Schedule I or Schedule II, as the case may be, or transfer a canal from one Schedule to the other Schedule, and thereupon the provisions of this Act applicable to canals included under such Schedule, or such of the said provisions as the State Government may direct, shall apply to such canal ; or

(b) exclude from the operation of this Act any canal included under either Schedule I or Schedule II:

Provided that no canal shall be included under Schedule I, unless--

(a) it is owned in whole or in part by Government, or

(b) is at the commencement of this Act, managed by Government or by any local authority; or

(c) is situated partly within and partly without the territories to which this Act extends, or

(d) has been included under Schedule II and is transferred to Schedule I by direction of the State Government.

3. Definitions - In this Act, unless there is something repugnant in the subject or context,-

- (i) "beneficiary" means in respect of any canal, any person for the time being deriving, or who is to derive, benefit, directly or indirectly, from such canal;
- (ii) "betterment charges" means the charges levied under Chapter III on lands included in an irrigation scheme.;
- (iii) "canal" means any canal, natural or artificial channel or line or natural drainage or any reservoir, dam or embankment, wells and lift irrigation arrangements constructed, maintained or controlled for the supply or storage of water or the protection of land from flood or sand, and includes any water-course or subsidiary works as defined in this section;
- (iv) "Collector" means the head revenue officer of a district and includes any officer appointed under this Act to exercise all or any of the powers of a Collector;
- (v) "Commissioner" means any officer appointed under this Act to exercise all or any of the powers of a Commissioner;
- (vi) "construction" and "construct" include any alteration which would materially extend the area irrigable by a canal or any other alteration of material importance or the renewal of a canal after disuse for six years, but do not include the re-excavation of a canal-head which has been temporarily abandoned owing to change in the river, the excavation of a new head necessitated by a change in the river or a change of water-courses to render existing irrigation more efficient;
- (vii) "creek" means any channel of a river other than the main channel through which the water of the river would, unless obstructed by deposit of silt, naturally flow at some period of the year;
- (viii) "district" means a district as fixed for revenue purposes;
- (ix) "Government" or "State Government" means the Lieutenant Governor of Himachal Pradesh;
- (x) "irrigator" means in respect of any land which is irrigated from a canal any person for the time being directly deriving benefit by such irrigation and includes a land-owner or any other person having interest in such land.
- (xi) "labour" includes labourers, cattle and appliances necessary for the execution of the work for which labour is to be supplied;
- (xii) "mill" means any contrivance whereby the water power of any canal is used for grinding, sawing or pressing, or for driving or working machinery or for any other similar purpose, and includes all subsidiary works and structures connected with any such contrivance except the canal itself;

- (xiii) "prescribed" means prescribed by rules made under this Act;
- (xiv) "record-of-right" and "Revenue Officer" have the meanings assigned to them respectively in the Himachal Pradesh Land Revenue Act, 1953;
- (xv) "subsidiary works" means all works required for the control or maintenance of the supply to a canal or for the maintenance of a canal in proper condition or for the regulation of the irrigation therefrom or for the prevention of floods or for the provision of proper drainage, in connection with such irrigation, and include also the land required for such works;
- (xvi) "water-course" means any channel which is supplied with water from a canal and which is maintained at the cost of the irrigators, and includes all subsidiary works connected with such channel except the sluice or outlet through which water is supplied to such channel;
- (xvii) "water rate" means the charge made for canal water other than betterment charges;
- (xviii) "land-owner" shall have the same meaning as assigned to it in the Himachal Pradesh Land Revenue Act, 1953.

CHAPTER II CONSTRUCTION OF CANALS

4. **Prohibition against construction of canals without permission**-When the State Government has notified in this behalf any natural channel, lake or other collection of water, no person shall, without permission previously obtained in the manner prescribed in the section next following, construct a canal intended to be fed from any such channel, lake or other collection of water:

Provided that nothing in this section shall apply to the construction of water-course from an existing canal or to the construction of well
5. **Application for permission and procedure thereon**-(1) Any person desiring to construct a canal intended to be fed from any source of supply which has been notified by the State Government under section 4, may apply, in writing, to the Collector for the permission prescribed in that section.

(2) Every application under sub-section (1) shall be in such form and shall contain such particulars as the state Govt. may prescribe in that behalf.
6. **Power of Collector to construct canal from notified source of supply**-(1) When a source of supply has been notified by the State Government under section 4 and the Collector considers that the construction of a canal to be fed therefrom will be advantageous, he shall give notice by general proclamation to all persons interested of his intention to construct such canal or allow construction of such canal.

- (2) If no objection to the construction of such canal shall have been preferred within a period to be specified in the notice under sub-section (1), or if any such objection has been preferred within the said period, but has been finally over-ruled, the Collector may proceed to construct such canal.
 - (3) The provisions of sections 61 and 74 shall apply to all proceedings of the Collector under sub-section (1) of this section and under the preceding section, and the powers conferred upon the Collector by this and the proceeding section shall be exercised subject to such sanction as the Government may prescribe and in accordance with the rules made by Government.
7. **Power to prohibit the unauthorised construction of and to close unauthorised canals-**
- (1) If any person, without the permission necessary under sections 4 and 5 of this Act or contrary to any of the conditions of such permission, commences to construct or proceeds with the construction of any canal, the Collector may, at any time, by order in writing, prohibit such person, and, by general proclamation, all other persons from continuing the construction thereof:
- Provided that, unless in the case of a construction which would materially extend the area irrigable by a canal, no such order or proclamation, as the case may be shall be made or issued in respect of any canal which, at the time when it is proposed to make or issue such order or proclamation, has been used for irrigation without interruption, other than such as was due to natural causes beyond the control of the person aforesaid.
- (2) If any person shall, at any time after the commencement of this Act, construct a canal without the permission necessary under sections 4 and 5 of this Act, the Collector may, with the previous sanction of the Government, close it and shut off the supply of water thereto and may further, by order in writing prohibit such person, and by general proclamation, all other persons, from maintaining repairing or renewing such canal or continuing to use the water thereof.

CHAPTER III BETTERMENT CHARGES

8. **Notification of proposal to levy betterment charges-**(1) For any canal to be newly constructed, remodelled, extended or repaired wholly or partially at Government cost after January 1, 1952, whether under Schedule I or Schedule II, the Government may proceed to levy betterment charges in respect of the lands which are included or are likely to be included in the irrigation scheme by notifying in the official gazette the irrigable area included in the scheme in respect of which the betterment charge is to be levied. The total amount spent on the scheme by the Government will also be given in the notification.

- (2) In determining the quantum of betterment charges the Government shall take into account the following matters:-
(i) the capital cost;
(ii) increase in the value of land through irrigation facilities; and
(iii) increase of the agricultural produce due to irrigation facilities.

9. Procedure for levy of betterment charges-(1) At any time after the expiry of one month from the date of publication of the notification referred to in section 8, the Government may cause a schedule of betterment charges to be prepared for all lands included in an irrigation scheme showing the rates at which the charges shall be leviable and payable by the land owners and persons having interest thereon and the proportions in which the charges shall be so payable:

Provided that the total amount of levy on the total land in respect of any particular scheme will not exceed one half of the total amount spent on the scheme by the Government including interest charges for the number of years in which the betterment charge is to be recovered in equal instalments as may be prescribed:

Provided further that the betterment charges so levied shall be recoverable only after the first crop from the land irrigated by canal or kuhl water is harvested.

- (2) A draft of the schedule prepared under sub-section (1) shall be published in the official gazette, copy of which shall be pasted at some conspicuous place in the area affected and in such other manner as may be prescribed.
- (3) Any land owner or any person having interest in such land who may be affected by the proposed betterment charges may within ninety days, from the date of publication of the schedule in the official gazette, or from the date of its publication in the area whichever is later, present a petition in writing to the Government stating his objections, if any, to the levy of the betterment charges or the rate thereof.
- (4) After considering the objections and after making such further inquiry into the matter as the Government may think fit, the Government shall determine the final schedule of betterment charges and cause the same to be published in the official gazette, and in such other manner as may be prescribed.

10. Finality of schedule of betterment charges-The betterment charges leviable under the final schedules as published under sub-section (4) of section 9 shall be final.

11. Demand of betterment charges-(1) When the schedule of betterment charges has been published in the official gazette under sub-section (4) of section 9, the Collector shall prepare a demand statement in respect thereof and in such form as may be prescribed containing full particulars of the amount which each land-owner or the person having interest in such land shall be liable to pay and cause a notice of demand to be served on him.

- (2) Any land owner or the person having interest in such land may within such period as may prescribed from the date of the notice of demand, present a petition to the Collector objecting to the demand or any part thereof, and the petition shall be disposed of in such manner and orders passed thereon shall be subject to such appeals as may be prescribed.
 - (3) Any amount due under a notice of demand shall, subject to any orders that may be passed on appeal under sub-section (2) be payable within such time as may be prescribed.
12. **Exemption of certain schemes from levy of betterment charges**-The Government may exempt any scheme or class of scheme coming under the definition of "canal" from the levy of betterment charges, if the Government is satisfied after necessary enquiry that such scheme or schemes have not enhanced the value of land or have not substantially increased its annual produce.
 13. **Postponement of recovery of betterment charges**-Where there has been a failure of crops in any area, the Government may, notwithstanding anything to the contrary contained in this Act or the rules made thereunder, postpone for such period as it thinks fit the recovery of any such betterment charges, whether wholly or in part .
 14. **Apportionment of betterment charges**-The betterment charges shall be recoverable from the land-owner and the person having interest in such land in such proportions as may be prescribed:

Provided that in making any such apportionment between the land-owner and other persons having interest in the same land, due regard shall be had to the prevailing practice in respect of the division of produce or capital values between such person in respect of that land :

Provided further that where there are more land-owners than one they shall be jointly and severally liable for the portion recoverable from the land-owner and similarly where there are more than one person having interest in the land they shall be jointly and severally liable for the portion recoverable from them.
 15. **Betterment charge to be a charge on the land**-The betterment charge payable, under the provisions of this chapter shall take priority over all other charges payable in respect of the land except land revenue and shall be deemed to that extent to be a charge on the land and shall be recoverable as an arrear of land revenue.
 16. **Betterment charge not to affect any other charge leviable**-The betterment charge payable under the provisions of this chapter in respect of any land shall not affect any other rates or charges leviable under any other law for the time being in force.
 17. **Bar to jurisdiction of Civil Courts**-No civil court shall have jurisdiction in respect of any matter relating to anything done or to be done under this chapter.

18. **Indemnity from proceedings**-No claim shall lie against the Government for compensation or for the refund of betterment charges on account of loss occasioned by the failure or stoppage of water in canal due to negligence of the beneficiaries regarding maintenance where it is their responsibility or in case of Government maintained canals by any cause beyond the control of the Government or by any repairs, alterations or additions made to the canal by the Collector or by any measures taken by him for regulating the proper flow of water therein or for maintaining the established course of irrigation in cases where the Collector considers such action to be necessary.
19. **Power to make rules**- (1) The Government may, by notification in the official gazette, make rules to carry out the purposes of the provisions of this chapter.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely-
- (a) the manner in which notices under this chapter or the schedules of betterment charges shall be published;
 - (b) the manner in which rates of betterment charges shall be calculated with reference to any lands or class of lands in an irrigation scheme;
 - (c) the form in which demand statements may be prepared under sub-section (1) of section 11 and the procedure for preparing the same;
 - (d) the form in which notices of demand may be prepared and the manner of their service;
 - (e) the time within which objections may be preferred from notices of demand under section 11, the procedure for the determination of such objections and the authorities to whom and the manner in which and the conditions subject to which appeals may be preferred therefrom;
 - (f) the time within which betterment charges shall be payable after the notice of demand and the manner in which such charges may be realized;
 - (g) the manner in which betterment charges may be apportioned between land owners and the person having interest in the land;
 - (h) the manner in which and the conditions subject to which any officer shall exercise his powers under the provisions of this chapter; and
 - (i) any other matter requiring to be prescribed under this chapter.

CHAPTER IV
PROVISIONS APPLICABLE TO CANALS UNDER SCHEDULE - I

- 20. This chapter applicable only to canals under Schedule - I**-Except as the Government may otherwise direct under section 80 the provisions of this chapter shall apply only to canals for the time being included under Schedule I.
- 21. General powers of Collector -** (1) Notwithstanding the existence of any rights in or over a canal or water-course, the Collector may--
- (a) exercise all powers of control, management and direction for the efficient maintenance and working of such canal or for the due distribution of the water thereof; and
 - (b) whenever and so long as any water-course, sluice or outlet is not maintained in proper customary repair, or any water-course, sluice or outlet through which water is supplied to any person or, in the case of a sluice or outlet, to any water-course or any person is subjected to wilful damage or wrongful enlargement, stop the supply of water to such water-course, sluice or outlet or to any person.
- (2) No claim shall be enforceable against the Government for compensation in respect of loss caused by any order passed under sub-section (1) but any person suffering loss by reason of any order passed under sub-section (1) (a) may claim such remission of the ordinary charges payable for the use of the water as is authorised by the State Government.
- Provided that, if any, right to water entered in a record-of-rights prepared or revised under section 40 (1) or deemed under section 40(3) to have been made under this Act or admitted in any agreement between the Government and any person is substantially diminished in consequence of action taken under subsection (1)(a) the Collector shall award compensation under section 66 to such person in respect of the diminution of his right.
- (3) No right to the use of the water of a canal shall be or be deemed to have been, acquired under the Indian Limitation Act, 1908, nor shall the State Government be bound to supply any person with water.
- 22. Power of State Government to suspend or extinguish rights in or over any scheduled canal on payment of compensation-**
- (1) The Government may at any time suspend or extinguish any right to which any person is entitled in or over any canal if the exercise of such rights is prejudicial to the interests of other irrigators or to the good management, improvement, or extension of the canal.

- (2) In every such case, the State Government shall cause to be paid to the person whose right is suspended or extinguished compensation to be assessed by the Collector under section 66. In assessing compensation for the purpose of this section, the Collector shall also have regard to the character of the right, the period during which it has been enjoyed and the damage likely to be occasioned by its suspension or extinction.

23. Power to enter and survey etc- The Collector or other person acting under the general or special orders of the Collector may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon and dig and bore into the sub-soil;

and make and set up suitable land-marks, level-marks and water gauges;

and do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected canal under the charge of the said Collector;

Power to clear land- and, where otherwise such inquiry cannot be completed the Collector or such other person may cut down and clear away any part of any standing crop, fence or jungle;

Power to inspect and regulate water-supply- and may also enter upon any land, building or water-course on account of which any water rate is chargeable, or has been remitted either in whole or part or included in the land revenue thereof, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water rate, and of doing all things necessary for the proper regulation and management of such canal;

Notice of intended entry into houses- Provided that, if such Collector or person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven day's notice in writing of his intention to do so.

Compensation for damage caused by entry- In every case of entry under this section, the Collector shall upon application made to him in this behalf, assess and pay compensation for any damage which may be occasioned by any proceeding under this section.

24. Power to enter for repairs and to prevent accidents- In case of any accident happening or being apprehended to a canal, the Collector or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Compensation for damage to land- In every such case, the Collector shall upon application made to him in this behalf, assess and pay compensation under section 66, for any damage which may be occasioned by any proceeding under this section.

25. Power to occupy land adjacent to canal for depositing soil from canal and to excavate earth for repairs to the banks and compensation for damage-

- (1) The Collector or any person acting under his general or special orders in this behalf, may within such distance from the canal as the Government may by rule determine, occupy land adjacent to any canal for the purpose of –
- (a) depositing upon it soil excavated from the canal, or
 - (b) excavating from it earth for repairs to the canal.

The Collector shall, upon application made to him in this behalf, assess and pay compensation for any damage which may be occasioned by any proceeding under this section.

- (2) The owner of any land which has been occupied after the commencement of this Act for any purpose under sub-section (1) and has remained in such occupation for period exceeding three years may require that such land shall be permanently acquired in accordance with provisions of section 55.

26. Supply of water through intervening water-course – Whenever application is made to a Collector for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to persons responsible for the maintenance of such water course 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 inquiry on such day, the Collector shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

The applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Collector may determine. Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

27. Application for construction of new water-course – Any person desiring the construction of a new water course may apply in writing to the Collector stating -

- (i) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water course to pass, a right to occupy so much of the land as will be needed for such water-course;
- (ii) that he desires the Collector, in his behalf and at his cost, to do all things necessary for acquiring such right;
- (iii) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

28. Procedure of Collector thereupon – If the Collector considers -

- (i) that the construction of such water-course is expedient, and
- (ii) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section 31; and upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment of the said water-course and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out.

29. Application for transfer of existing water-course – Any person desiring that an existing water course should be transferred from its present owner to himself, may apply in writing to the Collector stating--

- (i) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;
- (ii) that he desires the Collector, in his behalf and at his cost, to do all things necessary for procuring such transfer;
- (iii) that he is able to defray the cost of such transfer.

Procedure thereupon - If the Collector considers-

- (a) that the said transfer is necessary for the better management of the irrigation from such water-course; and
- (b) that the statement in the application are true,

he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section 31 in respect of such transfer; and, upon such deposit being made, he shall publish a notice of the application in every village affected.

30. Inquiry into and determination of objections to construction or transfer of water-courses- (1) When within thirty days from the publication of a notice under section 28 or section 29, as the case may be, any person interested in the land or water-course to which the notice refers, applies to the Collector as aforesaid, stating his objection to the construction or transfer for which application has been made the Collector shall give notice to the other persons interested that, on a day to be named in such notice or any subsequent day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute or into the validity of such objections as the case may be.

(2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute or the objection as the case may be.

31. **Expenses to be paid by applicant for construction or transfer of water-course before receiving occupation** - No applicant under section 27 or 29 as the case may be, shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Procedure in fixing compensation - Compensation to be made under this section shall be assessed as provided in section 66 but the Collector, may if the person to be compensated so desires award such compensation in the form of a rent charge payable in respect of the land or water-course occupied or transferred.

Recovery of compensation and expenses - If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector, and shall, when recovered, be paid by him to the person entitled to receive the same.

32. **Conditions binding on applicant placed in occupation-**

- (1) When any such applicant has duly complied with the conditions laid down in section 31, he shall be placed in occupation of the land or water-course as aforesaid, and the following rules and conditions shall be thereafter binding on him and his representative in interest:--

- (a) In all cases-

First--All works necessary for the passage across such water-course existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representatives in interest to the satisfaction of the Collector.

Second--Land occupied for a water-course under the provisions of section 28 shall be used only for the purposes of such water-course.

Third--The proposed water-course shall be completed to the satisfaction of the Collector within one year after the applicant is placed in occupation of the land.

- (b) In cases in which land is occupied or a water-course is transferred on the terms of a rent charge-

Fourth--The applicant or his representative in interest shall so long as he occupied such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

Fifth--If the right to occupy the land ceases owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition or until he has paid, by way of compensation for any injury done to the said land, such amount and to such person as the Collector determines.

Sixth--The Collector may, on the application of the person entitled to receive such rent or compensation determine the amount of rent due or assess the amount of such compensation and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount with interest thereon at the rate of six percent per annum from the date on which it became due and shall pay the same when recovered, to the person to whom it is due.

- (2) If any of the rules and conditions, prescribed by this section are not complied with, or if any water-course constructed or transferred under this Act is disused for three years continuously the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

33. Construction of outlets from canals by Collector -The Collector may construct or repair or alter a sluice or outlet to regulate the supply of water from a canal to any water-course.

34. Powers to convert several water-courses running for a long distance side by side into one water-course-

- (1) In cases where there are water-courses running side by side or so situated as to interfere with the economical use or proper management of the water-supply, the Collector if applied to for that purpose, or on his own motion, may require the owners to make arrangements to his satisfaction to unite the water-courses or to substitute for them such system as may have been approved by him.
- (2) If the owners fail within such time as the Collector may fix to comply with any order passed by him under sub-section (1) the Collector may himself execute the work.
- (3) Whenever a water-course has been reconstructed or a new system substituted under sub-section (1) or sub-section (2), the Collector may fix the shares in which the water shall be enjoyed by the persons entitled to use the water-course.

35. Procedure applicable to occupation for extensions and alterations - The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall

be applicable to the occupation of land for any extension or alteration of a water-course and for the deposit of soil from water-course clearances.

36. **Costs of executing works under section 34 by whom payable** - In every case under section 34, the cost of executing or completing the works shall be payable by such person or persons deriving benefit from the water-course as the Collector may in each case determine.
37. **Powers of State Government to direct supply of labour by beneficiaries**--The State Government may, by notification, direct that a beneficiary shall be bound to furnish unskilled labour to Government for any one or more of the following purposes in respect of any canal:-
- (a) construction,
 - (b) maintenance in a state of efficiency,
 - (c) annual silt clearance,
 - (d) executing any work necessary thereto.
38. **Cost of labour to be borne by the owners of the land benefitted**--(1) The Government may by notification direct that the canal shall be constructed from a river, stream, creek or another canal for the irrigation of land in an estate or estates to be mentioned in the notification and that the cost of such construction shall be borne in whole or in part by the owners of the land to be benefitted from the canal.
- (2) **Provisions of this Act to apply to the new canals**--The provisions of this Act in regard to the construction, repairs, maintenance and management of canals included in Schedule I shall apply to the new canals constructed in pursuance of the Government notification issued under sub-section (1).
39. **Powers of Collector upon issue of notification under section 38**--Upon the issue of notification under section 38 the Collector may, from time to time, by general or special order--
- (a) determine the amount of labour to be provided or the amount of work to be performed by each irrigator;
 - (b) regulate the attendance, distribution and control of the labourers provided or the manner of the performance of the work;
 - (c) assess and recover the cost of such labour from any person who fails to comply with an order passed under this section; and
 - (d) fund all costs so recovered and expend them on the provisions of labour engaged for any of the canals to which the notification applies, or subject to the provision, if any, of a record-of-rights specified in section 40, on any other purpose connected with the well-being thereof.

Provided that, the costs assessed as aforesaid shall not exceed such amount as may be prevalent in the area for each day's labour of each of the labourers in respect of whom default has occurred.

40. Power to prepare record for canal-

- (1) The Collector shall, whenever the State Government may, by special order or by the rules made under the authority of this Act, so direct, prepare or revise for any canal a record showing all or any of the following matters, namely:-

- (a) the custom or rule of irrigation;
- (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 condition on which such rights are enjoyed; and
- (d) such other matters as the 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 constructed as to limit any of the powers conferred on the 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 of the land revenue already sanctioned by the Government and has been attested by the revenue officer, such record shall be deemed to 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.
- (5) The provisions of Chapter IV of the Himachal Pradesh Land Revenue Act, 1953 shall, so far as may be, apply to the preparation and revision of every such record.

WATER RATES

41. Levy of Water-rates -(1) Subject to the terms of any agreement made by it with the owners or irrigators, the Government may, by notification, direct that a rate or rates shall be levied for the use of water of a canal in an authorised manner. Such rate or rates shall be determined keeping due regard of the maintenance and operation charges for the system and the cost of collection of the water-rates.

- (2) The Government may, by notification, direct that in addition to or in lieu of the rate or rates above mentioned the land revenue for the time being assessed on the land receiving canal water shall be enhanced in consequence of the change of the class of the land from unirrigated to irrigated:

Provided that, the new rate of assessment shall not exceed that fixed at the time of settlement for irrigated lands of the same class in the same village or in its vicinity:

Provided further that, the Government may allow such lands to continue to be assessed at the rate or rates at which they were assessed immediately before they became irrigated, for a number of harvests to be fixed by the Government.

- (3) The Government may, by notification, also impose a special rate for water obtained or used without authority or in an unauthorised manner.
 - (4) The rate or rates imposed under sub-section (1) or sub-section (2) or sub-section (3) shall be leviable from such persons deriving benefit from the water as the Government may, by general or special rule direct.
 - (5) Subject to the terms of any such agreement as aforesaid, the proceeds of any rate of rates levied under this section shall be disposed of in such manner as the Government may, by general or special rule direct.
 - (6) In the event of failure of crop due to reasons beyond the control of the farmer, he shall be entitled to remission of water rates for that year.
42. **Liability when person using unauthorisedly cannot be identified** - If water supplied through a water-course be used in an unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person on whose land such water has flowed, if such land has derived benefit therefrom, or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course, shall be liable, or jointly liable, as the case may be, to the charges made for such use.
43. **Penalty when water runs to waste** - If water supplied through a water-course, be suffered to run to waste, and if, after inquiry by the Collector, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.
44. **Charges recoverable in addition to penalties** - All charges for the unauthorised use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

All questions under section 42 and section 43 shall be decided by the Collector.

CHAPTER V

PROVISIONS APPLICABLE TO CANALS INCLUDED UNDER SCHEDULE - II

45. **This chapter applicable only to under Schedule II** - (1) Except as the Government may otherwise direct under section 80 the provisions of this chapter shall apply only to canals for the time being included under Schedule II.

Appointment of Manager - (2) Where there are numerous share-holders in the ownership of a canal, or where it is difficult to ascertain the persons who are share-holders, or the extent of the interest of the share-holders, or any of them, the Collector, may, if there is no proper manager or representative, require by a proclamation or notice in writing, the share-holders to nominate, within a given period, a fit person as manager of the canal and their representative, and, upon their failure to do so may himself appoint any person to be the manager of such canal and the representative of the share-holders, and the person so appointed may thereupon do all acts and things which the share-holders or any of them might lawfully do in regard to the management of such canal, and all acts and things so done by him shall be binding upon every person who possesses any share in the ownership of such canal.

46. Power of State Government to apply the provisions of section 40 to any canals -The State Government may, by notification, declare all or any of the provisions of section 40 (as to the preparation and revision of records) to be applicable to any canal, and upon any such declaration being made, such provisions shall, as far as may be, apply accordingly.

47. Power to assume control or management or both of a canal-(1) It shall be lawful for the Government by notification to assume the control or management, or both, of any canal--

- (a) If the owner of such canal consents thereto, and subject to the condition (if any) on which such consent may in any case be given:
 - (b) if, after inquiry, the Government is satisfied that the control or management exercised by or on behalf of the owner is such as causes grave injury to the property or health of persons owing lands in the vicinity;
 - (c) in the event of any wilful and continuous breach of orders issued under section 50 of this Act.
- (2) When the control or management or both of any canal is assumed under the provisions of sub-section (1) the Government may exercise all or any of the rights and powers in regard thereto which, but for such assumption, the owner might lawfully have exercised and may delegate such powers or any of them to any person, but Government shall in the absence of any decree or agreement to the contrary, be liable to account, from time to time, to such owner for the income and expenditure thereof and may at any time restore the canal to the owner.

48. Right of owner upon such assumption to demand that the canal shall be acquired by the Government -When the control or management or both, of a canal shall be assumed by the Government under clause (b) or clause (c) of sub-section (1) of section 47, and such control or management shall have continued for a period exceeding six years, the owner thereof may, by notice in writing delivered to the Collector, require that the Government shall acquire such canal.

49. **Power to acquire canal on demand of owner** - On receipt of notice under section 48, the State Government shall by notification declare that the said canal will be acquired after a day to be named in the said notification, not being earlier than three months from the date thereof, and after the issue of such notification the Collector shall proceed as provided in section 57 and 58.
50. **Power to fix limits of irrigation and water-rates and to regulate the distribution of water** -The State Government may, after inquiry through the Collector, in respect of any canal, issue orders as to all or any of the following things namely:-
- (a) fixing the limits within which land may be irrigated from such canal;
 - (b) fixing, as it may deem equitable, the amount and character of the water rates leviable by the owner, and the conditions on which such rates are to be paid, suspended, remitted or refunded;
 - (c) regulating the supply and distribution of the water to and from such canal;
- Provided that if any land which has been continuously irrigated from the canal for three years, previously is deprived of irrigation, or the income of the canal owner from such canal is materially reduced by reasons of any order passed under this section, the owners of such land or the canal-owner shall be paid by Government or by such persons as Government may determine such compensation as the Collector may consider reasonable:
- Provided further that, if the canal-owner has in the opinion of the Government exercised his powers as such in an arbitrary or inequitable manner he shall not be entitled to compensation under this section.
51. **Collection in certain cases of water-rates of canal by the State Government-**
- (1) The State Government may, at the request of the owner, undertake the collection of the water-rates leviable in respect of a canal for such period as may be agreed upon with him, and may, thereupon;
 - (a) regulate such collection and determine the persons by whom it shall be made;
 - (b) direct that by way of payment for service rendered in making such collections, deductions shall be made not exceeding three per cent of the amount collected.
 - (2) During the period for which the Government has undertaken the collection of the water-rates leviable in respect of a canal, no suit for the recovery of any such rates shall be instituted.

CHAPTER -VI

PROVISIONS APPLICABLE TO ALL CANALS

52. **This chapter applicable to all canals** - Save as otherwise hereinafter expressly provided, the provisions of this chapter shall be applicable to all canals, whether included under Schedule I or under Schedule II.

53. **Consent or decision of the owner, how to be determined** - Whenever, in respect of any canal, any question arises which has under this Act or the rules made thereunder, to be determined by the request, consent or decision of the owner, and the ownership of such canal is vested in more persons than one who are unable to agree to such request, consent or decision, it shall be lawful to the Collector to act on behalf of the owners in any such matter, and the request, consent or decision of the Collector in any such case shall be binding upon every person who possesses any share in the ownership of such canal.

In every such case the Collector shall give due consideration to the wishes of the share-holder or share-holders who possess the larger interest and when the question is one whether the Government shall be required to take any action, the wishes of such share-holder or share-holders shall prevail and be accepted by the Collector.

54. **Settlement of disputes-**

- (1) Save as provided in the preceding section, whenever a dispute arises between two or more persons in regard to their mutual rights and liabilities in respect of the ownership, construction, use or maintenance of a canal or water-course, and any such person applies in writing to the Collector stating that matter in dispute, the Collector shall give notice on any such day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute.
- (2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute in the following manner that is to say.
 - (a) If the dispute relates to the ownership of a canal or the mutual rights of owners in the use of the water of such canal or the construction or maintenance of a canal or the payment or any share of the costs of such construction or maintenance or the distribution of the supply of water from a canal, the Collector shall proceed as a Revenue Court under the provisions of the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953 and the provisions of that Act regarding appeals, revisions and reviews shall be applicable.
 - (b) If the dispute relates to a water-course the Collector shall hear and determine the case as a Revenue Officer and shall make such order thereon as to him seems fit, and such order shall unless set aside on appeal to the Financial Commissioner be conclusive as to use or distribution of water for any crop

sown or growing at the date of such order. The order of the Financial Commissioner on appeal shall in every case be final.

- 55. Acquisition of land for canals -** (1) Any person who has obtained the permission of the Government to construct, or who owns a canal, may apply in writing to the Collector to take up any land required for the purpose of such canal.
- (2) If the Collector is of the opinion that application should be granted, he shall submit it, with his recommendation, for the orders of the Government.
- (3) If, in the opinion of the Government, the application should, whether in whole or in part, be granted it may declare that the land is required for a public purpose within the meaning of the Land Acquisition Act, 1894, and direct the necessary action to be taken thereunder.
- 56. Power to acquire canals by consent or otherwise -** Whenever it appears to the Government expedient in the public interest to acquire any canal, the State Government may by notification declare that the said canal will be acquired after a day to be named in the said notification, not being earlier than six months from the date thereof.
- 57. Notice as to claim for compensation -** As soon as practicable after the issue of such notification the Collector shall cause public notice to be given at convenient places stating that the State Government intends to acquire the said canals as aforesaid and that claims for compensation in respect of the acquisition thereof may be made before him.
- 58. Inquiry into claims-**
- (1) The Collector shall proceed to inquire into any such claims and to determine the amount of compensation, which should be given to the claimant. In assessing such compensation the Collector shall proceed as provided in section 66, but for the purpose of this section he shall also have regard to the history of the canal, the expenditure incurred thereon and the profits of the owners.
- (2) **Limitation of claims -** No claim for compensation shall be foreseeable after the expiration of one year from the date of the notice under section 57 unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.
- 59. Vesting of canal in the Government -** (1) The Government shall by notification declare the day on which a canal has been acquired by it.
- (2) Subject to the award of compensation to the owner of the said canal, when the Government acquires a canal,-
- (a) the right, title and interest therein of the owner thereof shall forthwith cease and determine;

- (b) such canal, subject to any rights to take water for irrigation which any person may have, shall forthwith vest in and be the absolute property of the Government.

60. Power to regulate flow of water in rivers, creeks, natural channels or lines of natural drainage and to prohibit therein or order removal therefrom of obstructions - The Government may, by notification published in the official gazette, take power to regulate the flow of water in any river, creek, natural channel or line of natural drainage whether by the construction or removal of works or otherwise, and whenever it appears to the Government after inquiry through the Collector that the supply of water to a canal or the cultivation of any land or the public health or public convenience is likely to be injuriously affected by the obstruction of any river, creek, natural channel or line of natural drainage it may, by notification published as aforesaid, prohibit within the limits to be defined by such notification the formation of such obstruction or may within such limits order the removal of or the modification of such obstruction.

61. Power to remove obstruction after publication of notification and payment of compensation - (1) The Collector may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

(2) The Collector may himself remove or modify the obstruction--

- (a) if the person to whom the order under sub-section (1) was issued fails to comply with that order within the time so fixed; and
- (b) in any case where the obstruction is not caused or controlled by any person;
- (3) the Collector shall determine from whom the cost of removing or modifying the obstruction shall be recovered, and the amount of compensation due to any person injuriously affected by the removal or modification of the obstruction and the person by whom such compensation shall be payable:

Provided that no compensation shall be awarded for an advantage obtained by an arbitrary or inequitable course of action.

62. Power of the Collector to regulate flow of water and prohibit or remove obstructions- When the Government has by notification as provided in section 60 taken power to regulate the flow of water in any river, creek or natural channel or line of natural drainage it may authorise the Collector to exercise such power on its behalf in accordance with such rules as it may prescribe. A Collector so authorised may in the execution of such rules exercise all the powers conferred upon him by section 61, and his authority shall include the power to take such action as the Government is empowered by section 60 to take after inquiry through the Collector. Such authority may on every occasion be exercised without the publication of any further notification in the gazette.

63. Powers as to the construction and the maintenance of works in respect of canals under Schedule - II - (1) The Collector may, at any time, order the beneficiary of any canal under Schedule II to-

- (a) repair and maintain, in a proper state, all or any embankments, protective works, reservoirs, channels, water-courses, sluices, outlets and other works connected with the canal;
 - (b) construct, repair and maintain, in a proper state, a suitable bridge, culvert, or similar work at any place across, under or over the canal, for the purpose of providing communication with any public road or thoroughfare which was in use before the canal was made;
 - (c) construct, repair and maintain, in a proper state, suitable works for the passage of the water of the canal, across, under, or over any public road or thoroughfare or any canal or drainage channel which was in use before the canal was made;
 - (d) construct, repair and maintain, in a proper state suitable regulator at or near the head of the canal, where for want of such regulator, an excessive supply of water may enter the canal or cause damage to it, or any crops, lands, road or property in the neighbourhood.
- (2) The Collector may at any time order a beneficiary to furnish unskilled labour free of cost for any one or more of the purpose specified in section 37 of this Act.
- (3) Every order under sub-section (1) and (2) shall be in writing and shall specify a reasonable time within which the works or repairs mentioned therein shall be completely executed.
- (4) If any order made under this section is not obeyed, to the satisfaction of the Collector, within the time therein specified, the Collector may himself execute or complete the execution of, or cause to be so executed or completed, all works or repairs specified in the order.

64. Powers as to construction and maintenance of works in respect of canals under Schedule - I - In the case of canals included under Schedule I, the Collector may--

- (a) call upon the beneficiary to discharge any of the liabilities specified in section 63 sub-section (1) which the Government may have declared to attach to the beneficiary from such canal or group of canals; or
- (b) himself arrange for the performance of such acts and recover cost as provided in section 68.

65. Power to take possession and to construct works in cases of emergency - (1) If any new work is immediately required to prevent serious detriment to the utility of a canal, the Collector may, notwithstanding anything in the Land Acquisition Act, 1894, take immediate possession of any land required for the construction of the work.

- (2) When the Collector has taken possession of any land under sub-section (1) he shall, upon application made to him in this behalf, assess and pay compensation under section 66.
- (3) In the event of sudden and serious damage or urgent risk to canal or to property situated in the immediate neighbourhood thereof, or to irrigation carried therefrom or to the public traffic, the Collector may, after giving previous notice, execute or cause to be executed, such works as he may think necessary in order to remedy or prevent such damage or risk, and may require any irrigator to furnish such labour as to the said Collector may seem reasonable and necessary for the immediate execution of such work.
- (4) Labour furnished under this section shall be paid at the local market rate.
- (5) An order passed under sub-section (3) and (4) shall be final.

66. Assessment of compensation - In assessing the amount of compensation to be paid under any section of this Act, other than sections 23, 25, 32, 50 and 61 the Collector shall proceed under the provisions of the Land Acquisition Act, 1894, and the provisions of that Act regarding inquiries and awards by the Collector, references to the Civil Courts and procedure thereon, apportionment of compensation payment and appeals shall as far as may be, be applicable to all proceedings under this section.

67. Compensation for right of user or in the forms of supply of water - With the consent of the parties, the Collector may when assessing the amount of compensation to be paid, direct, in the case of any acquisition of land, that the property in such land shall remain with the owner subject to a right of user so long as the land is required for the purpose of the canal or water-course, compensation being awarded for the right of user only, or in the case of an acquisition of a canal, or of land for the purposes of a canal, that the compensation shall take the form in whole or in part of a right to a supply of water from the canal which has been acquired or for the purposes of which land has been acquired.

68. Appointment and recovery of the cost of land acquired or works executed-

- (1) When any land is acquired under the provisions of section 55, or when any work is executed by or under the order of the Collector under the provisions of section 61, section 63, section 64 or section 65, the cost of acquiring such land or of executing such work, as the case may be, shall be recoverable:-
 - (a) if the canal is included under Schedule II--from the owner thereof ; or
 - (b) if the canal is included under Schedule I--from the irrigators or such of them as are, in the opinion of the Collector, benefitted or likely to be benefitted by the acquisition or equitably liable for the whole or any part of the cost of executing the work or from the proceeds of any water-rate levied under section 41 ; and

- (c) if such appropriation is not contrary to the provisions of the record-of-rights specified in section 40 of the Act--from the fund referred to in section 39 of this Act.
- (2) When the cost of acquiring any land or of executing any work is, under the provisions of sub-section (1), recoverable from the owners of any canal or from the irrigators therefrom, or any of them, it shall be lawful for the Collector to apportion such cost as to him may seem equitable, among all or any of the persons liable for the whole or any portion thereof and such apportionment shall be final.
- (3) When the cost of acquiring such land has been paid, such land, if acquired in full proprietary rights, shall become the property of the canal-owner.
- 69. Power to regulate mills** -The Government may, by general or special order, prohibit or regulate the construction of new, and regulate the use of existing mills upon canals, and appropriation of the water of canals for working mills.
- 70. Application of sections 14 to 17 of Land Revenue Act of 1953** - Except in so far as a contrary intention is expressed sections 14 to 17 (both inclusive) of Himachal Pradesh Land Revenue Act of 1953, shall apply to all proceedings under this Act.
- 71. Exclusion of jurisdiction of Civil Court except under Land Acquisition Act** - Save as in section 66 provided, no Civil Court shall have jurisdiction in any matter which a Revenue Officer or Revenue Court is empowered by this Act to dispose of, or take cognizance of the matter in which the Government any Revenue Officer or Revenue Court exercises any powers vested in it or him by or under this Act.
- 72. Power to appoint officers to exercise functions under this Act** - (1) The Government may appoint any person or any class of officials to perform any functions or to exercise any powers by this Act or the rules made there under conferred on or vested in the Collector, Commissioner, if any, Financial Commissioner or such Government.
 - (2) Such appointment may be made in respect of any canal or of all or any of the canals situate within any specified local area.
 - (3) In all matters connected with this Act, the Government shall have and exercise over the Financial Commissioner, the Commissioner, if any, and the Collector, and the Financial Commissioner shall have and exercise over the Commissioner, if any, and the Collector, and the Commissioner, if any, shall have and exercise over the Collector, the same authority and control as it or they respectively have and exercise over them in the general and revenue Administration.
- 73. Powers of Collector in certain proceedings under the Act**--For the purposes of every enquiry made and proceeding taken under this Act, the Collector or any other Revenue Officer, authorised by him in this behalf or any other officer authorised by the Government shall have power to summon and enforce the attendance of and examine parties and witnesses and

compel the production of documents, and for all or any of these purposes may exercise all or any of the powers conferred on a Civil Court by the Code of Civil Procedure, 1908 and every such inquiry shall for the purposes of the Indian Penal Code, be deemed to be judicial proceedings.

74. **Permission to owners and parties interested in any canal to object in certain cases** - In all cases under section 6, 22, 32, 34, 36, 42, 43, 45, 47, 49, 50, 51, 53, 54, 58, 60, 61, 63, 64 and 68 of this Act, the owners and other parties interested in the canal shall be given an opportunity of appearing before the Collector and of showing cause to the contrary.
75. **Mode of servicing notice and making proclamation** - Every summons, notice, proclamation and other process issued under this Act shall, as far as may be, be served or made in the manner provided in that behalf in section 21, 22 and 23 of the Himachal Pradesh Land Revenue Act, 1953.
76. **Bar of compensation where not expressly allowed** - Save as otherwise expressly provided in this Act, no person shall be entitled to recover any compensation for anything at any time done or in good faith intended to be done in exercise of any powers conferred by this Act or by the rules made thereunder.
77. **Protection of persons acting under the Act** - No suit, prosecution or other legal proceeding shall lie against any person for anything done, or in good faith intended to be done under this Act or the rules made thereunder.
78. **State Government to be party to certain suits and proceedings** - (1) In any suit or proceeding in which any entry made in any record prepared under section 40 or section 46 is directly or indirectly called in question, the Court shall, before the final settlement of issues, give notice of the suit or proceeding to the Collector, and, if moved to do so by the Collector, shall make the Government a party to the same.
(2) **Bar of other suits against Government** - Save as provided in sub-section (1) no suit shall lie against the Government in respect of anything done by the Collector or by any person acting under the orders of the State Government in exercise of any power by this Act conferred on such Collector or Government.
79. **Power to recover water-dues and other charges by Revenue process** - All water-dues, water-rates and other payments at any time due by or to be collected from any person under any provisions of this Act or under an agreement entered into by the owners of the canal or the person irrigating from it and all arrears of such water-dues, water-rates or other payments shall be recoverable as if the same were arrears of land revenue.
80. **Powers as regards canal, creeks, situated partly without the limits of Himachal Pradesh** - Any or all of the powers exercisable by the Government under this Act in respect of any canal, river or creek, may be exercised by such Government in the case of any canal, river, or creek, which is or may at any time be situated partly within and partly without the limits of

the Himachal Pradesh and in respect of so much of any such canal, river, or creek, as is within these limits and in the case of any such canal, river or creek the Government may by notification, and notwithstanding the provisions of section 2, declare what section of this Act shall be applicable thereto.

81. Powers exercisable in cases of urgency with regard to canals situated beyond Himachal Pradesh - In respect of any canal situated beyond the limits of the Himachal Pradesh the Government may, by notification published in the Official Gazette, declare that the powers exercisable by a Collector, under section 65, may under, the circumstances there specified, be exercised by the Collector or other authorised officers within the limits of the Himachal Pradesh for all or any of the purpose of such canal.

82. Offences under the Act - Whoever without proper authority and voluntarily does any of the acts following, that is to say :-

- (1) damages, alters, enlarges, or obstructs any canal;
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal;
- (3) interferes with or alters the flow of water in any river, creek or stream so as to endanger, damage or render less useful any canal;
- (4) being responsible for the maintenance of any water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorised distribution of the water therefrom or uses such water in an unauthorised manner;
- (5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;
- (6) being liable to furnish labour under this Act, fails without reasonable cause to supply or to assist in supplying the labour required of him;
- (7) being liable to supply labour under this Act, neglects, without reasonable cause, so to supply and to continue to supply labour;
- (8) destroys or removes any level-mark of water-gauge fixed by the authority of a public servant;
- (9) passes or causes animals or vehicles to pass on or across any of the works, banks or channels of a canal contrary to rules made under this Act after he has been desired to desist therefrom;
- (10) disobeys any order or proclamation issued under this Act, or commits any breach of any rule made thereunder;

shall be liable on conviction before a Magistrate of such class as the State Government directs in this behalf to a fine not exceeding fifty rupees or to imprisonment not exceeding one month,

or to both.

- 83. Power to arrest without a warrant** - Any person in charge of or employed upon a canal managed by public servants or by a local body including a Panchayat, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate, or to the nearest Police Station, to be dealt with according to law any person within his view, commits any of the following offences:-
- (1) wilfully damages or obstructs any canal;
 - (2) without proper authority interferes with the supply of or flow of water in or from any canal or in any river or stream, so as to endanger, damage or render less useful any canal.
- 84. Definition of canals for purposes of sections 82 and 83** - In section 82 and 83 the word "canal" shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied for the purpose of canals and all building, machinery, fences, gates and other erection, trees, crops, plantations or other produce upon such lands.
- 85. Power to make rules** - (1) The Government may make rules, consistent with this Act, regulating any matter in regard to which any power is, by this Act, conferred upon the Government, or upon any officer of Government, and generally to carry out the purposes of this Act.
- (2) Without prejudice to the generality of the power conferred by subsection (1) rules made under this Act may, provide for the levy of a rate imposed upon land in consideration of its protection from sand or flood.
 - (3) All rules made under sub-section (1) shall be so made after previous publication in the Gazette.
 - (4) All rules made under this Act shall be laid before the Legislative Assembly as soon as may be after they are made.

SCHEDULE I

SCHEDULE II

HPGP, Simla-(50-Press)-4-7-56-750.

2. THE HIMACHAL PRADESH MINOR CANALS
BILL NO. 33, 1968

THE HIMACHAL PRADESH MINOR CANALS BILL NO. 33, 1968

(As Passed by the Legislative Assembly)

ARRANGEMENT OF CLAUSES

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THE HIMACHAL PRADESH MINOR CANALS BILL, 1968
(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

BILL

to make better provision for the control and management of minor canals and to provide for the levy of water charges thereon in Himachal Pradesh.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:-

CHAPTER - I
PRELIMINARY

1. Short title, extent and commencement.

- (1) This Act may be called the Himachal Pradesh Minor Canals Act, 1968.
- (2) It shall extend to the whole of Himachal Pradesh.
- (3) It shall come into force on such date as the State Government may, by notification in the official gazette, appoint in this behalf.

2. Operation of this Act.

- (1) The provisions of this Act shall apply to the extent and in the manner hereinafter provided to every canal specified in either Schedule I or Schedule II, as the case may be.
- (2) At any time after the commencement of this Act, the State Government may, from time to time, by notification,--
 - (a) include any canal under either Schedule I or Schedule II, as the case may be, or transfer a canal from one Schedule to the other Schedule and thereupon the provisions of this Act applicable to canals included under such Schedule, or such of the said provisions as the State Government may direct, shall apply to such canal; or
 - (b) exclude from the operation of this Act any canal included under either Schedule I or Schedule II :

Provided that no canal shall be included under Schedule I, unless--

- (a) it is owned in whole or in part by the Government ; or
- (b) is at the commencement of this Act, managed by the Government or by any local authority ; or
- (c) is situated partly within and partly without the territories to which this Act extends; or
- (d) has been included under Schedule II and is transferred to Schedule I by direction of the State Government.

3. Definitions - In this Act, unless there is something repugnant in the subject or context.-

- (i) "beneficiary" means in respect of any canal, any person for the time being deriving, or who is to derive, benefit, directly or indirectly from such canal;

- (ii) "canal" means any canal, natural or artificial channel or line of natural drainage or any reservoir, dam or embankment, well, tubewell and lift irrigation arrangements constructed maintained or controlled for the supply or storage of water or the protection of land from flood or sand, and includes any water-course or subsidiary works as defined in this section;
- (iii) "Collector" means the head revenue officer of a district and includes any officer appointed or so authorised by the Government under this Act to exercise all or any of the powers of a Collector;
- (iv) "Commissioner" means any officer appointed under this Act to exercise all or any of the powers of a Commissioner;
- (v) "construction" or "construct" includes any alteration which would materially extend the area irrigable by a canal or any other alteration of material importance or the renewal of a canal after disuse for six years, but does not include the re-excavation of a canal-head which has been temporarily abandoned owing to change in the river, the excavation of a new head necessitated by a change in the river or a change of water-courses to render existing irrigation more efficient;
- (vi) "creek" means any channel of a river other than the main channel through which the water of the river would, unless obstructed by deposit of silt naturally flow at some period of the year;
- (vii) "district" means a district as fixed for revenue purposes;
- (viii) "Government" or "State Government" means the Government of Himachal Pradesh;
- (ix) "irrigator" means, in respect of any land which is irrigated from a canal, any person for the time being directly deriving benefit by such, irrigation and includes a landowner or any other person having interest in such land;
- (x) "labour" includes labourers, cattle and appliances necessary for the execution of the work for which labour is to be supplied;
- (xi) "local authority" means a municipal committee, small town committee, notified area committee, gram panchayat, panchayat samiti, zila parishad or other authority legally entitled to or entrusted by the Government with the control or management of the municipal or local fund;
- (xii) "mill" means any contrivance whereby the water power of any canal is used for grinding, sawing or pressing, or for driving or working machinery or for any other similar purpose and includes all subsidiary works and structures connected with any such contrivance except the canal itself;
- (xiii) "notification" means notification published under proper authority in the official gazette;

- (xiv) "official gazette" means the Rajpatra, Himachal Pradesh;
- (xv) "prescribed" means prescribed by rules made under this Act;

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- (xvi) "record-of-right" and "Revenue Officer" have the meanings assigned to them respectively in the Himachal Pradesh Land Revenue Act, 1954;
- (xvii) "subsidiary works" means all works required for the control or maintenance of the supply to a canal or for the maintenance of a canal in proper condition or for the regulation of the irrigation therefrom or for the prevention of floods or for the provision of proper drainage, in connection with such irrigation, and includes also the land required for such work;
- (xviii) "water-course" means any channel which is supplied with water from a canal and which is maintained at the cost of the irrigators, and includes all subsidiary works connected with such channel except the sluice or outlet through which water is supplied to such channel;
- (xix) "water rate" means the charge made for canal water; and

6 of 1954

- (xx) "land-owner" shall have the same meaning as assigned to it in the Himachal Pradesh Land Revenue Act, 1954.

CHAPTER II CONSTRUCTION OF CANALS

4. Prohibition against construction of canals without permission

When the State Government has notified in this behalf any natural channel, lake or other collection of water, no person shall, without permission previously obtained in the manner prescribed in this section next following, construct a canal intended to be fed from any such channel, lake or other collection of water:

Provided that nothing in this section shall apply to the construction of a water-course from an existing canal or to the construction of wells.

5. Application for permission and procedure thereon

- (1) Any person, desiring to construct a canal intended to be fed from any source of supply which has been notified by the State Government under section 4, may apply, in writing, to the Collector for the permission prescribed in that section.
- (2) Every application under sub-section (1) shall be in such form, and shall contain such particulars, as the State Government may prescribe in that behalf.

6. Power of Collector to construct canal from notified source of supply

- (1) When a source of supply has been notified by the State Government under section 4 and the Collector considers that the construction of a canal to be fed therefrom will be advantageous, he shall give notice by general proclamation to all persons interested of his intention to construct such canal or allow construction of such canal.
- (2) If no objection to the construction of such canal shall have been preferred within a period to be specified in the notice under sub-section (1), or if any such objection has been preferred within the said period, but has been finally overruled, the Collector may proceed to construct such canal.
- (3) The provisions of sections 49 and 62 shall apply to all proceedings of the Collector under sub-section (1) of this section and under the proceeding section, and powers conferred upon the Collector by this and the proceeding sections shall be exercised subject to such sanction as the Government may prescribe and in accordance with the rules made by the Government.

7. Power to prohibit the unauthorised construction of and to close unauthorised canals

- (1) If any person, without the permission necessary under sections 4 and 5 of this Act or contrary to any of the conditions of such permission, commences to construct or proceeds with the construction of any canal, the Collector may, at any time, by order in writing, prohibit such person, and, by general proclamation, all other persons from continuing the construction thereof;

Provided that, unless in the case of a construction which would materially extend the area irrigable by a canal, no such order or proclamation, as the case may be, shall be made or issued in respect of any canal which, at the time when it is proposed to make or issue such order or proclamation, has been used for irrigation without interruption, other than such as was due to natural causes beyond the control of the person aforesaid.

- (2) If any person shall, at any time after the commencement of this Act, construct a canal without the permission necessary under sections 4 and 5 of this Act, the Collector may, with the previous sanction of the Government, close it and shut off the supply of water thereto and may further, by order in writing, prohibit such person, and by general proclamation, all other persons, from maintaining, repairing or renewing such canal or continuing to use the water thereof.

CHAPTER III

PROVISIONS APPLICABLE TO CANALS UNDER SCHEDULE I

8. This Chapter applicable only to canals under Schedule I

Except as the Government may otherwise direct under section 68, the provisions of this chapter shall apply only to canals for the time being included under Schedule I.

9. General powers of Collector

- (1) Notwithstanding the existence of any rights in or over a canal or water-course, the Collector may-
 - (a) exercise all powers of control, management and direction for the efficient maintenance and working of such canal or for the due distribution of the water thereof; and
 - (b) whenever and so long as any water-course, sluice or outlet is not maintained in proper customary repair, or any water-course, sluice or outlet through which water is supplied to any person, or in the case of a sluice or outlet, to any water-course or any person is subjected to wilful damage or wrongful enlargement, stop the supply of water to such water-course, sluice or outlet or to any person.
- (2) No claim shall be enforceable against the Government for compensation in respect of loss caused by any order passed under sub-section (1) but any person suffering loss by reason of any order passed under sub-section (1) (a) may claim such remission of the ordinary charges payable for the use of the water as is authorised by the State Government :

Provided that if any right to water, entered in record-of-rights prepared or revised under section 28 (1) or deemed under section 28 (3) to have been made under this Act or admitted in any agreement between the Government and any person, is substantially diminished in consequence of action taken under sub-section (1) (a), the Collector shall award compensation under section 54 to such person in respect of the diminution of his right.

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- (3) No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Limitation Act, 1963, nor shall the State Government be bound to supply any person with water.

10. Power of the State Government to suspend or extinguish rights in or over any scheduled canal on payment of compensation

- (1) The Government may, at any time, suspend or extinguish any right to which any person is entitled in or over any canal if the exercise of such rights is prejudicial to the interests of other irrigators or to the good management, improvement or extension of the canal.
- (2) In every such case, the State Government shall cause to be paid to the person whose right is suspended or extinguished compensation to be assessed by the Collector under section 54. In assessing compensation for the purposes of this section, the Collector shall also have regard to the character of the right, the period during which it has been enjoyed and the damage likely to be occasioned by its suspension or extinction.

11. Power to enter and survey etc

The Collector or other person acting under the general or special orders of the Collector may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon and dig and bore into the subsoil;

and make and set up suitable land-marks, level-marks and water gauges;

and to do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected canal under the charge of the said Collector;

Power to clear land - and, where otherwise such inquiry cannot be completed, the Collector or such other person may cut down and clear away any part of any standing crop, fence or jungle;

Power to inspect and regulate water supply - and may also enter upon any land, building or water course on account of which any water rate is chargeable, or has been remitted either in whole or part or included in the land revenue thereof, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with the water rate, and of doing all things necessary for the proper regulation and management of such canal;

Notice of intended entry houses - provided that if such Collector or person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court, or garden at least seven day's notice in writing of the intention to do so;

Compensation for damage caused by entry - and in every case of entry under this section, the Collector shall, upon application made to him in this behalf, assess and pay compensation for any damage which may be occasioned by any proceeding under this section.

12. Power to enter for repairs and to prevent accidents

(1) In case of any accident happening or being apprehended to a canal, the Collector or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all work which may be necessary for the purpose of repairing or preventing such accident.

(2) Compensation for damage to land - In every case under sub-section (1), the Collector shall, upon application made to him in this behalf, assess and pay compensation under section 54 for any damage which may be occasioned by any proceeding under this section.

13. Power to occupy land adjacent to canal for depositing soil from canal and to excavate earth for repairs to and construction of the banks and compensation for damage

- (1) The Collector, or any person acting under his general or special orders in this behalf, may, within such distance from the canal, as the Government may, by rule, determine, occupy land adjacent to any canal for the purpose of -
 - (a) depositing upon it soil excavated from the canal, or
 - (b) excavating from it earth for repairs to the banks, and construction of the canal.
- (2) The collector shall, upon an application made to him in this behalf, assess and pay compensation for any damage which may be occasioned by any proceeding under this section.
- (3) The owner of any land which has been occupied after the commencement of this Act for any purpose under sub-section(1) and has remained in such occupation for period exceeding three years may require that such land shall be permanently acquired in accordance with the provisions of section 43.

14. Supply of water through intervening water-course

- (1) Whenever an application is made to a Collector for supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to persons responsible for the maintenance of such water-course 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 inquiry on such day, the Collector shall determine whether and on what conditions, the said supply shall be conveyed through such water-course.
- (2) The application shall not be entitled to use such water-course as aforesaid until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Collector may determine. Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

15. Application for construction of new water-course

Any person desiring the construction of a new water-course may apply in writing to the Collector stating--

- (i) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;
- (ii) that he desires the Collector, on his behalf and at his cost, to do all things necessary for acquiring such right; and
- (iii) that he is able to defray all cost involved in acquiring such right and constructing such

water-course.

16. Procedure of Collector thereupon

If the Collector considers -

- (i) that the construction of such water-course is expedient, and
- (ii) that the statements in the application are true, he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section 19; and upon such deposit being made he shall cause inquiry to be made into the most suitable alignment of the said water-course and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such villages has been so marked out.

17. Application for transfer of existing water-course

- (1) Any person, desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Collector stating -
 - (i) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;
 - (ii) that he desires the Collector, on his behalf and at his cost, to do all things necessary for procuring such transfer; and
 - (iii) that he is able to defray the cost of such transfer -
- (2) Procedure thereupon - If the Collector considers -
 - (a) that the said transfer is necessary for the better management of the irrigation from such water-course; and
 - (b) that the statement in the application are true, he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings and the amount of any compensation that may become due under the provisions of section 19 in respect of such transfer; and, upon such deposit being made, he shall publish a notice of the application in every village affected.

18. Inquiry into and determination of objections to construction or transfer of water-courses

- (1) When within thirty days from the publication of a notice under section 16 or section 17, as the case may be, any person interested in the land or water-course to which the

notice refers, applies to the Collector as aforesaid, stating his objection to the construction or transfer for which application has been made, the Collector shall give notice to the other persons interested that on a day to be named in such notice or any subsequent day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute or into the validity of such objections, as the case may be.

- (2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute or the objection, as the case may be.

19. Expenses to be paid by applicant for construction or transfer of water-course before receiving occupation

- (1) No applicant under sections 15 or 17, as the case may be, shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land together with all expenses incidental to such occupation or transfer.
- (2) Procedure in fixing compensation - Compensation to be made under this section shall be assessed as provided in section 54 but the Collector may, if the person to be compensated so desires, award such compensation in the form of rent charge payable in respect of the land or water-course occupied or transferred.
- (3) Recovery of compensation and expenses.--If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector, and shall, when recovered, be paid by him to the person entitled to receive the same.

20. Conditions binding on applicant placed in occupation

- (1) When any such applicant has duly complied with the conditions laid down in section 19, he shall be placed in occupation of the land or water-course as aforesaid, and the following rules and conditions shall thereafter be binding on him and his representatives in interest:-

- (a) In all cases -

First - all works necessary for the passage across such water-course existing previous to its construction and of the drainage intercepted by it, and for affording proper communication across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representatives in interest to the satisfaction of the Collector;

Second - land occupied for a water-course under the provisions of section 16 shall be used only for the purposes of such water-course;

Third - the proposed water - course shall be completed to the satisfaction of the Collector within one year after the applicant is placed in occupation of the land;

- (b) in cases in which land is occupied or a water-course is transferred on the terms of a rent charge.

Fourth--the applicant or his representatives in interest shall, so long as he occupied such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation;

Fifth--if the right to occupy the land ceases owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition or until he has paid, by way of compensation for any injury done to the said land, such amount and to such person as the Collector determines;

Sixth - the Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount with interest, thereon at the rate of six per cent per annum from the date on which it become due and shall pay the same when recovered, to the person to whom it is due.

- (2) If any of the rules and conditions, prescribed by this section are not complied with, or if any water-course constructed or transferred under this Act is disused for three years continuously, the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

21. Construction of outlets from canals by Collector

The Collector may construct or repair or alter a sluice or outlet to regulate the supply of water from a canal to any water-course.

22. Power to convert several water-courses running for a long-distance side by side into one water-course

(1) In cases where there are water-courses running side by side, or so situated as to interface with the economical use or proper management of the water supply, the Collector, if applied to for that purpose, or on his own motion, may require the owners to make arrangements to his satisfaction to unite the water-courses or to substitute for them such system as may have been approved by him.

(2) If the owners fail within such time as the Collector may fix to comply with any order passed

by him under sub-section (1), the Collector may himself execute the work.

(3) Whenever a water-course has been reconstructed or a new system substituted under sub-section (1) or sub-section (2), the Collector may fix the shares in which the water shall be enjoyed by the persons entitled to use the water-course.

23. Procedure applicable to occupation for extensions and alterations

The procedure hereinbefore provided for the occupation of land for the construction of water-course shall be applicable to the occupation of land for any extension or alternation of a water-course and for the deposit of soil from water-course clearances.

24. Costs of executing works under section 22 by whom payable

In every case under section 22, the cost of executing or completing the works shall be payable by such person or persons deriving benefit from the water-course as the Collector may, in each case, determine.

25. Powers of the State Government to direct supply of labour by beneficiaries

The State Government may, by notification, direct that a beneficiary shall be bound to furnish unskilled labour to the Government for any one or more of the following purposes in respect of any canal:-

- (a) construction,
- (b) maintenance in a state of efficiency
- (c) annual silt clearance, and
- (d) executing any work necessary thereto.

26. Cost of labour to be borne by the owners of land benefited

- (1) The Government may, by notification, direct that the canal shall be constructed from a river, stream, creek or another canal for the irrigation of land in an estate or estates to be mentioned in the notification and that the cost of such construction shall be borne in whole or in part by the owners of the land to be benefited from the canal.
- (2) Provisions of this Act to apply to the new canals.--The provisions of this Act in regard to the construction, repairs, maintenance and management of canals included in Schedule I shall apply to the new canals constructed in pursuance of the Government notification issued under sub-section (1).

27. Power of Collector upon issue of notification under section 26

Upon the issue of notification under section 26, the Collector may, from time to time, by general or special order--

- (a) determine the amount of labour to be provided or the amount of work to be performed by each irrigator:

- (b) regulate the attendance, distribution and control of the labourers provided or the manner of the performance of work;
- (c) assess and recover the cost of such labour from any person who fails to comply with an order passed under this section; and
- (d) fund all costs so recovered and expend them on the provisions of labour engaged for any of the canals to which the notification applies, or subject to the provisions, if any, of the record-of-rights specified in section 28 on any other purpose connected with the well being thereof;

Provided that the costs assessed as aforesaid shall not exceed such an amount as may be prevalent in the area for each day's labour of each of the labourers in respect of whom default has occurred.

28. Power to prepare record for canal

- (1) The Collector shall, whenever the State Government may, by special order or by the rules made under the authority of this Act, so direct, prepare or revise for any canal a record showing all or any of the following matters, namely:-
 - (a) the custom of rule of irrigation;
 - (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 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 of the powers conferred on the 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 of the land revenue already sanctioned by the Government and has been attested by the revenue officer, such record shall be deemed to 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 directions of the Collector, all information necessary for the correct preparation of a record under this section.

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- (5) The provisions of chapter IV of the Himachal Pradesh Land Revenue Act, 1954, shall, so far as may be, apply to the preparation and revision of every such record.

WATER RATES

29. Levy of water rates

- (1) Subject to the terms of any agreement made by it with the owners or irrigators, the Government may, by notification, direct that a rate or rates shall be levied for the use of water of a canal in an authorised manner. Such rate or rates shall be determined keeping due regard to the maintenance and operation charges for the system and the cost of collection of the water-rates.

- (2) The Government may, by notification, direct that, in addition to or in lieu of the rate or rates above mentioned, the land revenue for the time being assessed on the land receiving canal water shall be enhanced in consequence of the change of class of the land from unirrigated to irrigated:

Provided that the new rate of assessment shall not exceed that fixed at the time of settlement for irrigated lands of the same class in the same village or in its vicinity:

Provided further that the Government may allow such lands to continue to be assessed at the rate or rates at which they were assessed immediately before they became irrigated, for a number of harvests to be fixed by the Government.

- (3) The Government may, by notification, also impose a special rate for water obtained or used without authority or in an unauthorised manner.
- (4) The rate or rates imposed under sub-section (1) or sub-section (2) or sub-section (3) shall be leviable from such persons deriving benefit from the water as the Government may, by general or special rule, direct.
- (5) Subject to the terms of any such agreement as aforesaid, the proceeds of any rate or rates levied under this section shall be disposed of in such manner as the Government may, by general or special rule, direct.
- (6) In the event of failure of crop due to reasons beyond the control of the farmer, he shall be entitled to remission of water rates for that crop.

30. Liability when person using unauthorisedly cannot be identified

If water supplied through a water-course be used in an unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person on whose land such water has flowed, if such land has derived benefit therefrom, or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course shall be liable, or jointly liable, as the case may be, to the charges made for such use.

31. Penalty when water runs to waste

If water supplied through a water-course, be suffered to run to waste, and if, after inquiry by the Collector, the person through whose act or neglect such water was suffered to run to waste

cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

32. Charges recoverable in addition to penalties

- (1) All charges for the unauthorised use or for waste of water may be recovered in addition to any penalties incurred on account of such use of waste.
- (2) All questions under section 30 and section 31 shall be decided by the Collector.

**CHAPTER IV
PROVISIONS APPLICABLE TO CANALS INCLUDED
UNDER SCHEDULE II**

33. This chapter is applicable only to canals under Schedule II

- (1) Except as the Government may otherwise direct under section 68, the provisions of this chapter shall apply only to canals for the time being included under Schedule II.
- (2) *Appointment of Manager.*--Where there are numerous share-holders in the ownership of canal or where it is difficult to ascertain the persons who are share-holders, or the extent of the interest of the share-holders, or any of them, the Collector may, if there is no proper manager or representative, require, by a proclamation or notice in writing, the share-holders to nominate, within a given period, a fit person as manager of the canal and their representative, and, upon their failure to do so, may himself appoint any person to be the manager of such canal and the representative of the share-holders, and the person so appointed may thereupon do all acts and things which the share-holders, or any of them might lawfully do in regard to the management of such canal, and all acts and things so done by him shall be binding upon every person who possesses any share in the ownership of such canal.

34. Power of the State Government to apply the provisions of section 28 to any canal

The State Government may, by notification, declare all or any of the provisions of section 28 (as to the preparation and revision of records) to be applicable to any canal, and upon any such declaration being made, such provisions shall, as far as may be, apply accordingly.

35. Power to assume control or management or both, of a canal

- (1) It shall be lawful for the Government by notification to assume the control or management, or both, of any canal--
 - (a) if the owner of such canal consents thereto, and subject to the condition (if any) on which such consent may in any case be given:
 - (b) if, after inquiry, the Government is satisfied that the control or management exercised by or on behalf of the owner is such as causes grave injury to the property or health of persons owning lands in the vicinity ; and

(c) in the event of any wilful and continuous breach of orders issued under section 38 of this Act.

(2) When the control or management or both of any canal is assumed under the provisions of sub-section (1), the Government may exercise all or any of the rights and powers in regard thereto which, by for such assumption, the owner might lawfully have exercised and may delegate such powers or any of them to any person, but the Government shall, in the absence of any decree or agreement to the contrary, be liable to account, from time to time, to such owner for the income and expenditure thereof and may, at any time, restore the canal to the owner.

36. Right of owner upon such assumption to demand that the canal shall be acquired by the Government

When the control, or management, or both, of a canal shall be assumed by the Government under clause (b) or clause (c) of sub-section (1) of section 35, and such control or management shall have continued for a period exceeding six years, the owner thereof may, by notice in writing delivered to the Collector, require that the Government shall acquire such canal.

37. Power to acquire canal on demand of owner

On receipt of notice under section 36, the State Government shall, by notification, declare that the said canal will be acquired after a day to be named in the said notification, not being earlier than three months from the date thereof, and after the issue of such notification, the Collector shall proceed as provided in sections 45 and 46.

38. Power to fix the limits of irrigation and water rates and to regulate the distribution of water

The State Government may, after inquiry through the Collector, in respect of any canal, issue orders as to all or any of the following things, namely -

- (a) fixing the limits within which land may be irrigated from such canal;
- (b) fixing, as it may deem equitable, the amount and character of the water rates leviable by the owner, and the conditions on which such rates are to be paid, suspended, remitted or refunded; and
- (c) regulating the supply and distribution of the water to and from such canal:

Provided that if any land which has been continuously irrigated from the canal for three years, previously, is deprived of irrigation, or the income of the canal owner from such canal is materially reduced by reasons of any order passed under this section, the owners of such land or the canal owner shall be paid by the Government or by such persons as the Government may determine such compensation as the Collector may consider reasonable:

Provided further that if the canal owner has, in the opinion of the Government, exercised his

powers as such in an arbitrary or inequitable manner, he shall not be entitled to compensation under this section.

39. Collection in certain cases of water rates of canal by the State Government

- (1) The State Government may, at the request of the owner, undertake the collection of the water rates leviable in respect of canal for such period as may be agreed upon with him, and may, thereupon;-
 - (a) regulate such collection and determine the persons by whom it shall be made; and
 - (b) direct that by way of payment for service rendered in making such collections, deductions shall be made not exceeding three per cent of the amount collected.
- (2) During the period for which the Government has undertaken the collection of the water-rates leviable in respect of a canal, no suit for the recovery of any such rates shall be instituted.

CHAPTER V
PROVISIONS APPLICABLE TO ALL CANALS

40. This chapter applicable to all canals

Save as otherwise hereinafter expressly provided, the provisions of this chapter shall be applicable to all canals, whether included under Schedule I or under Schedule II.

41. Consent or decision of the owner how to be determined

- (1) Whenever, in respect of any canal, any question arises which has, under this Act or the rules made thereunder, to be determined by the request, consent or decision of the owner, and the ownership of such canal is vested in more persons than one who are unable to agree to such request, consent or decision, it shall be lawful to the Collector to act on behalf of the owners in any such matter, and the request, consent or decision of the Collector in any such case shall be binding upon every person who possesses any share in the ownership of such canal.
- (2) In every such case as aforesaid, the Collector shall give due consideration to the wishes of the shareholder or shareholders who possess the larger interest and when the question is one whether the Government shall be required to take any action, the wishes of such shareholder or shareholders shall prevail and be accepted by the Collector.

42. Settlement of disputes

- (1) Save as provided in the preceding section, whenever a dispute arises between two or more persons in regard to their mutual rights and liabilities in respect of the ownership, construction, use or maintenance of a canal or water-course, and any such person

applies in writing to the Collector stating the matter in dispute, the Collector shall give notice to the other person or persons interested that on a day to be named in such notice or any such day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute.

- (2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute in the following manner, that is to say,--

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- (a) if the dispute relates to the ownership of a canal or the mutual rights of owners in the use of the water of such canal or the construction or maintenance of a canal or the payment of any share of the costs of such construction or maintenance or the distribution of the supply of water from a canal, the Collector shall proceed as a revenue court under the provisions of the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953 and the provisions of that Act regarding appeals, revisions and reviews shall be applicable;
- (b) if the dispute relates to a water-course, the Collector shall hear and determine the case as a revenue officer and shall make such order thereon as to him seems fit, and such order shall, unless set aside on appeal to the Financial Commissioner, be conclusive as to use or distribution of water for any crop sown or growing at the date of such order. The order of the Financial Commissioner on appeal shall in every case be final.

43. Acquisition of land for canals

- (1) Any person who has obtained the permission of the Government to construct, or who owns a canal may apply in writing to the Collector to take up any land required for the purposes of such canal.
- (2) If the Collector is of the opinion that the application should be granted, he shall submit it, with his recommendation, for the orders of the Government.

1 of 1894

- (3) If, in the opinion of the Government, the application should, whether in whole or in part, be granted, it may declare that the land is required for a public purpose within the meaning of the Land Acquisition Act, 1894, and direct the necessary action to be taken thereunder.

44. Power to acquire canals by consent or otherwise

Whenever it appears to the Government expedient in the public interest to acquire any canal, the State Government may, by notification, declare that the said canal will be required after a day to be named in the said notification not being earlier than six months from the date thereof.

45. Notice as to claims for compensation

As soon as practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places stating that the State Government intends to acquire the said canals as aforesaid and that claim for compensation in respect of the acquisition thereof may be made before him.

46. Inquiry into claims

- (1) The Collector shall proceed to inquire into any such claim and to determine the amount of compensation which should be given to the claimant. In assessing such compensation, the Collector shall proceed as provided in section 54, but for the purpose of this section he shall also have regard to the history of the canal, the expenditure incurred thereon and the profits of the owners.
- (2) Limitation of claims—No claim for compensation shall be enforceable after the expiration of one year from the date of the notice under section 45 unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

47. Vesting of canal in the Government

- (1) The Government shall, by notification, declare the day on which a canal has been acquired by it.
- (2) Subject to the award of compensation to the owner of the said canal, when the Government acquires a canal--
 - (a) the right, title and interest therein of the owner thereof shall forthwith cease and determine; and
 - (b) such canal, subject to any rights to take water for irrigation which any person may have, shall forthwith vest in and be the absolute property of the Government.

48. Power to regulate flow of water in rivers, creeks, natural channels or lines of natural drainage and to prohibit therein or order removal therefrom of obstructions

The Government may, by notification published in the official gazette, take power to regulate the flow of water in any river, creek, natural channel or line of natural drainage, whether by the construction or removal of works or otherwise, and whenever it appears to the Government after inquiry through the Collector that the supply of water to a canal or the cultivation of any land or the public health or public convenience is likely to be injuriously affected by the obstruction of any river, creek, natural channel or line of natural drainage it may, by notification published as aforesaid, prohibit within the limits to be defined by such notification the formation of such obstruction or may, within such limits, order the removal of, or the modification of, such obstruction.

49. Power to remove obstruction after publication of notification and payment of compensation

- (1) The Collector may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.
- (2) The Collector may himself remove or modify the obstruction--
 - (a) if the person to whom the order under sub-section (1) was issued fails to comply with that order within the time so fixed; and
 - (b) in any case where the obstruction is not caused or controlled by any person.
- (3) The Collector shall determine from whom the cost of removing or modifying the obstruction shall be recovered, and the amount of compensation due to any person injuriously affected by the removal or modification of the obstruction and the persons by whom such compensation shall be payable:

Provided that no compensation shall be awarded for an advantage obtained by an arbitrary or inequitable course of action.

50. Power of the Collector to regulate flow of water and prohibit or remove obstructions

When the Government has, by notification as provided in section 48, taken power to regulate the flow of water in any river, creek or natural channel or line of natural drainage, it may authorise the Collector to exercise such powers on its behalf in accordance with such rules as it may prescribe. A Collector so authorised may in the execution of such rules exercise all the powers conferred upon him by section 49 and his authority shall include the power to take such action as the Government is empowered by section 48 to take after inquiry through the Collector. Such authority may, on every occasion, be exercised without the publication of any further notification in the gazette.

51. Power as to the construction and the maintenance of works in respect of canals under Schedule - II

- (1) The Collector may, at any time, order the beneficiary of any canal under Schedule II to
 - (a) repair and maintain, in a proper state, all or any embankments, protective works, reservoirs, channels, water-courses, sluices, outlets and other works connected with the canal;
 - (b) construct, repair and maintain, in a proper state, a suitable bridge, culvert, or similar work at any place across, under or over the canal for the purpose of providing communication with any public road or thoroughfare which was in use before the canal was made;

- (c) construct, repair and maintain, in a proper state, suitable works for the passage of the water of the canal across, under, or over any public road or thoroughfare or any canal or drainage or channel, which was in use before the canal was made; and
 - (d) construct, repair and maintain, in a proper state suitable regulator at or near the head of the canal, where for want of such regulator, an excessive supply of water may enter the canal or cause damage to it, or any crops, lands, road, or property in the neighbourhood.
- (2) The Collector may at any time order a beneficiary to furnish unskilled labour free of cost for any one or more of the purposes specified in section 25 of this Act.
 - (3) Every order under sub-section (1) and (2) shall be in writing and shall specify a reasonable time within the works or repairs mentioned therein shall be completely executed.
 - (4) If any order made under this section is not obeyed, to the satisfaction of the Collector, within the time therein specified, the Collector may himself execute or complete the execution of, or cause to be executed or completed, all works or repairs specified in the order.

52. Powers as to construction and maintenance of works in respect of canals under Schedule - I

In the case of canals included under Schedule I, the Collector may--

- (a) call upon the beneficiary to discharge any of the liabilities specified in section 51, sub-section (1), which the Government may have declared to attach to the beneficiary from such canal or group of canals; or
- (b) himself arrange for the performance of such acts and recover cost as provided in section 56.

53. Power to take possession and to construct works in cases of emergency

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- (1) If any new work is immediately required to prevent serious detriment to the utility of a canal, the Collector may, notwithstanding anything in the Land Acquisition Act, 1894, take immediate possession of any land required for the construction of the work.
- (2) When the Collector has taken possession of any land under sub-section (1), he shall, upon application made to him in this behalf, assess and pay compensation under section 54.

- (3) In the event of sudden and serious damage or urgent risk to canal or to property situated in the immediate neighbourhood thereof, or to irrigation carried therefrom or to the public traffic, the Collector may, after giving previous notice, execute or cause to be executed, such works as he may think necessary in order to remedy or prevent such damage or risk, and may require any irrigator to furnish such labour as the said Collector may deem reasonable and necessary for the immediate execution of such work.
- (4) Labour furnished under this section shall be paid at the local market rate.
- (5) An order passed under sub-section (3) and (4) shall be final.

54. Assessment of compensation

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In assessing the amount of compensation to be paid under any section of this Act, other than sections 11, 13, 20, 38 and 49, the Collector shall proceed under the provisions of the Land Acquisition Act, 1894 and the provisions of that Act regarding inquiries and awards by the Collector, reference to the civil courts and procedure thereon, apportionment of compensation, payment and appeals shall, as far as may be, be applicable to all proceedings under this section.

55. Compensation for a right of user or in the form of supply of water

With the consent of the parties, the Collector may, when assessing the amount of compensation to be paid, direct, in the case of any acquisition of land, that the property in such land shall remain with the owner subject to a right of user so long as the land is required for the purpose of the canal or water-course, compensation being awarded for the right of user only, or in the case of an acquisition of canal, or of land for the purposes of a canal, that the compensation shall take the form in whole or in part of a right to a supply of water from the canal which has been acquired or for the purposes of which land has been acquired.

56. Appointment and recovery of the cost of land acquired or works executed

- (1) When any land is acquired under the provision of section 43 or when any work is executed by or under the order of the Collector under the provisions of section 49, section 51, section 52 or section 53, the cost of acquiring such land or of executing such work, as the case may be, shall be recoverable--
 - (a) if the canal is included under Schedule II, from the owner thereof; or
 - (b) if the canal is included under Schedule I, from the irrigators or such of them as are, in the opinion of the Collector, benefited or likely to be benefited by the acquisition or equitably liable for the whole or any part of the cost of executing the work or from the proceeds of any water rate levied under section 29; and

- (c) if such appropriation is not contrary to the provisions of the record -of-rights specified in section 28 of this Act, from the fund referred to in section 27 of this Act.
 - (2) When the cost of acquiring any land or of executing any work is, under the provisions of sub-section (1), recoverable from the owner of any canal or from the irrigators therefrom or any of them, it shall be lawful for the Collector to apportion such cost as he may deem equitable, among all or any of the persons liable for the whole or any portion thereof and such apportionment shall be final.
 - (3) When the cost of acquiring such land has been paid, such land, if acquired in full proprietary rights, shall become the property of the canal-owner.
- 57. Power to regulate mills**
- The Government may, by general or special order, prohibit or regulate the construction of new, and regulate the use of existing mills upon canals, and appropriation of the water of canals, for working mills.
- 58. Application of section 14 to 17 of the Himachal Pradesh Land Revenue Act, 1954**
- 6 of 1954**
- Except in so far as a contrary intention is expressed, section 14 to 17 (both inclusive) of the Himachal Pradesh Land Revenue Act, 1954 shall apply to all proceedings under this Act.
- 59. Exclusion of jurisdiction of civil court except under the Land Acquisition Act**
- Save as provided in section 54, no civil court shall have jurisdiction in any matter which a revenue officer or revenue court is empowered by this Act to dispose of, or take cognizance of the matter in which the Government, any revenue officer or revenue court exercises any powers vested in it or him by or under this Act.
- 60. Power to appoint officers to perform functions and to exercise powers under this Act**
- (1) The Government may appoint any person or any class of officials to perform any functions or to exercise any powers under this Act or the rules made thereunder conferred on or vested in the Collector, Commissioner, if any, Financial Commissioner or such Government.
 - (2) Such appointment may be made in respect of any canal or of all or any of the canals situate within any specified local area.
 - (3) In all matters connected with this Act, the Government, shall have and exercise over the Financial Commissioner, the Commissioner, if any, and the Collector and the Financial Commissioner shall have and exercise over the Commissioner, if any, and the Collector and the Commissioner, if any, shall have and exercise over the Collector, the same authority and control as it or they respectively have and exercise over them in the general and revenue administration.

61. Powers of Collector in certain proceedings under this Act

5 of 1908, 45 of 1860

For the purposes of every enquiry made and proceedings taken under this Act, the Collector, or any other revenue officer, authorised by him in this behalf, or any other officer authorised by the Government shall have power to summon and enforce the attendance of, and examine parties and witnesses and compel the production of documents and, for all or any of these purposes, may exercise all or any of the powers conferred on a civil court by the Code of Civil Procedure, 1908, and every such inquiry shall for the purposes of the Indian Penal Code, 1860 be deemed to be judicial proceedings.

62. Permission to owners and parties interested in any canal to object in certain cases

In all cases under sections 6, 10, 20, 22, 24, 30, 31, 33, 35, 37, 38, 39, 41, 42, 46, 48, 49, 51, 52 and 56 of this Act, the owners and other parties interested in the canal shall be given an opportunity of appearing before the Collector and of showing cause to the contrary.

63. Mode of serving notice and making proclamation

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Every summons, notice, proclamation and other process issued under this Act, shall, as far as may be, be served or made in the manner provided in that behalf in sections 21, 22 and 23 of the Himachal Pradesh Land Revenue Act, 1954.

64. Bar of compensation where not expressly allowed

Save as otherwise expressly provided in this Act, no person shall be entitled to recover any compensation for anything at any time done or in good faith intended to be done in exercise of any power conferred by this Act, or by the rules made thereunder.

65. Protection of persons acting under this Act

No suit, prosecution or other legal proceedings shall lie against any person for anything done, or in good faith intended to be done, in exercise of any power conferred by this Act, or by the rules made thereunder.

66. State Government to be party to certain suits and proceedings

- (1) In any suit or proceedings in which any entry made in any record prepared under section 28 or section 34 is directly or indirectly called in question, the court shall, before the final settlement of issues, give notice of the suit or proceedings to the Collector, and, if moved to do so by the Collector, shall make the Government a party to the same.
- (2) Bar of other suits against the Government-- Save as provided in sub-section (1), no suit shall lie against the Government in respect of anything done by the Collector or by

any person acting under the orders of the State Government in exercise of any power by this Act conferred on such Collector or the Government.

67. Power to recover water-dues and other charges by revenue process

All water-dues, water-rates and other payments at any time due by or to be collected from any person under any provision of this Act or under an agreement entered into by the owners of the canal on the person irrigating from it and all arrears of such water-dues, water-rates or other payments shall be recoverable as if the same were arrears of land revenue.

68. Powers as regards canals, rivers or creeks situated partly within or partly without the limits of Himachal Pradesh

Any or all of the powers, exercisable by the Government under this Act in respect of any canal, river, or creek may be exercised by such Government in the case of any canal, river, or creek which is, or may, at any time, be situated partly within and partly without the limits of Himachal Pradesh, and in respect of so much of any such canal, river or creek, as is within these limits and in the case of any such canal, river or creek, the Government may, by notification and notwithstanding the provisions of section 2, declare what sections of this Act shall be applicable thereto.

69. Powers exercisable in cases of urgency with regard to canals situated beyond Himachal Pradesh

In respect of any canal situated beyond the limits of Himachal Pradesh, the Government may, by notification published in the official gazette, declare that the powers exercisable by a Collector under section 53, may, under the circumstances therein specified be exercised by the Collector or other authorised officers within the limits of Himachal Pradesh for all or any of the purposes of such canal.

70. Offences under this Act

Whoever, without proper authority and voluntarily, does any of the acts following, that is to say-

- (1) damages, alters, enlarges, or obstructs any canal;
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal;
- (3) interferes with or alters the flow of water in any river, creek or stream so as to endanger, damage or render less useful any canal;
- (4) being responsible for the maintenance of any water-course or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof or interferes with the authorised distribution of the water therefrom or uses such water in an unauthorised manner;

- (5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;
 - (6) being liable to furnish labour under this Act, fails, without reasonable cause, to supply or to assist in supplying the labour required of him;
 - (7) being liable to supply labour under this Act, neglects, without reasonable cause, so to supply and to continue to supply labour;
 - (8) destroys or removes any level-mark of water-guage fixed by the authority of a public servant;
 - (9) passes or causes animals or vehicles to pass on or across any of the works, banks or channels of a canal contrary to rules made under this Act after he has been desired to desist therefrom;
 - (10) disobeys any order or proclamation issued under this Act, or commits any breach of any rule made thereunder;
- shall be liable, on conviction before a magistrate of such class as the State Government directs in this behalf, to fine not exceeding five hundred rupees or to imprisonment not exceeding one month or to both.

71. Power to arrest without a warrant

Any person in-charge of or employed upon a canal managed by a public servant or by a local body, including a gram panchayat, may remove from the lands or buildings belonging thereto, may take into custody without a warrant and take forthwith before a magistrate, or to the nearest police station, to be dealt with according to law any person who, within his view, commits any of the following offences:--

- (1) wilfully damages or obstructs any canal;
- (2) without proper authority interferes with the supply of or flow of water in or from any canal or in any river or stream, so as to endanger, damage or render less useful any canal.

72. Definition of canals for purposes of sections 70 and 71

In sections 70 and 71, the word "canal" shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied for the purposes of canal and all buildings, machinery, fences, gates, and other erections, trees, crops, plantations or other produce upon such lands.

73. Power to make rules

- (1) The Government may, by notification, make rules, consistent with this Act, regulating any matter in regard to which any power is, by this Act, conferred upon the Government, or upon any officer of the Government and generally to carry out the purposes of this Act.

- (2) Without prejudice to the generality of the power conferred by subsection (1), rules made under this Act, may provide for the levy of a rate imposed upon land in consideration of its protection from sand or flood.
- (3) All rules made under sub-section (1) shall be so made after previous publication in the official gazette.
- (4) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

74. Repeal and savings

14 of 1955, 3 of 1905, 21 of 1954, 8 of 1873, 31 of 1966

From the date of commencement of this Act, the Himachal Pradesh Minor Canals Act, 1955, as in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, and the Punjab Minor Canals Act, 1905, the Punjab Tubewell Act, 1954 and the Northern India Canals and Drainage Act, 1873, as in force in the areas transferred to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966, shall stand repealed.

Provided that anything done or any action taken or any proceedings commenced or continued under the said Acts shall be deemed to have been done, taken, commenced or continued under the corresponding provisions of this Act.

SCHEDULE I

SCHEDULE II

STATEMENT OF OBJECTS AND REASONS

At present, in old areas of Himachal Pradesh, the Himachal Pradesh Minor Canals Act, 1955, is in force, whereas in the merged areas, the Punjab Minor Canals Act, 1905, the Punjab Tubewell Act, 1954 and the Northern India Canals and Drainage Act, 1873 are prevalent. In order to have uniformity in respect of control and provisions in management of minor canals, to provide for the levy of water charge thereon and to recover beneficiaries' share, it is proposed to have a uniform law in the whole territory of Himachal Pradesh. The Himachal Pradesh Minor Canals Bill, 1968, seeks to achieve this object.

SIMLA:

The 15th July, 1968.

KARAM SINGH,

Finance Minister.

FINANCIAL MEMORANDUM

Since this Bill intended mainly to unify the existing laws in force in the two different areas of Himachal Pradesh, no financial implications are involved.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 73 empowers the Himachal Pradesh Government to make rules which are of normal character.

THE HIMACHAL PRADESH MINOR CANALS BILL, 1968

A BILL

to make better provision for the control and management of minor canals and to provide for the levy of water charges thereon in Himachal Pradesh.

KARAM SINGH

Finance Minister.

D. B. LAL,

Secretary (Judicial)

SIMLA

The 15th July, 1968.

P&SHPS--28-Jud/68-15-7-68--225.

3. THE HIMACHAL PRADESH MINOR CANALS ACT, 1976

THE HIMACHAL PRADESH MINOR CANALS ACT, 1976

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THE HIMACHAL PRADESH MINOR CANALS ACT, 1976

AN

ACT

to make better provision for the control and management of minor canals and to provide for the levy of water charges thereon in Himachal Pradesh

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-seventh Year of the Republic of India as follows:-

**CHAPTER-I
PRELIMINARY**

1. Short title, extent and commencement

- (1) This Act may be called the Himachal Pradesh Minor Canals Act, 1976.
- (2) It shall extend to the whole of Himāchal Pradesh.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint in this behalf.

2. Operation of this Act

- (1) The provisions of this Act shall apply to the extent and in the manner hereinafter provided to every canal specified in either Schedule I or Schedule II, as the case may be.
- (2) At any time after the commencement of this Act. the State Government may, from time to time, by notification,—
 - (a) include any canal under either Schedule I or Schedule II, as the case may be, or transfer a canal from one Schedule to the other Schedule, and thereupon the provisions of this Act applicable to canals included under such Schedule, or such of the said provisions as the State Government may direct shall apply to such canal; or
 - (b) exclude from the operation of this Act any canal included under either Schedule I or Schedule II:

Provided that no canal shall be included under Schedule I, unless--

- (a) it is owned in whole or in part by the Government; or
- (b) is at the commencement of this Act, managed by the Government or by any local authority; or
- (c) is situated partly within and partly without the territories to which this Act extends; or

- (d) has been included under Schedule II and is transferred to Schedule I by direction of the State Government:

Provided further that only private *kuhls* affecting more than one beneficiary and covering an area not less than twenty acres shall be included in Schedule II.

Published in the Himachal Pradesh Gazette (Extra-Ordinary) dated 29th Nov. 1976 vide notification No. 6-72/68-LR, dated 27th November, 1976.

3. Definitions

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

- (i) "beneficiary" means in respect of any canal, any person for the time being deriving, or who is to derive, benefit, directly or indirectly, from such canal;
- (ii) "canal" means any canal natural or artificial channel or line of natural drainage or any reservoir, dam or embankment, well, tubewell and lift irrigation arrangements constructed, maintained or controlled for the supply or storage of water or the protection of land from flood or sand, and includes any water-course or subsidiary works as defined in this section;
- (iii) "Collector" means the Collector of a District and includes any officer appointed or authorised by the Government under this Act to exercise all or any of the powers of a Collector;
- (iv) "Commissioner" means any officer appointed under this Act to exercise all or any of the powers of a Commissioner;
- (v) "construction" or "construct" include any alteration which would materially extend the area irrigable by a canal or any other alteration of material importance or the renewal of a canal after disuse for six years, but does not include the re-excavation of a canal-head which has been temporarily abandoned owing to change in the river, the excavation of a new head necessitated by a change in the river or a change of water-courses to render existing irrigation more efficient;
- (vi) "creek" means any channel of a river other than the main channel through which the water of the river would unless obstructed by deposit of silt, naturally flow at some period of the year;
- (vii) "district" means a district as fixed for revenue purpose;
- (viii) "Government" or "State Government" means the Government of Himachal Pradesh;
- (ix) "irrigator" means, in respect of any land which is irrigated from a canal, any person for the time being directly deriving benefit by such irrigation and includes a landowner or any other person having interest in such land;

- (x) "labour" includes labourers, cattle and appliances necessary for the execution of the work for which labour is to be supplied;
- (xi) "local authority" means a municipal committee, municipal corporation, small town committee, notified area committee, gram panchayat, panchayat samiti zila parishad or other authority legally entitled to or entrusted by the Government with the control or management of the municipal or local fund;
- (xii) "mill" means any contrivance whereby the water power of any canal is used for grinding, sawing or pressing, or for driving or working machinery or for any other similar purpose, and includes all subsidiary works and structures connected with any such contrivance except the canal itself;
- (xiii) "notification" means notification published in the Official Gazette;
- (xiv) "Official Gazette" means the Rajpatra, Himachal Pradesh;
- (xv) "prescribed" means prescribed by rules made under this Act;

6 of 1954

- (xvi) "record-of-rights" and "Revenue Officer" have the meanings assigned to them respectively in the Himachal Pradesh Land Revenue Act, 1954;
- (xvii) "subsidiary works" means all works required for the control or maintenance of the supply to a canal or for the maintenance of a canal in proper condition or for the regulation of the irrigation therefrom or for the prevention of floods or for the provisions of proper drainage, in connection with such irrigation, and includes also the land required for such work;
- (xviii) "water-course" means any channel which is supplied with water from a canal and which is maintained at the cost of the irrigators and includes all subsidiary works connected with such channel except the sluice or outlet through which water is supplied to such channel;

6 of 1954

- (xix) "landowner" shall have the same meaning as assigned to it in the Himachal Pradesh Land Revenue Act, 1954; and
- (xx) "water rate" means the charge made for canal water.

CHAPTER II CONSTRUCTION OF CANALS

4. Prohibition against construction of canals without permission

When the State Government has notified in this behalf any natural channel, lake or other collection of water no person shall, without permission previously obtained in the manner

prescribed in the section next following, construct a canal intended) to be fed from any such channel, lake or other collection of water:

Provided that nothing in this section shall apply to the construction of a water-course from an existing canal or to the construction of wells.

5. Application for permission and procedure thereon

- (1) Any person, desiring to construct a canal intended to be fed from any source of supply which has been notified by the State Government under section 4, may apply, in writing, to the Collector for the permission referred to in that section.
- (2) Every application under sub-section (1) shall be in such form, and shall contain such particulars, as the State Government may prescribe in that behalf.

6. Power of Collector to construct canal from notified source of supply

- (1) When a source of supply has been notified by the State Government under section-4 and the Collector considers that the construction of a canal to be fed therefrom will be advantageous, he shall give notice by general proclamation to all persons interested of his intention to construct such canal or allow construction of such canal.
- (2) If no objection to the construction of such canal shall have been preferred within a period to be specified in the notice under sub-section (1), or if any such objection has been preferred within the said period, but has been finally over-ruled, the Collector may proceed to construct such canal.
- (3) The provisions of sections 44 and 57 shall apply to all proceedings of the Collector under sub-section (1) of this section and under the preceding section, and power conferred upon the Collector by this and the preceding sections shall be exercised subject to such sanction as the Government may prescribe and in accordance with the rules made by the Government.

7. Power to prohibit the unauthorised construction of and to close unauthorised canals

- (1) If any person without the permission necessary under sections 4 and 5 of this Act or contrary to any of the conditions of such permission, commences to construct or proceeds with the construction of any canal, the Collector may, at any time, by order in writing, prohibit such person, and, by general proclamation, all other persons from continuing the construction thereof:

Provided that, unless in the case of a construction which would materially extend the area irrigable by a canal, no such order or proclamation, as the case may be, shall be made or issued in respect of any canal which, at the time, when it is proposed to make or issue such order or proclamation, has been used for irrigation without interruption, other than such as was due to natural causes beyond the control of the person aforesaid.

- (2) If any person, shall, at any time after the commencement of this Act, construct a canal without the permission necessary under section 4 and 5 of this Act, the Collector may, with the previous sanction of the Government, close it and shut off the supply of water thereto and may further, by order in writing, prohibit such person, and by general proclamation all other persons, from maintaining, repairing or renewing such canal or continuing to use the water thereof.

CHAPTER III

PROVISIONS APPLICABLE TO CANALS UNDER SCHEDULE I

8. This chapter is applicable only to canals under Schedule I

Except as the Government may otherwise direct under section 63 the provisions of this chapter shall apply only to canals for the time being included under Schedule I.

9. General powers of Collector

- (1) Notwithstanding the existence of any rights in or over a canal or water-course, the Collector may--
- (a) exercise all power of control, management and direction for the efficient maintenance and working of such canal or for the due distribution of the water thereof; and
 - (b) whenever and so long as any water-course, sluice or outlet is not maintained in proper customary repair, or any water-course, sluice or outlet through which water is supplied to any person, or in the case of a sluice or outlet, to any water-course or any person, is subjected to wilful damage or wrongful enlargement, stop the supply of water to such water-course, sluice or outlet or to any person.
- (2) No claim shall be enforceable against the Government for compensation in respect of loss caused by any order passed under sub-section (1) but any person suffering loss by reason of any order passed under sub-section (1) (a) may claim such remission of the ordinary charges payable for the use of the water as is authorised by the State Government:

Provided that if any right to water, entered in record-of-rights prepared or revised under section 27 (1) or deemed under section 27 (3) to have been made under this Act or admitted in any agreement between the Government and any person is substantially diminished in consequence of action taken under sub-section (1) (a), the Collector shall award compensation under section 49 to such person in respect of the diminution of his right.

36 of 1963

- (3) No right to the use of the water of canal shall be, or be deemed to have been, acquired under the Limitation Act, 1963, nor shall the State Government be bound to supply any person with water.

10. Power of the State Government to suspend or extinguish rights in or over any Scheduled canal on payment of compensation

- (1) The Government may, at any time, suspend or extinguish any right to which any person is entitled in or over any canal if the exercise of such rights is prejudicial to the interests of other irrigators or to the good management, improvement or extension of the canal.
- (2) In every such case, the State Government shall cause to be paid to the person whose right is suspended or extinguished compensation to be assessed by the Collector under section 49. In assessing compensation for the purposes of this section, the Collector shall also have regard to the character of the right, the period during which it has been enjoyed and the damage likely to be occasioned by its suspension or extinction.

11. Power to enter and survey etc.

The Collector or other person acting under the general or special orders of the Collector may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon and dig and bore into the sub-soil; and make and set up suitable land-marks, level-marks and water guages; and to do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected canal under the charge of the said Collector;

Power to clear land

and, where otherwise such inquiry cannot be completed, the Collector, or such other person may cut down and clear away any part of any standing crop, fence or jungle;

Power to Inspect and regulate water supply

and may also enter upon any land, building or water-course on account of which any water rate is chargeable, or has been remitted either in whole or in part or included in the land revenue thereof, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the land irrigated thereby or chargeable with the water rate, and of doing all things necessary for the proper regulation and management of such canal;

Notice of intended entry into house

provided that if such Collector or person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, he shall previously give the occupier of such building court or garden at least seven days' notice in writing of his intention to do so;

Compensation for damage caused by entry

and in every case of entry under this section, the Collector shall, upon application made to him in this behalf, assess and pay compensation for any damage which may be occasioned by any proceeding under this section.

12. Power to enter for repairs and to prevent accidents

- (1) In case of any accident happening or being apprehended to a canal, the Collector or any person acting under his general or special orders in this behalf may enter upon any land adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Compensation for damage to lands

- (2) In every case under sub-section (1), the Collector shall, upon application made to him in this behalf, assess and pay compensation under section 49 for any damage which may be occasioned by any proceeding under this section.

13. Power to occupy land adjacent to canal for depositing soil from canal and to excavate earth for repairs to and construction of the banks and compensation for damage

- (1) The Collector, or any person acting under his general or special orders in this behalf, may, within such distance from the canal, as the Government may, by rule, determine, occupy land adjacent to any canal for the purpose of -
 - (a) depositing upon it soil excavated from the canal, or
 - (b) excavating from it earth for repairs to the banks, and construction of the canal.
- (2) The Collector shall, upon an application made to him in this behalf, assess and pay compensation for any damage which may be occasioned by any proceeding under this section.
- (3) The owner of any land which has been occupied after the commencement of this Act for any purpose under sub-section (1) and has remained in such occupation for period exceeding three years may require that such land shall be permanently acquired in accordance with the provisions of section 41.

14. Supply of water through intervening water-course

- (1) Whenever an application is made to a Collector for supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to persons responsible for the maintenance of such water-course to show cause, on the day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed and, after making such inquiry as he deems fit, the Collector shall determine whether and on what conditions, the said supply should not be so conveyed through such water-course.

- (2) The applicant shall not be entitled to use such water-course as aforesaid until he has paid the expenses of any alteration of such watercourse necessary in order to his being supplied through it, and also such share of the initial cost of construction of such water-course as the Collector may determine. Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

15. Application for construction of new water course

Any person desiring the construction of a new water-course may apply in writing to the Collector stating -

- (i) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;
- (ii) that he desires the Collector, on his behalf and at his cost, to do all things necessary for acquiring such right; and
- (iii) that he is able willing to defray all cost involved in acquiring such right and constructing such water-course.

16. Procedure of Collector thereupon

If the Collector considers -

- (i) that the construction of such water-course is expedient, and
- (ii) that the statements in the application are true, he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section 19; and upon such deposit being made, he shall cause inquiry to be made in the most suitable alignment of the said water-course and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out.

17. Application for transfer of existing water-course

- (1) Any person, desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Collector stating--
 - (i) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;
 - (ii) that he desires the Collector, on his behalf and at his cost, to do all things necessary for procuring such transfer; and

- (iii) that he is able and willing to defray the cost of such transfer.

Produce thereupon

- (2) If the Collector considers -
 - (a) that the said transfer is necessary for the better management of the irrigation from such water-course; and
 - (b) that the statements in the application are true, he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings and the amount of any compensation that may become due under the provisions of section 19 in respect of such transfer; and, upon such deposit being made, he shall publish a notice of the application in every village affected.

18. Inquiry into and determination of objection to construction or transfer of water-courses

- (1) When within thirty days from the publication of a notice under section 16 or section 17, as the case may be, any person interested in the land or water-course to which the notice refers, applies to the Collector as aforesaid, stating his objection to the construction or transfer for which application has been made, the Collector shall give notice to the other persons interested that, on a day to be named in such notice or any subsequent day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute or into the validity of such objections, as the case may be.
- (2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute or the objection, as the case may be.

19. Expenses to be paid by applicant for construction or transfer of water-course before receiving occupation

- (1) No applicant under section 15 or 17, as the case may be, shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Procedure in fixing compensation

- (2). Compensation to be made under this section shall be assessed as provided in section 49 but the Collector may, if the person to be compensated so desires, award such compensation in the form of rent charge payable in respect of the land or water-course occupied or transferred.

Recovery of compensation and expenses

- (3) If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector as arrears of land revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

20. Conditions binding on applicant placed in possession

- (1) When any such applicant has duly complied with the conditions laid down in section 19, he shall be placed in possession of the land or water-course as aforesaid, and the following rules and conditions shall thereafter be binding on him and his representatives in interest:-

- (a) in all cases -

First--all works necessary for the passage across such water-course existing previous to its construction and of the drainage intercepted by it, and for affording proper communication across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representatives in interest to the satisfaction of the Collector;

Second--land occupied for a water-course under the provisions of section 16 shall be used only for the purposes of such water-course;

Third--the proposed water-course shall be completed to the satisfaction of the Collector within one year after the applicant is placed in occupation of the land ;

- (b) in cases in which land is occupied or a water-course is transferred on the terms of a rent charge -

Fourth--the applicant or his representatives in interest shall, so long as he occupied such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation;

Fifth--if the right to occupy the land ceases owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition or until he has paid, by way of compensation for any injury done to the said land, such amount and to such person as the Collector determines;

Sixth--the Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation and if any such rent or compensation be not

paid by the applicant or his representatives in interest, the Collector may recover the amount with interest thereon at the rate of 12 per cent per annum from the date on which it became due as arrears of land revenue and shall pay the same when recovered to the person to whom it is due.

- (2) If any of the rules and conditions, prescribed by this section are not complied with, or if any water-course constructed or transferred under this Act is disused for three years continuously, the right of the applicant or of his representatives in interest to occupy such land or water-course shall cease absolutely.

21. Construction of outlets from canals by Collector

The Collector may construct or repair or alter a sluice or outlet to regulate the supply of water from a canal to any water-course.

22. Power to convert several water-courses running for a long distance side by side into one water-course

- (1) In cases where there are water-courses running side by side, or so situated as to interfere with the economical use or proper management of the water supply, the Collector, if applied to for that purpose, or on his own motion, may require the owners to make arrangements to his satisfaction to unite the water-courses or to substitute for them such system as may have been approved by him.
- (2) If the owners fail within such time as the Collector may fix to comply with any order passed by him under sub-section (1), the Collector may himself execute the work and recover the cost of such work from the owners in such proportion as he may decide.
- (3) Whenever a water-course has been reconstructed or a new system substituted under sub-section (1) or sub-section (2), the Collector may fix the shares in which the water shall be enjoyed by the persons entitled to use the water-course.

23. Procedure applicable to occupation for extensions and alterations

The procedure herein before provided for the occupation of land for the construction of water-course shall be applicable to the occupation of land for any extension or alteration of a water-course and for the deposit of soil from water-course clearances.

24. Costs of executing works under section 22 by whom payable

In every case under section 22, the cost of executing or completing the works shall be payable by such person or persons deriving benefit from the water course as the Collector may, in each case, determine.

25. Cost to be borne by the owners of the land benefited

- (1) The Government on receipt of demand in writing may, by notification, direct that a canal shall be constructed from a river, stream, creek or another canal for the irrigation

of land in an estate or estates or estates to be mentioned in the notification and that the cost of such construction shall be borne in whole or in part by the owners of the land to be benefited from the canal.

Provisions of this Act to apply to the new canals

- (2) The provisions of this Act in regards to the construction, repairs, maintenance and management of canals included in Schedule I shall apply to the new canals constructed in pursuance of the Government notification issued under sub-section (1).

26. Power of Collector upon issue of notification under section 25

Upon the issue of notification under section 25, the Collector may, from time to time, by general or special order--

- (a) determine the amount to be deposited in advance by each irrigator as his share of cost of such construction to be borne by him;
- (b) recover the amount so determined from any person who fails to comply with an order passed under this section; and
- (c) fund all costs so recovered and expend them on the construction of any of the canals to which notification applies or subject to the provisions, if any, of the record-of-rights specified section 27 on any other purpose connected with the well being thereof.

27. Power to prepare record for canal

- (1) The Collector shall, whenever the State Government may, by special order or by the rules made under the authority of this Act, so direct, prepare or revise for any canal a record showing all or any of the following matters, namely -

- (a) the custom or rule of irrigation;
- (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 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 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 of the land revenue already sanctioned by the Government

and has been attested by the revenue officer such record shall be deemed to 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 directions of the Collector, all information necessary for the correct preparation of a record under this section.

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- (5) The provisions of Chapter IV of the Himachal Pradesh Land Revenue Act, 1954, shall, so far as may be, apply to the preparation and revision of every such record.

WATER RATES

28. Levy of water rates

- (1) Subject to the terms of any agreement made by it with the owners or irrigators, the Government may, by notification, direct that a rate or rates shall be levied for the use of water of a canal in an authorised manner. Such rate or rates shall be determined keeping due regard to the maintenance and operation charges for the system and the cost of collection the water rates.

- (2) The Government may, by notification, direct that in addition to or in lieu of the rate or rates above-mentioned, the land revenue for the time being assessed on the land rereceiving canal water shall be enhanced in consequence on the change of class of the land from unirrigated to irrigated:

Provided that the new rate of assessment shall not exceed that fixed at the time of settlement for irrigated lands of the same class in the same village or in its vicinity:

Provided further that the Government may allow such lands to continue to be assessed at the rate or rates at which they were assessed immediately before they became irrigated, for a number of harvests to be fixed by the Government.

- (3) The Government may, by notification, also impose a special rate for water obtained or used without authority or in an unauthorised manner.
- (4) The rate or rates imposed under sub-section (1) or sub-section (2) or sub-section (3) shall be leviable from such persons deriving benefit from the water as the Government may, by general or special rule, direct.
- (5) Subject to the terms of any such agreement as aforesaid, the proceeds of any rate or rates levied under this section shall be disposed of in such manner as the Government may, by general or special rule, direct.
- (6) In the event of failure of crop to the extent of 10% or more due to the reason beyond the control of the farmer, he shall be entitled to remission of rates in proportion to the failure of that crop:

Provided that decision of the Collector regarding the extent of failure of the crop shall be final.

29. Liability when person using unauthorisedly cannot be identified

If water supplied through a water-course be used in an un-authorised manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person on whose land such water has flowed, if such land has derived benefit therefrom or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course, shall be liable, or jointly liable, as the case may be, to the charges made for such use.

30. Penalty when water runs to waste

If water supplied through a water-course, be suffered to run to waste, and) if, after inquiry by the Collector, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted .

31. Charges recoverable in addition to penalties

- (1) All charges for the unauthorised use or for waste of water may be recovered in addition to any penalties which may be prescribed on account on such use or waste.
- (2) All questions under section 29 and section 30 shall be decided by the Collector.

CHAPTER IV

PROVISIONS APPLICABLE TO CANALS INCLUDED UNDER

SCHEDULE II

32. This chapter is applicable only to canals under Schedule II

- (1) Except as the Government may otherwise direct under section 63, the provisions of this chapter shall apply only to canals for the time being including under Schedule II.

Appointment of Manager

- (2) Where there are numerous share-holders in the ownership of canal or where it is difficult as to certain the persons who are share-holders, or the extent of the interest of the share-holders, or any of them, the Collector may, if there is no proper manager or representative, require, by a proclamation or notice in writing, the share-holders to nominate, within a given period, a fit person as manager of the canal and their representative, and, upon their failure to do so, may himself appoint any person to be the manager of such canal and the representative of the share-holders, and the person so appointed may thereupon do all acts and things which the share-holders, or any of them might lawfully do in regard to the management of such canal, and all bona fide acts and things so done by him shall be binding upon every person who possesses any share in the ownership of such canal.

33. Power of the State Government to apply the provisions of section 27 to any canal

The State Government may, by notification, declare all or any of the provisions of section 27 (as to the preparation and revision of records) to be applicable to any canal, and upon any such declaration being made, such provisions shall, as far as may be, apply accordingly.

34. Power to assume control or management or both of a canal

- (1) It shall be lawful for the Government by notification to assume the control or management, or both, of any canal--
 - (a) if the owner of such canal consents there to, and subject to the condition (if any) on which such consent may in any case be given;
 - (b) if, after inquiry, the Government is satisfied that the control or management exercised by or on behalf of the owner is such as causes grave injury to the property or health of persons owning lands in the vicinity; and
 - (c) in the event of any wilful and continuous breach of orders issued under section 37 of this Act.
- (2) When the control or management or both of any canal is assumed under the provisions of sub-section (1), the Government may exercise all or any of the rights and powers in regard thereto which, but for such assumption, the owner might lawfully have exercised and may delegate such powers or any of them to any person, but the Government shall, in the absence of any decree or agreement to the contrary, be liable to account, from time to time, to such owner for the income and expenditure thereof and may, at any time restore the canal to the owner.

35. Right of owner upon such assumption to demand that the canal shall be acquired by the Government

When the control, or management, or both, of a canal shall be assumed by the Government under clause (b) or clause (c) of sub-section (1) of section 34, and such control or management shall have continued for a period exceeding six years, the owner thereof may, by notice in writing delivered to the Collector, require that the Government shall acquire such canal.

36. Power to acquire canal on demand of owner

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On receipt of notice under section 35, the State Government shall by notification, declare that the said canal will be acquired after a day to be named in the said notification, not being earlier than three months from the date thereof, and after the issue of such notification, the Collector shall proceed to acquire the said canal under the provisions of the Land Acquisition Act, 1894.

37. Power to fix the limits of irrigation and water rates and to regulate the distribution of water

The State Government may, after inquiry through the Collector in respect of any canal, issue orders as to all or any of the following things, namely: -

- (a) fixing the limits within which land may be irrigated from such canal;
- (b) fixing, as it may deem equitable, the amount and character of the water rates leviable by the owner, and the condition on which such rates are to be paid, suspended, remitted or refunded; and
- (c) regulating the supply and distribution of the water to and from such canal:

Provided that if any land which has been continuously irrigated from the canal for three years, previously, is deprived of irrigation, or the income of the canal owner from such canal is materially reduced by reasons of any order passed under this section, the owners of such land or the canal owner shall be paid by the Government or by such persons as the Government may determine such compensation as the Collector may consider reasonable:

Provided further that if the canal owner has, in the opinion of the Government, exercised his powers as such in an arbitrary or inequitable manner, he shall not be entitled to compensation under this section.

CHAPTER V

PROVISIONS APPLICABLE TO ALL CANALS

38. This chapter is applicable to all canals

Save as otherwise hereinafter expressly provided, the provisions of this chapter shall be applicable to all canals whether included under Schedule I or under Schedule II.

39. Consent or decision of the owner how to be determined

- (1) Whenever, in respect of any canals, any question arises which has, under this Act or the rules made thereunder, to be determined by the request, consent or decision of the owner, and the ownership of such canal is vested in more persons than one who are unable to agree to such request, consent or decision it shall be lawful for the Collector to act on behalf of the owners in any such matter, and the request, consent or decision of the Collector in any such case shall be binding upon every person who possesses any share in the ownership of such canal.
- (2) In every such case as aforesaid, the Collector shall give due consideration to the wishes of the shareholder or shareholders who possess the larger interest and when the question is one whether the Government shall be required to take any action, the wishes of such shareholder or shareholders shall prevail and be accepted by the Collector.

40. Settlement of disputes

- (1) Save as provided in the preceding section, whenever a dispute arises between two or more persons in regard to their mutual rights and liabilities in respect of the ownership, construction, use or maintenance of a canal or water-course, and any such person applies in writing to the Collector stating the matter in dispute, the Collector shall give notice to the other person or persons interested that on a day to be named in such notice or any such day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute.
- (2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute in the following manner, that is to say,--
 - (a) if the dispute relates to the ownership of a canal or mutual rights of owners in the use of the water of such canal or the construction or maintenance of a canal or the payment of any share of the costs of such construction or maintenance or the distribution of the supply of water from a canal the Collector shall proceed as a revenue court under the provisions of the Himachal Pradesh Tenancy and Land reforms Act, 1972 and the provisions of that Act regarding appeals, revision and reviews shall be applicable;
 - (b) if the dispute relates to a water-course, the Collector shall hear and determine the case as a Revenue Officer and shall make such order thereon as to him seems fit, and such order shall, unless set aside on appeal to the Financial Commissioner, be conclusive as to use or distribution of water for any crop sown or growing at the date of such order. The order of the Financial Commissioner on appeal shall in every case be final.

41. Acquisition of land for canals

- (1) Any person who has obtained the permission of the Government to construct a canal or who owns a canal may apply in writing to the Collector to acquire any land required for the purposes of such canal.
- (2) If the Collector is of the opinion that the application should be granted, he shall submit it, with his recommendation, for the orders of the Government.

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- (3) If, in the opinion of the Government, the application should, whether in whole or in part, be granted, it may declare that the land is required for a public purpose within the meaning of the Land Acquisition Act, 1894 and direct the necessary action to be taken thereunder.

42. Power to acquire canals by consent or otherwise

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Whenever it appears to the Government expedient in the public interest to acquire any canal, the State Government may acquire the said canal under the provisions of the Land Acquisition Act, 1894.

43. Power to regulate flow of water in rivers, creeks, natural channels or lines of natural drainage and to prohibit therein or order removal therefrom of obstructions

The Government may, by notification published in the Official Gazette, regulate the flow of water in any river, creek, natural channel or line of natural drainage, whether by the construction or removal of works or otherwise, and whenever it appears to the Government after inquiry through the Collector that the supply of water to a canal or the cultivation of any land or the public health or public convenience is likely to be injuriously affected by the obstruction of any river, creek, natural channel or line of natural drainage it may, by notification published as aforesaid, prohibit within the limits to be defined by such notification the formation of such obstruction or may, within such limits, order the removal, or the modification of, such obstruction.

44. Power to remove obstruction after publication of notification and payment of compensation

- (1) The Collector may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.
- (2) The Collector may himself remove or modify the obstruction -
 - (a) if the person to whom the order under sub-section (1) was issued fails to comply with that order within the time so fixed ; and
 - (b) in any case where the obstruction is not caused or controlled by any person.
- (3) The Collector shall determine from whom the cost of removing or modifying the obstruction shall be recovered, and the amount of compensation due to any person injuriously affected by the removal or modification of the obstruction and the persons by whom such compensation shall be payable:

Provided that no compensation shall be awarded for an advantage obtained by an arbitrary or inequitable course of action.

45. Power of the Collector to regulate flow of water and prohibit or remove obstructions

When the Government has, by notification as provided in section 43, taken power to regulate the flow of water in any river, creek or natural channel or line of natural drainage, it may authorise the Collector to exercise such powers on its behalf in accordance with such rules as it may prescribe. A Collector so authorised may in the execution of such rules exercise all the

powers conferred upon him by section 44 and his authority shall include the power to take such action as the Government is empowered by section 43 to take after inquiry through the Collector. Such authority may, on every occasion, be exercised without the publication of any further notification in the Official Gazette.

46. Power to the construction and the maintenance of works in respect of canals under Schedule II

- (1) The Collector may, at any time, order the beneficiary of any canal included under Schedule II to--
 - (a) repair and maintain, in a proper state, all or any embankment, protective works, reservoirs, channels, water-course, sluices, outlets and other works connected with the canal;
 - (b) construct, repair and maintain, in a proper state, a suitable bridge, culvert, or similar work at any place across under or over the canal, for the purpose of providing communication with any public road or thoroughfare which was in use before the canal was made;
 - (c) construct, repair and maintain, in a proper state, suitable works for the passage of the water of the canal, across under or over any public road or thoroughfare or any canal or drainage or channel which was in use before the canal was made;
 - (d) construct, repair and maintain, in a proper state suitable regulator at or near the head of the canal, where for want of such regulator, an excessive supply of water may enter the canal or cause damage to it, or any crops, lands, roads, or property in the neighbourhood.
- (2) Every order under sub-section (1) shall be in writing and shall specify a reasonable time within which the works or repairs mentioned therein shall be completely executed.
- (3) If any order made under this section is not obeyed, to the satisfaction of the Collector, within the time therein specified, the Collector may himself execute or complete the execution of, or cause to be exacted or completed, all works or repairs specified in the order and recover the cost thereof from the beneficiary as provided in section 51.

47. Power as to construction and maintenance of works in respect of canals under Schedule I

In the case of canals included under Schedule I, the Collector may--

- (a) call upon the beneficiary to discharge any of the liabilities specified in sub-section (1) of section 46 which the Government may have declared to attach to the beneficiary from such canal or group of canals; or

- (b) himself arrange for the performance of such acts and recover cost as provided in section 51.

48. Power to take possession and to construct works in cases of emergency

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- (1) If any new work is immediately required to prevent serious detriment to the utility of a canal then notwithstanding anything contained in the Land Acquisition Act, 1894, the Collector after obtaining a certificate from the Chief Engineer, or an officer of equivalent technical competency especially empowered in this behalf by the State Government, to the effect that the situation demands urgent acquisition of a particular land/lands for construction of the said work, may take immediate possession of such land and for the said purpose.
- (2) After the Collector has taken possession of any land under sub-section (1), he shall immediately proceed to acquire the same in the prescribed manner.
- (3) In the event of sudden and serious damage or urgent risk to canal or to property situated in the immediate neighbourhood thereof, or to irrigation carried therefrom or to the public traffic, the Collector may, after giving previous notice, execute or cause to be executed, such works as he may think necessary in order to remedy or prevent such damage or risk.

49. Assessment of compensation

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In assessing the amount of compensation to be paid under any section of this Act, other than sections 11, 13, 20, 37 and 44, the Collector shall proceed under the provisions of the Land Acquisition Act, 1894, and the provisions of that Act regarding inquiries and awards by Collector, reference to the Civil Courts and procedure thereon, apportionment of compensation, payment and appeals shall, as far as may be, be applicable to all proceedings under this section.

50. Compensation for a right of user or in the form of supply of water

With the consent of the parties, the Collector may, when assessing the amount of compensation to be paid, direct, in the case of any acquisition of land, that the property in such land shall remain with the owner subject to a right of user so long as the land is required for the purpose of the canal or water-course, compensation being awarded for the right of user only, or in the case of an acquisition of canal, or of land for the purposes of a canal, that the compensation shall take the form in whole or in part of a right to a supply of water from the canal which has been acquired or for the purposes for which land has been acquired.

51. Apportionment and recovery of the cost of land acquired or works executed

- (1) When any land is acquired under the provisions of section 41 or when an work is executed by or under the order of the Collector under the provisions of section 44, section 46, section 47 or section 48, the cost of acquiring such land or of executing such work, as the case may be, shall be recoverable -
 - (a) if the canal is included under Schedule II, from the owner thereof; or
 - (b) if the canal is included under Schedule I, from the irrigators or such of them as are, in the opinion of the Collector, benefited or likely to be benefited by the acquisition or equitably liable for the whole or any part of the cost of executing the work or from the proceeds of any water rate levied under section 28; and
 - (c) if such appropriation is not contrary to the provisions of the record-of-rights specified in section 27 of this Act, from the fund referred to in section 26 of this Act.
- (2) When the cost of acquiring any land or of executing any work is under the provisions of sub-section (1) recoverable from the owner of any canal or from the irrigators therefrom or any of them it shall be lawful for the Collector to apportion such cost as he may deem equitable among all or any of the persons liable for the whole or any portion thereof and such apportionment shall be final.
- (3) When the cost of acquiring such land has been paid, such land, if acquired in full proprietary rights, shall become the property of the canal owner.

52. Power to regulate mills

The Government may, by general or special order, prohibit or regulate construction of new, and regulate the use of existing mills upon canals, and appropriation of the water of canals for working mills.

**53. Application of section 14 to 17 of the Himachal Pradesh Land Revenue Act, 1954
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Except in so far as a contrary intention is expressed, sections 14 to 17 (both inclusive) of the Himachal Pradesh Land Revenue Act, 1954 shall apply to all proceedings under this Act.

54. Exclusion of jurisdiction of civil court except under the Land Acquisition Act

Save as provided in section 49 no civil court shall have jurisdiction in any matter which a revenue officer, revenue court or any other authority is empowered by this Act to dispose of, or take cognizance of the matter in which the Government, any revenue officer, revenue court, or other authority exercises any powers vested in it or him by or under this Act.

55. Power to appoint officers to perform functions and to exercise powers under this Act

- (1) The Government may appoint any person or any class of officials to perform any functions or to exercise any powers under this Act or the rules made thereunder conferred on or vested in the Collector, Commissioner, Financial Commissioner or such Government.
- (2) Such appointment may be made in respect of any canal or of all or any of the canals situated within any specified local area.
- (3) In all matters connected with this Act, the Government, shall have and exercise over the Financial Commissioner, the Commissioner, and the Collector and the Financial Commissioner shall have and exercise over the Commissioner, and the Collector and the Commissioner, shall have and exercise over the Collector, the same authority and control as it or they respectively have and exercise over them in the general and revenue administration.

56. Power of Collector in certain proceedings under this Act

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For the purposes of every enquiry made and proceedings taken under this Act, the Collector, or any other revenue officer, authorised by him in this behalf, or any other officer authorised by the Government shall have power to summon and enforce the attendance of, and examine parties and witnesses and compel the production of documents and, for all or any of these purposes, may exercise all or any of the powers conferred on a civil court by the Code of Civil Procedure, 1908, and every such inquiry shall for the purposes of the Indian Penal Code, 1860, be deemed to be judicial proceedings.

57. Permission to owners and parties interested in any canal to object in certain cases

In all cases under sections 6, 10, 20, 22, 24, 29, 30, 32, 34, 36, 37, 39, 40, 43, 44, 46, 47 and 51 of this Act, the owners and other parties interested in the canal shall be given an opportunity of appearing before the Collector and of showing cause to the contrary.

58. Mode of serving notice and making proclamation

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Every summons, notice, proclamation and other process issued under this Act, shall, as far as may be, be served or made in the manner provided in that behalf in section 21, 22 and 23 of the Himachal Pradesh Land Revenue Act, 1954.

59. Bar of compensation where not expressly allowed

Save as otherwise expressly provided in this Act, no person shall be entitled to recover any compensation for anything at any time done, or in good faith intended to be done, in exercise of any power conferred by this Act, or by the rules made thereunder.

60. Protection of persons acting under this Act

No suit, prosecution or other legal proceedings shall lie against any person for anything done, or in good faith intended to be done, in exercise of any power conferred by this Act, or by the rules made thereunder.

61. State Government to be party to certain suits and proceedings

- (1) In any suit or proceedings in which any entry made in any record prepared under section 27 or section 33 is directly or indirectly called in question, the court shall, before the final settlement of issues, give notice of the suit or proceedings to the Collector, and, if moved to do so by the Collector, shall make the Government a party to the same.

Bar of other suits against the Government

- (2) Save as provided in sub-section (1), no suit shall lie against the Government in respect of anything done by the Collector or by any person acting under the orders of the State Government in exercise of any power by this Act, conferred on such Collector or the Government.

62. Power to recover water-dues and other charges by revenue process

All water-dues, water-rates and other payments at any time due by or to be collected from any person under any provision of this Act or under any agreement entered into by the owners of the canal with the person irrigating from it and all arrears of such water-dues, water-rates or other payments shall be recoverable as if the same were arrears of land revenue.

63. Powers as regards canals, rivers or creeks situated partly within or partly without the limits of Himachal Pradesh

Any or all of the powers exercisable by the Government under this Act, in respect of any canal, river or creek may be exercised by the Government in the case of any canal, river or creek which is, or may, at any time, be situated partly within and partly without the limits of Himachal Pradesh, and in respect of so much of any such canal, river or creek as is within these limits and in the case of any such canal, river or creek, the Government may, by notification and notwithstanding the provisions of section 2, declare what sections of this Act shall be applicable thereto.

64. Powers exercisable in case of urgency with regard to canals situated beyond Himachal Pradesh

In respect of any canal situated beyond the limits of Himachal Pradesh, the Government may, by notification published in the Official Gazette, declare that the powers exercisable by a Collector under section 48, may, under the circumstances therein specified be exercised by the Collector or other authorised officers within the limits of Himachal Pradesh for all or any of the purposes of such canal.

65. Offences under this Act

Whoever, without proper authority and voluntarily, does any of the following acts, that is to say:-

- (1) damages, alters, enlarges or obstructs any canal;
- (2) interferes with, increases or diminishes the supply of water in or the flow of water form, through, over or under any canal;
- (3) interferes with or alters the flow of water in any river, creek or stream so as to endanger, damage or render less useful canal;
- (4) being responsible for the maintenance of any water course or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof or interferes with the authorised distribution of the water therefrom or uses such water in an unauthorised manner;
- (5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;
- (6) destroys or removes any level mark of water gauge fixed by the authority of a public servant;
- (7) passes or causes animals or vehicles to pass on or across any of the works, banks or channels of a canal contrary to rules made under this Act after he has been desired to desist therefrom;
- (8) disobeys any order or proclamation issued under this Act, or commits any breach of any rule made thereunder--

shall be liable, on conviction before a judicial magistrate to fine not exceeding one thousand rupees or to imprisonment not exceeding one month or to both.

66. Power to arrest without a warrant

Any person-in-charge of or employed upon a canal managed by public servant or by a local body, including a gram panchayat, may remove from the lands or buildings belonging thereto, may take into custody without a warrant and take forthwith before a magistrate, or to the nearest police station, to be dealt with according to law, any person who, within his view, commits any of the following offences: -

- (1) wilfully damages or obstructs any canal;
- (2) without proper authority interferes with the supply of or flow of water in or from any canal or in any river or stream, so as to endanger, damage or render less useful any canal.

67. Definition of canal for purposes of sections 65 and 66

In sections 65 and 66, the word "canal" shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied for the purposes of canal and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce upon such lands.

68. Power to make rules

- (1) The Government may, by notification, make rules, consistent with this Act, regulating any matter in regard to which any power is, by this Act, conferred upon the Government, or upon any officer of the Government and generally to carry out the purpose of this Act.
- (2) Without prejudice to the generality of the power conferred by sub-section (1), rules made under this Act, may provide for the levy of a rate imposed upon land in consideration of its protection from sand or flood.
- (3) All rules made under sub-section (1) shall be so made after previous publication in the Official Gazette.
- (4) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

69. Repeal and savings

14 of 1955, 3 of 1905, 21 of 1954, 31 of 1966

- (1) The Himachal Pradesh Minor Canal Act, 1955, as in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, and the Punjab Minor Canal Act, 1905 and the Punjab State Tubewell Act, 1954, as in force in the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, shall stand repealed:

Provided that anything done or any action taken or any proceedings commenced or continued under the said Act shall be deemed to have been done, taken, commenced or continued under the corresponding provisions of this Act.

3 of 1976

- (2) The Himachal Pradesh Minor Canals Ordinance, 1976 is hereby repealed.

Notwithstanding such repeal anything done or any action taken under aforesaid Ordinance, shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 7th April, 1976.

SCHEDULE I

Sr. No.	Name of Scheme		Tehsil
1	2		3
Simla District			
1.	Chaknol Kuhl	-	Kotkhai
2.	Jaltar Kuhl	-	-do-
3.	Bagra Kuhl	-	-do-
4.	Panli Kuhl	-	-do-
5.	Paleurla Kuhl	-	-do-
6.	Karasa Kuhl	-	Rohru
7.	Ganda Nawar Kuhl	-	-do-
8.	Ranol Kuhl	-	-do-
9.	Masli Kuhl	-	-do-
10.	Annu Bass Kuhl	-	-do-
11.	Kupri Kuhl	-	-do-
12.	Hatkoti Kuhl	-	-do-
13.	Kui Kuhl	-	-do-
14.	Rantari Kuhl	-	-do-
15.	Parth Kuhl	-	-do-
16.	Guma Kuhl	-	-do-
17.	Naula Kuhl	-	Kumarsain
18.	Chauhan Kuhl	-	-do-
19.	Chabir Kuhl	-	-do-
20.	Ursoo Kuhl	-	-do-
21.	Kepu Kuhl	-	-do-
22.	Khekar Kuhl	-	-do-
23.	Pianoo Kuhl	-	-do-
24.	Teshion Kuhl	-	-do-
25.	Nohna Rewali Kuhl	-	Kumarsain
26.	Knot Kofta Kuh.	-	-do-
27.	Nirath Kuhl	-	Rampur
28.	Nirsoo Kuhl	-	-do-

29	Ropri Narola Kuhl	-	Rampur
30	Hargaon Kuhl	-	Kasumpti
31	Shoya Garch Khul	-	-do-
32	Shali Dhar Deothi Kuhl	-	-do-
33	Ghamaroo Kuhl	-	Jubbal
34	Sackruru Kuhl	-	Suni
35	Suni Kuhl	-	-do-
36	Tikri Kuhl	-	Theog
37	Sharian Kuhl	-	-do-
38	Cheog Kuhl	-	-do-
39	Sainj Kuhl	-	-do-
40	Parala Kuhl	-	-do-
41	Nar Kuhl	-	Chopal
42	Rash Kuhl	-	-do-
43	Khekhar Kuhl	-	-do-

SIRMUR DISTRICT

1	Jarag Kuhl	-	Renuka
2	Chulli Kuhl	-	-do-
3	Kinthla Sain Dhar Kuhl	-	-do-
4	Gulja Gawan Dhar Kuhl	-	-do-
5	Hune Village Kuhl	-	-do-
6	Charana Kuhl	-	-do-
7	Benog Khul	-	-do-
8	Dhabar Majra Dugi Kuhl	-	-do-
9	Randli Kuhl	-	-do-
10	Jannu Koti Kuhl	-	-do-
11	4" dia. pipe line for Bhawai	-	-do-
12	Dhar Taran Kuhl	-	-do-
13	Nahara Kuhl	-	-do-
14	Amboya Kuhl	-	Paonta
15	Kalwala Kuhl	-	-do-
16	Dondli Kuhl	-	-do-
17	Dhangli Kuhl	-	Paonta

18	Sataun Kuhl	-	-do-
19	Bhud Kuhl	-	-do-
20	Rampur Giri Canal	-	-do-
21	Majra Bata Scheme (Canal)	-	-do-
22	Giri Puruwala Canal	-	-do-
23	Lift Irrigation Bata Mandi	-	-do-
24	Lift Irrigation Satiwala	-	-do-
25	Lift Irrigation Behral	-	-do-
26	Lift Irrigation Upper Behral	-	-do-
27	Lift Irrigation Kalawar	-	-do-
28	Lift Irrigation Ghutanpur	-	-do-
29	Lift Irrigation for village Bhagani Stage-I	-	-do-
30	Lift Irrigation Patlian	-	-do-
31	Balanta Kuhl	-	Pachhad
32	Lakhot Kuhl	-	-do-
33	Padhab Kuhl	-	-do-
34	Lana Kotla Kuhl	-	-do-
35	Son Kuhl	-	-do-
36	Dabar Kuhl	-	-do-
37	Dewaria Kuhl	-	-do-
38	Dewaria Dasuna Kuhl	-	-do-
39	Rajon Kuhl	-	-do-
40	Anji Kuhl	-	-do-
41	Jinot Kuhl	-	-do-
42	Sitar Kuhl	-	-do-
43	Saron Kuhl	-	-do-
44	Nahara Kuhl	-	-do-
45	Chakiron Kuhl	-	-do-
46	Thorniwar Kuhl	-	-do-
47	Lana Khard Kuhl	-	-do-
48	Nahan Dhar Kuhl No. I	-	-do-
49	Nahan Dhar Kuhl No. II	-	Pachhad
50	Kulth Kuhl	-	-do-
51	Jehar Kuhl No. I	-	-do-

52	Candal Kuhl	-	-do-
53	Dewaria Nadhop Kuhl	-	-do-
54	Kheri Salyar Kuhl	-	-do-
55	Karganoo Kuhl	-	-do-
56	Jehar Kuhl No. 2	-	-do-
57	Kotli Kuhl	-	-do-
58	Amorin Kuhl	-	Nahan
59	Kandi-wala Kuhl	-	-do-
60	Deokai Kuhl	-	-do-
61	Sakrdi Kuhl	-	-do-
62	Kanyon Kuhl	-	-do-
63	Weir Well as Sita Kira Kuhl	-	-do-
64	Chakli Kuhl	-	-do-
65	Salani Noginand Kuhl	-	-do-
66	Bikram Bagh Kuhl	-	-do-
67	Pipal-Ka-Moja Kuhl	-	-do-
68	Baram Papri Kuhl	-	-do-
69	Amita Kuhl	-	-do-
70	Kiari Kuhl	-	-do-
71	Chowaria Kuhl	-	-do-
72	Dabhah Kuhl	-	-do-
73	Bhawai Kuhl	-	-do-
74	Gohar Batal Kuhl	-	-do-
75	Sari Sarla Kuhl	-	-do-
76	Suni Bhaghar Kuhl	-	-do-
77	Bharot Kuhl	-	-do-
78	Jabli Kuhl	-	-do-
79	Kot Beja Kuhl	-	-do-
80	Chakli Khilan Kuhl	-	-do-
81	Lift Irrigation Scheme Konthron	-	Nahan
82	Lift Irrigation Scheme Manthapal	-	-do-
83	Lift Irrigation Scheme Nagal	-	-do-
84	Lift Irrigation Scheme Khera	-	-do-

SOLAN DISTRICT

1	Raj Kuhl	-	Nalagarh
2	Ram Kuhl	-	-do-
3	L.I.S. for village Kanduwal in Tehsil Nalagarh	-	-do-
4	L.I.S. for village Baddi/Sitalpur in Tehsil Nalagarh	-	-do-
5	L.I.S. for village Dasso Majra in Tehsil Nalagarh	-	-do-
6	L.I.S. for village L/Kalyanpur in Tehsil Nalagarh	-	-do-
7	L.I.S. for village Nanowal in Tehsil Nalagarh	-	-do-
8	L.I.S. for village Salewal in Tehsil Nalagarh	-	-do-
9	L.I.S. for village Chunri in Tehsil Nalagarh	-	-do-
10	L.I.S. for village Nahar Singh Mandiarapur	-	-do-
11	Nagaun Kuhl	-	Arki
12	Gohal Kuhl	-	-do-
13	Suni Bughar Kuhl	-	-do-
14	Seri Sarla Kuhl	-	-do-
15	Gohar Batal Kuhl	-	-do-
16	Kot Beja Kuhl	-	Solan
17	Dharot Kuhl	-	-do-
18	Gabli Kuhl	-	-do-

MANDI DISTRICT

1	Jhmet Kuhl	-	Sundernager
2	Janam Kuhl	-	-do-
3	Maha Devi Kuhl	-	-do-
4	Jai Devi Kuhl	-	-do-
5	Slaper Kuhl	-	-do-
6	Klaud Kuhl	-	-do-
7	Dehar Kuhl	-	-do-
8	Dhanot Kuhl	-	Sarkaghat
9	Dheboi Kuhl	-	Sarkaghat
10	Improvement and Remodelling of Tana Kuhl	-	-do-
11	Khudla Kuhl	-	-do-
12	Thana Kuhl	-	-do-
13	Paonta Kuhl	-	-do-
14	Tannu and Tang Kuhl	-	Jogindernagar

15	Hydro Kuhl	-	-do-
16	Kas Kuhl	-	-do-
17	Ropa Pudar Kuhl	-	-do-
18	Pali Kuhl	-	-do-
19	Janam Jogi Kuhl	-	-do-
20	Kohta Sapru Kuhl	-	-do-
21	Awar Kuhl	-	-do-
22	Manoh Majharnnu Kuhl	-	-do-
23	Banon Kuhl	-	-do-
24	Jhim Jhma Kuhl	-	-do-
25	Kalyan Kuhl	-	-do-
26	Ladruin Kuhl	-	-do-
27	Narala Kuhl	-	-do-
28	Dehlu Kuhl	-	-do-
29	Dherola Benon Kuhl	-	-do-
30	Ahju Kuhl	-	-do-
31	Drahal Kuhl	-	-do-
32	Chawhan Kuhl	-	Sadar Mandi
33	Pipe line in village Panjai	-	-do-
34	Basu Kuhl	-	-do-
35	Gird and Ganpanti Kuhl	-	-do-
36	Karnodi Kuhl	-	-do-
37	Upper Lahardi Kuhl	-	-do-
38	Moora Masit Kuhl	-	-do-
39	Dhar Kuhl	-	-do-
40	Balh Chalarag Kuhl	-	-do-
41	Upper Bhangoo Kuhl	-	Sadar Mandi
42	Chatru Kuhl	-	-do-
43	Kensa Kuhl	-	-do-
44	Dodar Kuhl	-	-do-
45	Towan Flood Protection	-	-do-
46	Janed Kuhl	-	-do-
47	Nagehalla Lift Scheme	-	-do-
48	Lift Irrigation Scheme Nagwain Tikoli	-	-do-

49	Lift Irrigation Scheme Nagwain Tikoli	-	-do-
50	Pipe line village Panjgana	-	Karsog
51	Improvement of Kandol Kuhl	-	Chachiot
52	Nagwani Kuhl	-	-do-
53	Sainj Kuhl	-	-do-
54	Chail Kuhl	-	-do-
55	Baga Kuhl	-	-do-

KULU DISTRICT

1.	L.I.S. Bhuntar	-	Kulu
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BILASPUR DISTRICT

1	Chandpur Canal Stage-I	-	Sadar Bilaspur
2	Kasol Kuhl	-	Ghumarwin
3	Ladda Bajwain Kuhl	-	-do-
4	Talai Duslehra Kuhl	-	-do-
5	Bajon Kuhl	-	-do-
6	Chaklu (Chinini) Kuhl	-	-do-
7	Chuli Kuhl	-	-do-
8	Satora Kuhl	-	-do-
9	Dubrah Kuhl	-	-do-
10	Guza Ganadhor Kuhl	-	-do-
11	Kandiawala Kuhl	-	-do-
12	Kiari Kuhl	-	-do-
13	Suni Bhughat	-	-do-
14	Gohar Batal Kuhl	-	-do-
15	Seri Sarla Kuhl	-	Ghumarwin
16	Sakrori Kuhl	-	-do-
17	Suni Kuhl	-	-do-
18	Rukmani Barora Kuhl	-	-do-
19	Improvement of Auhar Kuhl	-	-do-
20	Malorihi Smog Kuhl	-	-do-
21	Lift Irrigation Scheme Sunhani	-	-do-
22	Lift Irrigation Scheme Bhallu	-	-do-
23	Lift Irrigation Scheme Dasslehra	-	-do-

24	Lift Irrigation Scheme Dabhla	-	-do-
25	Lift Irrigation Scheme Bhadrog	-	-do-
26	Lift Irrigation Scheme Ghumarwin	-	-do-
27	Lift Irrigation Scheme Parnal	-	-do-
28	Lift Irrigation Scheme Meri Kathala	-	-do-
29	Lift Irrigation Scheme Domahra	-	-do-

KANGRA DISTRICT

1	Lower Baijnath Kuhl	-	Palampur
2	Thakurdwara Kuhl	-	-do-
3	L.I.S. Jaisinghpur	-	-do-
4	-do-Harsi	-	-do-
5	L.I.S. Thural	-	-do-
6	Tubewell Bhanehar Canal	-	Nurpur
7	L.I.S. for village Tikka Har	-	-do-
8	-do-Kutherhar	-	-do-
9	-do-Anuhli	-	-do-
10	-do-Sukahar	-	-do-
11	-do-Jawali	-	-do-
12	-do-Chuharpur	-	-do-
13	L.I.S. for village Har	-	-do-
14	-do-Bassa Waziran	-	-do-
15	-do-Saliali Hydram	-	-do-
16	-do-Bharoli	-	Dehra
17	L.I.S. Kuhna	-	Dehra

UNA DISTRICT

1	L.I.S. for village Jankaur	-	Una
2	-do-Basal	-	-do-
3	-do-Tiuri	-	-do-
4	L.I.S. Churru	-	-do-
5	-do-Karluhi	-	-do-
6	-do-Palkwah	-	-do-
7	-do-Andora	-	Amb
8	-do-Oal	-	-do-
9	-do-Bhadrauri	-	-do-

10	-do-Shivari	-	-do-
11	-do-Gagret	-	-do-
12	-do-Badaun	-	-do-

TUBEWELLS

13	Tubewell No. 1 in village Kaloh	-	Amb
14	-do-No.2 in village Kaloh	-	-do-
15	Tubewell No. 3 in village Badoh	-	-do-
16	-do-No.4 in village Badoh	-	-do-
17	-do-No.5 in village Tatera	-	-do-
18	-do-No.6 in village Tatera	-	-do-
19	-do-No.7 in village Mova Sindian	-	-do-
20	-do-No.8 in village Mova Sindian	-	-do-
21	-do-No.9 in village Kuthera Jaswalan	-	-do-
22	-do-No.10 in village Kuthera Jaswalan	-	-do-
23	-do-No.11 in village Loharli	-	-do-
24	-do-No.12 in village Loharli	-	-do-
25	-do-No.13 in village Keori	-	-do-

CHAMBA DISTRICT

1	Lower Chowari Kuhl	-	Bhattiyat
2	Upper Most Chowari Kuhl	-	-do-
3	Upper Chowari Kuhl	-	Bhattiyat
4	Dhirriara	-	-do-
5	Dhurmala Seontha Kuhl	-	-do-
6	Nani Khad Kuhl	-	-do-
7	Duka Kuhl	-	-do-
8	Chatrarie Kuhl	-	-do-
9	Khaggol Seontha Kuhl	-	-do-
10	Mail Kuhl	-	-do-
11	Lower Smot Kuhl	-	-do-
12	Upper Somot Kuhl	-	-do-
13	Bilpura Kuhl	-	-do-
14	Laholi Khad Ralyama Kuhl	-	-do-
15	Kharagat Kuhl	-	-do-

16	Bhajjol Trimbal Kuhl	-	-do-
17	Cheol Kuhl	-	-do-
18	Thalail Kuhl	-	-do-
19	Ran Kuhl	-	-do-
20	Lower Mila Kuhl	-	-do-
21	Bharian Kuhl	-	-do-
22	Mangla kuhl	-	Chamba
23	Kakian Kuhl	-	-do-
24	Kiree Kuhl	-	-do-
25	Dulara Kuhl	-	-do-
•26	Tangral Kuhl	-	-do-
27	Bhadrum Kuhl	-	-do-
28	Lower Bhanota Kuhl	-	-do-
29	Sahu K. thl	-	-do-
30	Rajondu Kuhl	-	-do-
31	Saram Kuhl	-	-do-
32	Palaur Kuhl	-	-do-
33	Nagoli Khad Pandol Kuhl	-	-do-
34	Imp. of Kail kuhl	-	-do-
35	Khar Nallah Dhund'ara Kuhl	-	Chamba
36	Saworla Kuhl	-	-do-
37	Sari Salaga Kuhl	-	-do-
38	Upper Bahanota Kuhl	-	-do-
39	Silla Khad Sarol	-	-do-
40	Mandol Kuhl	-	-do-
41	Bhadram Khul	-	-do-
42	Khajjala Khad Kuhl	-	-do-
43	Khera Khad Jalla Khui Kuhl	-	Bharmour
44	Khemi Crima Kuhl	-	-do-
45	Mehla Tipri Kuhl	-	-do-
46	Bakni Kuhl	-	Bhattiyat
47	Neki Kuhl	-	-do-
48	Bharoo-Re-Kakian Kuhl	-	-do-

49	Agoli Kuhl	-	-do-
50	Sher Kuhl	-	-do-
51	Tundi Kuhl	-	-do-
52	Balana Kuhl	-	-do-
53	Chakki-Khad Raipur Kuhl	-	-do-
54	Bainskha Kuhl	-	Sadar
55	Saran Salaudri Jund Kuhl	-	-do-
56	Patned Kuhl, Behli Kuhl	-	-do-
57	Sarol Kuhl	-	-do-
58	Maroord Kuhl	-	-do-
59	Rohini Kuhl	-	-do-
60	Mangalore Kuhl	-	-do-
61	Sarahan Kuhl	-	-do-
62	Saroli Kuhl	-	-do-
63	Khured Khad Masson Kuhl	-	-do-
64	Upper Baniker Kuhl	-	-do-
65	Salan Pari Nalal Judh Kuhl	-	-do-
66	Pattned Khad Behali Kuhl	-	-do-
67	Salandi Nalal Kuhl	-	Sadar

KINNAUR DISTRICT

1	Jani Kuhl	-	Kalpa
2	Pooh Kuhl	-	-do-
3	Permesering Kuhl	-	-do-
4	Boktu Kuhl	-	-do-
5	Pangi Kuhl	-	-do-

HAMIRPUR DISTRICT

1	L.I.S. for village Rail	-	Hamirpur
2	L.I.S. for village Paur	-	-do-
3	L.I.S. for village Ambtar	-	-do-
4	L.I.S. for village Nadaun (Hydrants)	-	-do-
5	L.I.S. for village Chamukha	-	-do-

SCHEDULE II

Sr. No.	Name of Scheme		Tehsil
1	2		3
CHAMBA DISTRICT			
1	Saivina Kuhl in G.P. Bakan	-	Chamba
2	Gajouion Kuhl in G.P. Mangla	-	-do-
3	Kuranh Kuhl in G.P. Jangi	-	-do-
4	Bhaden Kuhl in G.P. Bhadion	-	-do-
5	Sandon Kuhl in G.P. Uteep	-	-do-
6	Kalsuin Kuhl in G.P. Jangi	-	-do-
7	Mehla Kuhl in G.P. Mehla	-	-do-
8	Chaminu Kuhl	-	-do-
9	Avdralu Kuhl	-	-do-
10	Salvion Kuhl in G.P. Uteep	-	-do-
11	Kandla Kuhl	-	-do-
KINNAUR DISTRICT			
1	Tangling	-	Kalpa
2	Yangiangling	-	-do-
3	Godowring	-	-do-
4	Barrang	-	Kalpa
5	Annaodam	-	-do-
6	Roghi	-	-do-
7	Dake in village Roghi	-	-do-
8	Yallangiti	-	-do-
9	Chaka Khad in village Yorrangi	-	-do-
10	Chamar chalodan in village Chini	-	-do-
11	Runkotyo	-	-do-
12	Majarang in village Roghi	-	-do-
13	Rankulang	-	-do-
14	Majang in village Ching	-	-do-
15	Banangati	-	-do-
16	Bagicheng	-	-do-

17	Kashimir Khawangi	-	-do-
18	Duni Barellangi	-	-do-
19	From house of Markarjit to old H.T. road	-	-do-
20	Rakccham	-	Sangla
21	Chir Chir	-	-do-
22	Khargula	-	-do-
23	Khawantali chhitkul	-	-do-
24	Sangla	-	-do-
25	Naste in village Boning Saring	-	-do-
26	Adminishresh	-	-do-
27	Datkua Batseri	-	-do-
28	Dadarti in village Barua	-	-do-
29	Kokche	-	-do-
30	Beda	-	-do-
31	Chansu Hunsndan	-	-do-
32	Gofa	-	Nichar
33	Niru	-	-do-
34	Yullo	-	-do-
35	Umi	-	-do-

SOLAN DISRICT

1	Gaura Kital Kiar Kuhl	-	Arki
2	Majiar-Ki-Kuhl	-	-do-
3	Kayar Samolati	-	-do-
4	Chamyal Kuhl	-	-do-
5	Kalja	-	-do-
6	Jarol Kuhl	-	-do-
7	Jhakauli Kuhl	-	-do-
8	Khokdi Kuhl	-	-do-
9	Kirlanpur Kuhl	-	-do-
10	Kiru Sacharol Kuhl	-	-do-
11	Dadal Kuhl	-	-do-
12	Patta Kuhl	-	-do-
13	Kohier Kuhl	-	-do-

14	Karlana Kuhl	-	-do-
15	Rampur Kuhl	-	-do-
16	Ranaun Kuhl	-	Solan

KULU DISTRICT

1	Bably Nala Kuhl	-	Manali
2	Jalasri Kuhl	-	-do-
3	Ungli Kuhl	-	-do-
4	Cherar Kuhl	-	-do-
5	Bayholi Kuhl	-	-do-
6	Domi kuhl	-	-do-
7	Shim Kuhl	-	-do-
8	Dawara Kuhl	-	-do-
9	Bari Kuhl	-	-do-
10	Baragarh Kuhl	-	-do-
11	Nakong Nala Kuhl	-	-do-
12	Baran Kuhl	-	-do-
13	Chaial Kuhl	-	-do-
14	Nardor Nala Kuhl	-	-do-
15	Mari Sari Kuhl	-	Manali
16	Seesa Kuhl	-	-do-
17	Kanauli Kuhl	-	-do-
18	Bansai Kuhl	-	-do-
19	Goni Kuhl	-	Hathenagar
20	Chaki Kuhl	-	-do-
21	Bkhnad Kuhl	-	-do-
22	Haripur Kuhl	-	-do-
23	Kanhoi Nala Kuhl	-	-do-
24	Jagat Sukh Kuhl	-	-do-
25	Saranu Kuhl	-	-do-
26	Damu Kuhl	-	-do-
27	Pananou Kuhl	-	-do-
28	Alaani Kuhl	-	-do-
29	Lara Kuhl	-	Hathenagar

and Left Bank of Kulu.

30	Nanstala Kuhl	-	-do-
31	Khanor Kuhl	-	-do-
32	Thakur Kuhl	-	-do-
33	Barain Kuhl	-	-do-
34	Mangh Kuhl	-	-do-
35	Kisa Nalari Kuhl	-	-do-
36	Sadabage Kuhl	-	-do-

LAHAUL AND SPITI DISTRICT

1	Bagpo Kuhl	-	Lahaul
2	Tandan Kuhl	-	-do-
3	Gamang Kuhl	-	-do-
4	Cheche Kuhl	-	-do-
5	Uthi Kuhl	-	-do-
6	Thuri Kuhl	-	-do-
7	Uthi Cisi Kuhl	-	-do-
8	Muchi Kuhl	-	-do-
9	Unti Kuhl	-	Lahaul
10	Satinala	-	-do-
11	Thakti Makti Kuhl	-	-do-
12	Mangnu Nala	-	-do-
13	Thanbharti Kuhl	-	-do-
14	Biling Nala	-	-do-
15	Geuir Kuhl	-	-do-
16	Char Kuhl	-	-do-
17	Samoor Kuhl	-	-do-
18	Chakway Kuhl	-	-do-
19	Gayar Bhurti Kuhl	-	-do-
20	Chaiylika Kuhl	-	-do-
21	Pyaso Kuhl	-	-do-
22	Chulu-chi-Kayleg Kuhl	-	-do-
23	Tholgaya Kuhl	-	-do-
24	Chakarechl Kuhl	-	-do-

25	Jheora Kuhl	-	-do-
26	Phorsathi Kuhl	-	-do-
27	Bhurthi Kuhl	-	-do-
28	Dahergarh Nal Kuhl	-	-do-
29	Kangnala Kuhl	-	-do-
30	Gatu Kuhl	-	-do-
31	Tharota Nala	-	-do-
32	Maling Dal Kuhl	-	-do-
33	Goao Dal Kuhl	-	-do-
34	Gawad-Dal Kuhl	-	-do-
35	Minigarh Kuhl	-	-do-
36	Moon Mala Kuhl	-	-do-
37	Bhagota Mala Kuhl	-	-do-
38	Garti Kuhl	-	-do-
39	Garangi Kuhl	-	-do-
40	Lagdoname	-	-do-
41	Ragwaynal Judunal Kuhl	-	Lahaul
42	Judunal Nala Makhal Nal Kuhl	-	-do-
43	Muling Kuhl	-	-do-
44	Rubar Kuhl	-	-do-
45	Dhara Kuhl	-	-do-
46	Musgrah Kuhl	-	-do-
47	Roug-ling Nala	-	-do-
48	Ralam Kuhl	-	-do-
49	Khornala Kuhl	-	-do-
50	Bol Bhurthi Kuhl	-	-do-
51	Nukar Bhurthi Kuhl	-	-do-
52	Thorang Kuhl	-	-do-
53	Raken Kuhl	-	-do-
54	Batra Kuhl	-	-do-
55	Saker Kuhl	-	-do-
56	Jagal Kuhl	-	-do-
57	Margoda Kuhl	-	-do-

58	Nago Lompa Kuhl	-	-do-
59	Nopi Basari Kuhl	-	-do-
60	Lomapa Kuhl	-	-do-
61	Kadi Kuhl	-	-do-
62	Bharogi Kuhl	-	-do-
63	Yong Jor Kuhl	-	-do-
64	Gatay Kuhl	-	-do-
65	Goowni Kuhl	-	-do-
66	Phariguraji Kuhl	-	-do-
67	Kuk Growni Kuhl	-	-do-
68	Khainal Kuhl	-	-do-
69	Soornal Kuhl	-	-do-
70	Chaling Kuhl	-	-do-
71	Sasanal Kuhl	-	-do-
72	Roway Nal	-	-do-
73	Chono Kuhl	-	Lahaul
74	Gang Tokwyow	-	Spiti
75	Lapu Lawa Kuhl	-	-do-
76	Tokeyow Kuhl	-	-do-
77	Lakhu Kuhl	-	-do-
78	Magri Kuhl	-	-do-
79	Parnu Pagh Kuhl	-	-do-
80	Fellow Kuhl	-	Spiti
81	Prabhu Kuhl	-	-do-
82	Chobi Mungu Kuhl	-	-do-
83	Lato Kuhl	-	-do-
84	Parging Kuhl	-	-do-
85	Chubu Kuhl	-	-do-
86	Chabo Kuhl	-	-do-
87	Logyaiuro Kuhl	-	-do-
88	Chobi Kuhl	-	-do-
89	Chobi Clura Kuhl	-	-do-
90	Kata Kuhl	-	-do-

91	Moli Kuhl	-	-do-
92	Palgate Kuhl	-	-do-
93	Gangchur Kuhl	-	-do-
94	Hafte Chura Kuhl	-	-do-
95	Jajugway Burg Kuhl	-	-do-
96	Aurangarh Kuhl	-	-do-
97	Lopa Kuhl	-	-do-
98	Prabhoba Kuhl	-	-do-
99	Chabu Kuhl	-	-do-
100	Palachay Kuhl	-	-do-
101	Kuligh Kuhl	-	-do-
102	Gharu Kuhl	-	-do-
103	Thaga Kuhl	-	-do-
104	Tokpo Kuhl	-	-do-
105	Chobo Kuhl	-	Spiti
106	Tarpal Kuhl	-	-do-
107	Kargefa Kuhl	-	-do-
108	Reju Kuhl	-	-do-

KANGRA DISTRICT

1	Bandla Kuhl	-	Palampur
2	Dewan Chand Kuhl	-	-do-
3	Mia-Di-Kuhl	-	-do-
4	Dia-Ki-Kuhl	-	-do-
5	Kasmal Kuhl	-	-do-
6	Kirpal Chand Kuhl	-	-do-

4. THE HIMACHAL PRADESH MINOR CANALS RULES, 1977

THE HIMACHAL PRADESH MINOR CANAL RULES, 1977

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THE HIMACHAL PRADESH MINOR CANALS RULES, 1977

PART-I

PRELIMINARY

1. Short title & commencement

- (1) These rules may be called the Himachal Pradesh Minor Canals Rules, 1977.
- (2) These shall extend to the whole of Himachal Pradesh.
- (3) These shall come into force at once.

2. Definition

In these rules, unless there is any thing repugnant in the subject or context:-

- (a) "act" means the Himachal Pradesh minor Canals Act, 1976, (42 of 1976).
- (b) "annexure" means annexure appended to these rules;
- (c) "Section" means and section of the Act;
- (d) all other words and expressions used herein but not defined in these rules shall have the meanings assigned to them in the Act.

PART II

3. CONSTRUCTION AND MAINTENANCE OF WORKS AND SUPPLY OF WATER

Application for permission to construct a Canal intended to be fed from any source of supply notified

Any person, desiring to construct a canal intended to be fed from any source of supply which has been notified by the State Government, under section 4, shall apply, in writing, to the Collector for his permission, in the form as per Annexure-L.

4. Circumstance in which the permission to extend to construct a canal to be fed from any notified source can not be accorded

Water shall not ordinarily be granted to the land --

- (a) Where the length of the water course from its head to its point of contact with field exceeds 3 Kilometers or
- (b) Where the water supply or water in the canal, distributary, or water course is already fully utilised; or
- (c) Where, in the opinion of the Collector loss from wastage is likely to occur.

5. Closure or discontinuance of water courses

- (1) Whenever the Collector is satisfied that the due distribution of water from the Source of water is not possible or the water course, sluice or outlet is not maintained in proper repairs or is subject to wilful damage or wrongful enlargement, or supply of water is not possible due to obstructions/interruptions caused by the natural forces, he may order the closure or discontinuance of the supply of water for period so long such exigency on which the water supply is ordered to be closed or discontinued remains.
- (2) Whenever the collector, on the receipt of a written declaration by the Medical officer of Health, is satisfied that the water course situated within the jurisdiction of any local authority is in such a defective sanitary condition as to be a menance to public health, he may order the closure or discontinuance of water course till such time the defects not set right. The water supply is not declared to be in hygenic and good sanitary condition.
- (3) The order, under sub-rules (1) or (2) shall be in written under hand of the Collector and a copy of the same shall be conveyed by the authorities in-charge of the Canal with due expedition to reach local authority and delivered to the responsible officer of such local authority, namely in case of village to the Sarpanch of the village concerned and in case Municipal Committee or Notified Area, Committees to the President of the Municipal Committee or the Notified Area Committee, concerned. The receipt of each person to whom a copy of the order is delivered shall be affixed to a schedule prepared for the purpose, which shall be maintained in the office of the Collector.
- (4) It shall be the duty of the person, who receives the order referred to in sub-rule (3), to affix it at once at a conspicuous place in the village or town and to make its purpose generally known to all concerned.

6. Application for transfer of existing water course

The person, desiring that an existing water course should be transferred from its present owner to himself shall apply to the Collector, in the form as given at annexure II to these rules and shall make the deposit of such amount as the Collector considers necessary to defray the cost of the preliminary proceedings and the amount of compensation that may be come due under the provisions of section 19 in respect of such transfer.

7. Preparation of demand statements

- (1) The village Patwari or any other officer authorised by the Collector shall prepare the demand statement and shall submit the same for the approval of the Collector or any other authority appointed by him in this behalf.
- (2) As soon as the demand statement is prepared and approved under sub-rule (1) the same shall be kept open for inspection by the persons liable to pay the charges under the Act and these can be seen, in the office of the Patwari concerned.

- (3) As soon as the demand statements of a Patwar Circle are completed, the Patwari shall inform the Lambardars of the date on which the demand statement will be distributed in each village. The Lambardars shall call upon the irrigators to attend and receive demand statements from the Patwari. Undistributed demand statements shall be entrusted to the Lambardars of the villages concerned. The Patwari shall in every case endorse the date of distribution of the demand statement.
- (4) If the irrigator desires to raise any objection about the correctness of the entries made against him in the demand statements:-
 - (a) Whether as to the fact of the land having been irrigated.
 - (b) of its being charged "Flow" or "Lift" ; or
 - (c) as to the measurement and entries of class of crop ;
 - (d) if he has been charged without having done any irrigation from the canal during the harvest under assessment; or
 - (e) if no demand notice has been delivered either to him or the Lambardar, he may prefer the objection, in writing, to the Collector within twenty one days from the date on which the demand of statement was served on him or in the case of clause (e) within ten days of the date on which he first became acquainted with the claim against him.
5. The objections raised under sub-rule (4) shall be investigated through any agency, as the Collector may deem fit on spot within 15 days of their receipt and promptly disposed of by the Collector. The orders of the Collector in such cases shall be communicated to the objector and the orders as passed and communicated to the objector shall be final and binding on the objector.

8. Method of dealing with alternations in the demand statement

If after the service of the demand statement any addition is made to the demand, or any reduction is allowed as a consequence of the decision taken by the Collector under sub-rule (5) of rule (7) or on account remission granted under rule 22 or under sub-section (6) of section 28, such addition or deduction shall be communicated to the irrigator as well as to the Collector by means of the supplementary demand statement. The demands shall be shown in blank and remissions in red letters.

WATER RATES

9. Charges for use of water

Subject to the provisions contained in this Chapter the charges for the use of water shall be made on the basis of the class of crops cultivated and area irrigated and on the rates as specified in schedule of rates at annexure III to these rules.

10. Charges leviable for a preliminary watering (Paleve) when no crop is sown

- (1) when a field receives the first or preliminary watering and afterwards no crop is sown, the lowest rate of charge for the 'Lift' or Flow Irrigation' as the case be, will be levied.
- (2) When a field receives the first or preliminary watering afterwards a crop is sown, there shall, subject to the provisions of sub-rule (3), be payable in respect that watering the full rate specified in the schedule of rates to be charged for canal water supplied for the irrigation of the Crop.
- (3) When a provision is made in the schedule for a special rate being charged for a single watering followed by a crop on the land irrigated from a channel to which the State Government has declared the special rate to be applicable, the rate to be charged for watering shall be such special rate and not full rate which would otherwise be payable under sub-rule (2)

11. Charges for mixed crop

- (1) Mixed crops, which have no, specific mention in the schedule of rates shall be assessed at the highest rate leviable on any of them.
- (2) Crops grown separately in the same field shall be treated as mixed crop unless the division between them has been clearly marked by a well defined ridge.

12. Charges leviable for field resown

When the original crop sown in a canal irrigated field fail and is ploughed up, and a fresh crop is sown in the same season the water rate to be levied shall be the same as specified in the schedule of rates for the crop which comes to maturity.

13. Water rate for fields partly irrigated

If only a portion of field be irrigated the water rate shall be chargeable on the whole field unless such portion has been clearly demarcated by a well defined ridge.

14. Charges leviable in fields partly irrigated from canals partly from wells or other sources

When a portion of a field has been irrigated with canal water and a portion with water from a private well or any other source, the whole field will be treated as irrigated with canal water. Where the boundary demarcated by well defined ridge exists between the two portions, enquiry will be made whether the use of water from a well or any other source was owing to deficiency in the supply of canal water in which case the canal charge on the portion irrigated by well or other source shall be exempted.

15. Use of Canal water courses, for conveyance of water from a well or any other sources

If water from a private well or from any other private source is conveyed in the same channel as those of canal water in the same season the whole of irrigation from that channel/channels shall be treated as irrigation from the canal.

16. Charges leviable for irrigation from escape channels

When a natural drainage or channel or reservoir not being part of the canal is used as an escape channel, and if it is so used at the request of persons desirous of irrigation from it, they shall be levied water rates as follows:-

- (a) when the supply is permanent the rates shall be governed by the rules as if the irrigation is from other parts of canals.
- (b) when the supply is intermittent, the rates may be allowed at such reduced rates as shall, from time to time, be fixed by the Collector in each case.

17. Owners rate

- (1) where any irrigation scheme has come into operation for anyone of the following purposes namely-

- (a) extension of irrigation to new areas from any existing or project canal, or
- (b) extension of irrigation to areas situated within the approved irrigation boundary of an existing canal system.

the Government shall levy owners rate recoverable from the owners of the lands in addition to water rate, for the area so irrigated as under:-

- (i) perennial irrigation. Rs. 3/-per acre matured.
- (ii) Restricted perennial irrigation Rs. 2/- -do-
- (iii) Non-perennial (Kharif) Irrigation. Rs. 1.50 -do-

- (2) The amount of owners rate shall be shown separately in the demand statement of water rates and shall be realized from the land owners in the same manner as proscribed for the recovery of occupier's rates.
- (3) when on a land, water rates have been remitted under provisions of rule 22, the owner's rate in respect of that land shall be deemed to be remitted automatically and the land owner concerned need not put in, an application for the same separately.

18. Charges leviable for taking water from canal without permission or at times prohibited by a proper authority

- (1) Persons taking water from a canal without permission of or at the time prohibited by the proper authority, shall be chargeable with a special rate as below, in respect of all lands on which water has flowed:-
 - (a) Culturable land -equal to six times and in addition to ordinary water rate leviable on the crop standing at the time in the area,
 - (b) Unculturable land --equal to six times the highest rate prescribed as occupier's rate given in the schedule of rates for anyone crop;
 - (c) Ponds-equal to six times the bulk rate provided for the time being in these rules:

Provided that in each case the Collector may levy for the reasons, to be recorded in writing, a lower charge if he thinks fit:

Provided further that this charge may be made for each district and on separate occasions on which water is so taken.

- (2) If the person or persons taking water from a canal in an unauthorised manner cannot be identified, the persons chargeable with the special rate having been determined, notice shall at once be given to them on each such occasion that they will be charged accordingly in the demand statement for the area thus watered.
- (3) The special rate under this rule, shall be recovered in addition to the penalties which may be imposed on account of such use or waste of water.

19. No water rate is to be enhanced or levied

- (1) Notwithstanding anything contained in these rules, no enhancement of the water rate/ rates levied under this chapter, shall be made in consequence of the change of the class of lands, from un-irrigated to irrigated and, for Rabi / Kharif harvests.
- (2) Water rate shall not be levied:-
 - (a) on crops grown merely with the aid of percolation and not actually irrigated;
 - (b) on crops seriously damaged by swamping and deposits or other harmful action of bonds.

20. Persons from whom rates leviable

- (1) The rates prescribed, under these rules for the use in an authorised manner of water of canals shall be leviable from the occupiers of land for this purpose the following persons shall be deemed "Occupiers". namely:-
 - (a) where the land owner is in actual cultivating occupancy of such land.
 - (b) where that land is in the actual cultivating occupancy of a tenant or sub-tenant and the rent is not paid through a contractor, the landlord and such tenant or sub-tenant.
 - (c) where land is in the actual cultivating occupancy of a tenant or sub-tenant but the rent is paid through a contractor, the landlord, contractor and such tenant or sub-tenant .
 - (d) where the land is in actual cultivating occupancy of a mortgagee holding from a landlord, tenant, sub-tenant such mortgagee or mortgagor.
- (2) In the case referred to in clauses (b), (c) and (d) of sub-rule
 - (a) the landlord and the tenant or sub-tenant, or
 - (b) the landlord, the contractor and the tenant or sub-tenant,
 - (c) the mortgagee and mortgagor, as the case may be;

shall be jointly and severally liable for the payment of occupier rates.

6 of 1954, 8 of 1974

- (3) The expressions "Landlord", "Land Owner" and "Tenant" in the rule shall have the meanings respectively assigned to them in the Himachal Pradesh Land Revenue Act, 1954 and the Himachal Pradesh Tenant Land Reforms Act, 1972.

21. Receipts & disposal of Proceeds

- (1) Receipts shall be given by the Lambardar or other person making the collection to each irrigator on the payment of water rate.
- (2) The proceeds of the water rate collected under sub rule (1) after deduction of 3 percent in case collection is made by the Lambardar, shall be credited to the general revenue under the Budget Head: 1106- Minor Irrigation, Soil Conservation and Area Development:-
- (a) Receipts from L.I.S. Water Rates.
- (b) Receipts from Minor Irrigation works water rates.
- (3) The Collector may withhold and credit to Government as a revenue by forfeiting the whole or any other portion of the sum payable to the Lambardar under sub-rule (2) if the realization not made by him in time, or if the Lambardar has failed to render proper assistance for the distribution and control of water or in the assessment of irrigation charges.

22. Remissions

- (1) In the event of the failure of an irrigated crop owing to a deficiency with the water of canal or the failure of an irrigated crop owing to crop diseases or natural calamities such as hail, severe dust storms, floods, locusts or other pests, the rates assessable on the land upon which the crop was sown shall be remitted in accordance with the provisions contained in this rule.
- (2) Whenever circumstances exist to appeallant that the total produce of the land under irrigation in any cropping season is likely to be damaged to an extent of more than 10% of its normal produce, the irrigator or his agent in the form as given at Annexure IV shall issue a notice of such circumstances to the Collector in whose jurisdiction such damage is apprehended.
- (3) Immediately on receipt of a notice under sub-rule (2) the Collector shall forward the same to the Tahsildar/Naib Tahsildar within 15 days of the receipt of notice. The Tehsildar/Naib Tehsildar shall inspect the damaged crops, mentioned in the notice and submit his report about the damage found to the Collector.
- (4) The Collector after considering the report received under Sub-rule(3) and after holding such further enquiry as he may consider necessary, shall order remissions of the water rate for that crop as under:-

- | | |
|---|--------------------------------------|
| (i) In case of damage exceeding 10% but not exceeding 33% | Not exceeding 15% of the water rate. |
| (ii) In case of damage exceeding 30% but not exceeding 50% | Not exceeding 25% of the water rate. |
| (iii) In case of damage exceeding 50% but not exceeding 75% | Not exceeding 50% of the water rate |
| (iv) In case of damage exceeding 75% | 100% |

- (5) Any person aggrieved by the order of the Collector made under sub-rule(4) may within a period of 30 days from the date of such order prefer an appeal to the Commissioner:

Provided that the Commissioner, may entertain the appeal even after the expiry of the said 30 days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal on the earliest day. The Commissioner may, after affording the reasonable opportunity of being heard to the applicant, pass such order as he deem fit and his order shall be final.

23. Notice to land owners under S. 48

Soon after entering upon the land if any person under section 12 or taking possession of land under section 48(1) the Collector, or any Officer as authorised by him in this behalf shall inform the land owner about the fact the land has been entered into, or taken possession of, as the case may be, in public interest.

24. Procedure to acquire land after taking possession

- (1) In all cases where the Collector has taken possession under sub-section (1) of section 48, he shall also require the owner, or all other persons interested in the land, to file their claims with regard to compensation.
- (2) After taking possession under sub-section (1) of section 48, the Collector shall forward the case to the Government along with necessary details of the land.

1 of 1894

- (3) If in the opinion of the Government the possession of land in question has been taken in the public interest it shall declare that the land is required for a public purpose within the meaning of Land Acquisition Act, 1894 and direct the necessary action to be taken thereunder.

ANNEXURE I

(See Rule 3)

FORM OF APPLICATION FOR THE PERMISSION OF THE
COLLECTOR TO CONSTRUCT A CANAL INTENDED TO BE
FED FROM ANY SOURCE OF SUPPLY NOTIFIED UNDER
SECTION 4 OF THE HIMACHAL PRADESH MINOR
CANALS ACT, 1976 (ACT NO. 42 OF 1976)

To

The Collector,

Sir,

In accordance with the provisions of sub-section (1) of section 5 of the Himachal Pradesh Minor Canals Act, 1976, I/We, whose particulars are given below, intend to effect the change or construction of a canal intended to be fed from any such channel, lake or other collection of water, the details of which are mentioned below:-

A-Particulars of the applicant:

Serial No.	Names with Percentage.	Address.	Area of the land to be benefited
------------	------------------------	----------	----------------------------------

B. Particulars of the canal and proposed change:

1. Name of supply channel _____
2. Proposed site of new outlet _____
3. Number of pipes required _____
4. Approximate area of land to be irrigated _____
5. Irrigation by overflow or lift _____
6. Approximate length of water course _____
7. Names of owners of land to be traversed by water course _____

8. Land irrigable from any existing outlet or not _____
9. Number and names of intending shareholders (if any) in the outlet applied for _____

Particulars to be filed by the office of the Collector

10. Number of outlets now in supply channel _____
- (a) Right Bank _____
- (b) Left Bank _____
11. Width of bank including slopes and path way _____
12. Number of outlets now allotted to village _____
13. Culturable area:-
- (a) Whole village _____
- (b) Applicants Land _____
14. Area already provided with irrigation. _____
2. I/We have endeavoured unsuccessfully to acquire from the owners of the land through which I/We desire such water course to pass a right to occupy so much of land as will be needed for such water course. So I/We desire that you on my/our behalf and cost and do all things for acquiring such right. I/We am/are able to, defray all costs involved in acquiring such right and constructing such water-courses to your satisfaction.

I/We certify that the information furnished above at serial Nos.(1) to (9) and para 2 above is true to the best of my/our knowledge and belief.

Signature of applicant
thumb impression, if
illiterate.

Serial No.	Name	Address	Signature or thumb impression

ANNEXURE II

(See Rule 6)

FORM OF APPLICATION TO THE COLLECTOR FOR THE
TRANSFER OF THE EXISTING WATER COURSE UNDER
SECTION 17 OF THE HIMACHAL PRADESH MINOR
CANALS ACT, 1976 (ACT NO. 42 OF 1976)

To

The Collector,

Sir,

In accordance with the provisions of section 17 of Himachal Pradesh Minor Canals Act, 1976, (Act No. 42 of 1976) I/We whose particulars are given below request you that the ownership of water course _____

being fed by _____ source of water being, held by _____ may kindly be ordered to be transferred in my/our names for the following reasons :-

1. -----

2. -----

The proposed transfer is necessary for the better management of the irrigation from the aforesaid water course. I/We have endeavoured unsuccessfully to procure such transfer from the above named present owner of the aforesaid water course and I/We desire you, on my/our behalf and cost, to do all things necessary for procuring such transfer. I/We am/are able to defray the cost of such transfer and I/We have deposited the sum of Rs. _____ to meet the cost of preliminary proceedings and the amount of compensation that may become due under the provisions of section 19 in respect of such transfer. In the event such deposit runs short, I/we undertake to pay the remaining balance well before the aforesaid transfer is materialised.

Signature of applicant, or
thumb impression if illiterate

Serial No. Name Address Signature/thumb impression

ANNEXURE III

(See rule 9)

SCHEDULE OF OCCUPIERS, RATES IN FORCE ON MINOR IRRIGATION CANALS IN HIMACHAL PRADESH

Sl. No.	Nature of crop	Rate per acre (Rs.)		
		Flow (Rs.)	Lift (Rs.)	
1.	2.	3.	4.	5.
1.	(a) Sugarcane (on Kharif channels)	13.60	27.20	per crop
	(b) Sugarcane (except on Kharif channels)	16.63	33.26	- do -
2.	Water nuts	11.34	22.68	- do -
3.	Rice	9.82	19.64	- do -
4.	Indigo and other dyes, Tobacco, poppy, spices and drugs.-	8.30	16.60	- do -
5.	Cotton	6.80	13.60	- do -
6.	Melons fiber (other than Cotton) and all crops not otherwise specified.	6.80	13.60	- do -
7.	Maize	5.65	11.30	- do -
8.	Kharif oil seeds.	6.42	12.84	- do -
9.	Barley and Oats (except on Kharif channels)	6.42	12.84	- do -
10.	Garden and Orchards (excluding rabi crops) and vegetables.	8.30	16.60	Garden & orchards per half year and the rest per crop.
11.	All rabi crops (except wheat and grams) including garden, orchards and vegetables.	3.05	6.10	- do -
12.	Wheat and Grams (on Kharif channels)	2.78	5.65	per crop
13.	Wheat and Grams (except on Kharif channels)	5.90	11.80	- do -
14.	Bajra, Masoor and Pulses.	4.91	9.82	- do -
15.	Grams.	4.50	9.00	- do -

16.	Jawar, Cheena, Grass which has received two or more watering and all fodder crops including turnips.	3.78	7.56	Grass per half year and the rest per crop.
17.	Grass single watering	1.51	3.02	per half year
18.	Watering for ploughing not followed by crops in same or succeeding harvests.	1.51	3.02	- do -
19.	Villages, Municipal and District Boards, Plantations.	1.51	3.02	- do -
20.	Paddock area as sanctioned by the local Government.	8.25	16.50	Irrespective of per half year for the whole area irrespective of whether it be irrigated in part or whole or not at all.
21.	Any number of water in Kharif.	1.51	3.02	per half year
22.	One water in Rabi.	1.51	3.02	- do -
23.	Two or more watering in Kharif or Rabi (General Rate)	3.05	6.10	- do -

(See rule 22(2))

To

Sir,

source of water:-

- (a).....
- (b).....
- (c).....

The estimated damage is.....%.....
of the normal produce of the crop of the land under irrigation. The particulars of the produce of the last two crops is as under:-

Name of crop	Produce accrued	Money value of the produce
--------------	-----------------	----------------------------

- (a).....
- (b).....

The particulars of the crop and its location are given as under:-

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- (e) Irrigation by over flow or lift.....
- (f) Number and names of share holders in the damaged crop
- (g) Particulars of general remission/ concession extended by the State Government with regard to the same damage (if any).....
- (h) Steps taken to reduce the apprehended damage to the crop.....

I/We certify that the information furnished above is true to the best of my/our knowledge and belief.

Date.....

Signature of applicant of thumb
impression, if illiterate.

Sl. No.	Name	Address	Signature or thumb impression
<hr/>			
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JAMMU & KASHMIR

JAMMU & KASHMIR IRRIGATION, 1978
ACT No. X OF 1978

**JAMMU AND KASHMIR
IRRIGATION ACT, 1978
ACT NO. X OF 1978**

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**GOVERNMENT OF JAMMU AND KASHMIR,
CIVIL SECRETARIAT-LAW DEPARTMENT**

Srinagar, the 10th May, 1978

The following Act as passed by the Jammu and Kashmir State Legislature received the assent of the Governor on 9th May, 1978 and is hereby published for general information :-

THE JAMMU AND KASHMIR IRRIGATION ACT, 1978

[Act No. X of 1978]

[9th May, 1978]

An Act to provide for regulation of irrigation and drainage and for levy and assessment of water rates and matters connected therewith.

Be it enacted by the Jammu and Kashmir State Legislature in the Twenty-ninth Year of the Republic of India as follows :-

1. Short title extent and commencement—

- (1) This Act may be called the Jammu and Kashmir Irrigation Act, 1978.
- (2) It extends to the whole of the State.
- (3) It shall come into force on such date as the Government may by notification in the Government Gazette, appoint.

2. Definitions—

In this Act, unless the context otherwise requires—

- (a) “beneficiary” means a person or persons who derive benefit from an irrigation work whether directly or indirectly ;
- (b) “betterment levy” means tax levied under Chapter VII of this Act ;
- (c) “Canal Officer” means an officer exercising control over a sub-division of an irrigation work or portion of an irrigation work;
- (d) “Canal revenue” includes water rate, betterment levy, project participation charges, water cess, crop cess, licence fee for fishing, navigation, sale of grass, trees and other produce from the land belonging to irrigation work proceeds from lease of land belonging to irrigation work, water mills and from sale of water for purposes other than irrigation;

-
1. Enforced from 1st January, 1979 vide Notification under SRO-798 of 1978 dated 22nd December-1978.
-

- (e) "Collector" means the head revenue officer of a district and includes a Deputy Commissioner or other officers appointed under this Act to exercise all or any of the powers of a Collector;
- (f) "Culturable commanded area" means all lands which are fit for cultivation under irrigable command of an irrigation work ;
- (g) "Divisional Canal Officer" means an officer exercising control over a division of an irrigation work, or portion of an irrigation work ;
- (h) "drainage work" includes-
 - (i) Channel - either natural or artificial for the discharge of waste or surplus water, and all works connected with or auxiliary to such channels;
 - (ii) escape channels from an irrigation work dams, weirs, embankments, flood embankment, 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 the Government for the purpose of drainage of an area ; and
 - (iv) all field drains;
- (i) "field channel" means a channel constructed by owners or occupiers or beneficiaries or constructed by the Government on their behalf and at their cost to serve the various fields within a block and include existing water courses constructed or maintained by the owners or occupiers or beneficiaries;

Explanation - "Existing" means existing at the time of the coming into force of this Act;

- (j) "field drains" include drains, escape channels and other similar works constructed and maintained by the owners or occupiers or beneficiaries or by the Government on its own cost or on behalf and at the cost of the owners or occupiers or beneficiaries;
- (k) "flood embankment" means any embankment constructed or maintained by the Government in connection with any system of irrigation or reclamation works for the protection of lands from inundation or which may be declared by the Government to be maintained in connection with any such system and includes all groynes, spurs, dams and other protective works connected with such embankments;
- (l) "Irrigation works" includes -
 - (i) all reservoirs, tanks, dams, weirs, canals, barrages, channels, domestic water supply works, pipes, ponds, spring ponds, spring channels, aqueducts sluices, pumping installations constructed, maintained or controlled by the 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, weirs, canals, barrages, channels, domestic water supply works, pipes, ponds, spring ponds, spring channels, aqueducts, sluices, pumping installations and all roads constructed for facilitating the construction or maintenance of such reservoirs, tanks, dams, weirs, canals, barrages, channels, domestic water supply works, pipes, ponds, spring ponds, spring channels, aqueducts, sluices and pumping installation;
- (iii) all drainage works, flood embankments, wells, water courses and field channels;
- (iv) any part of a river, stream, lake or natural collection of water or natural drainage channel and ground waters to which the Government has applied the provisions of Chapter II of this Act;
- (v) all lands held by the Government for the purpose of such reservoirs, tanks, dams, weirs, canals, barrages, 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;
- (vi) Zamindari Khuls;
- (vii) all lands, roads, cross drainage, catch water drains, R.D. pillars, boundary pillars, reference pillars, buildings, machinery, fences, gates, other erections, trees, crops, plantations or other produce occupied by or belonging to Government for the purposes of irrigation works;
- (m) "lands under irrigable commands" 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 Divisional Canal Officer, by percolation or otherwise from an irrigation work or by indirect flow, percolation or drainage from or through adjoining land, an advantage beneficial to the crop;
- (n) "notification" means a notification published in the Government Gazette;
- (o) "occupier" includes an occupier of land or property who cultivates or possesses the same for the time being;
- (p) "on-farm development" includes any of the following works-
 - (i) land-levelling and land-shaping, including realignment of field boundaries and terracing;
 - (ii) providing of falls, culverts 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 work 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;
- (q) “outlets” includes an opening, constructed, by the Government in an irrigation work through which water is delivered into a water course or field channel or directly on to any land;
- (r) “owner” includes every person having interest in the ownership of land or property, and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership;
- (s) “prescribed” means prescribed by rules made under this Act;
- (t) “Project participation charges” means charges leviable under Chapter VIII of the Act;
- (u) “Sewage effluent” means effluent from any sewerage system or sewage disposal works and includes sullage from open drains;
- (v) “Superintending Canal Officer” means an officer exercising general control over an irrigation work or portion of an irrigation work;
- (w) “Tehsildar” means a Revenue officer designated as such having jurisdiction in an area in which the irrigation work is situated;
- (x) “Trade effluent” includes any liquid, gaseous or solid substance, which is discharged from any premises used for carrying on any trade or industry, other than domestic sewage;
- (y) “vessel” includes boats, rafts, timber, and other floating bodies;
- (z) “water course” means the length of a channel between an outlet and a field channel, built at the cost of the Government and maintained by the owners or occupiers to carry water from an outlet to any block of land or as may be prescribed;
- (aa) “water rate” means water rate levied under Chapter V of this Act;
- (bb) “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, tube-well and filter point;
- (cc) “Zamindari Khul” means an irrigation channel which was maintained by the beneficiaries themselves but taken over by the Government for the purpose of remodelling, repair, maintenance, whether before or at the time of commencement of this Act and includes such of the Khuls which may be taken over the Government in future for remodelling,

repair or maintenance.

- (dd) “Zilladar” means an officer exercising control over a canal in respect of proper distribution and regulation of water and is responsible for the assessment of canal revenue.

CHAPTER II

CONSTRUCTION AND MAINTENANCE OF IRRIGATION WORKS

3. The application of water for public purposes of irrigation works —

- (1) Whenever it appears expedient to the Government that water of any river (including its tributaries) or stream or Zamindari Khuls flowing in a natural channel or of any lake or any other natural collection of still water or ground water or flowing in a channel where such water or part thereof, is received from any irrigation work constructed by the Government whether by percolation, regeneration, release or otherwise should be applied or used for the purpose of any existing or projected irrigation work or for the regulation, supply or storage of water, the 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 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 Government shall be regulated according to the provisions of this Act.
- (4) Where the Government is of the opinion that in the interest of proper irrigation from any irrigation work constructed or proposed to be constructed within a period of five years, 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 Government may, by notification specify such area or areas, and thereupon no person shall within such area or areas construct any such well except with the previous sanction of the Government or any officer authorised by the Government in this behalf and subject to such conditions as the Government or such officer may impose. The application for grant of such sanction shall be disposed of by the Government or the authorised officer within three months from making thereof.
- (5) When the 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 Government may, by notification, specify such areas and such works to take effect from a date specified in the notification not being earlier than one month from the date thereof.

4. **Powers of entry on land etc** - At any time after the day named in the notification under subsection (1) of section 3, any Canal Officer duly empowered in this behalf may enter on any land, remove any obstruction, close any channel and do any other thing necessary for such application or use of the said water and for such purpose may take with him or depute or employ such subordinates and other persons as he thinks fit.
5. **Power to enter and survey etc** - Whenever it shall be necessary to make an 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 surveys or take levels thereon;
 - (c) dig and bore into the sub-soil;
 - (d) where otherwise such inquiry cannot be completed cut down and clear away any part of any standing crop, fence or jungle;
 - (e) exercise all powers and do all things in respect of such land as he might exercise and do if the Government had issued a notification under section 4 of the State Land Acquisition Act, Samvat 1990 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 of silt measurement stations and do all other things necessary for purposes of such inquiry and examination.
6. **Power to enter upon land, building etc. for inspection** - Any Canal Officer duly empowered in this behalf may enter upon any land, building, other than residential accommodation, water course or field channel on account of which any water rate is chargeable for the purpose of inspecting or regulating use of the water supplied, or of measuring the land 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.
7. **Power to enter for repairs and to prevent accidents** -
 - (1) In case of any accident being apprehended or happening, to an irrigation work, any Canal Officer empowered in this behalf may enter upon or into any immovable property

in the neighborhood of such irrigation work or such other immovable property as may be necessary for the purpose and remove carry or utilise trees and other materials, and takes such other steps as may be necessary, and execute all work which may be necessary for the purpose of preventing such accident or repairing any damage done.

- (2) In determining compensation for removing, carrying or utilising trees and other materials the principles laid down in section 61 shall be followed.

8. **Power to regulate floods -** Where any irrigation work is being damaged or damage to any irrigation work is apprehended due to floods or other natural calamities, any Canal Officer duly empowered in this behalf may, in the interest of the safety of the irrigation work regulate the floods by operating gates or gated waste weir on the irrigation work or regulate the Canal as the case may be.

9. **Notice to an occupier of building, court etc -** Where a Canal Officer proposes under the provisions of sections 5,6 or 7 to enter into any building or enclosed court or garden attached to a dwelling house, not supplied with water from an irrigation work, and not adjacent to a flood embankment, he shall give to the occupier of such building, court or garden such reasonable prior notice as the urgency of the case will allow.

10. **Canal crossings -**

- (1) There shall be provided at the cost of the Government suitable means of crossing canals constructed or maintained at the cost of the Government at such places as the Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent land.
- (2) No suit shall lie in a civil court against the Government to enforce the construction of a crossing of a Canal, or to enforce the alternating of a crossing or for compensation for damage arising from the absence of inadequacy of any crossing, or to modify or set aside any scheme framed or order passed under this section.

Explanation - Suitable means of crossing canals include means for the passage of traffic and of water.

11. **Acquisition of land -** If the Government is satisfied that any land for the construction of an irrigation work, excluding water courses, field channels and field drains, or for the maintenance, improvement or extension of an existing irrigation work excluding water courses, field channels and field drains, is needed, the Government may acquire the land by following the provisions of the State Land Acquisition Act Samvat 1990 except to the extent specifically stated to the contrary in this Chapter.

12. **Assessment of amount of compensation -**

- (1) Notwithstanding anything to the contrary in the State Land Acquisition Act, Samvat 1990 the Collector may, after holding such enquiry as he deems necessary, make an

estimate of the amount of compensation payable in respect of the land, needed for purposes specified in section 11 of this Act, for which declaration under section 6 of the aforesaid Act has been made, including compensation for the standing crops, trees and structures, if any, on such land and for any physical damage caused to them, within three months of the declaration.

- (2) The Collector may take possession of the land after tendering the estimated amount of compensation, as stated in sub-section (1), to the person having an interest in the land and the land shall thereupon vest absolutely in the Government free from all encumbrances.
- (3) If any person having an interest in the land acquired by the Government does not agree with the estimated amount of compensation, he may require that the matter be referred by the Collector for determination by the court in accordance with section 18 of the State Land Acquisition Act, Samvat 1990.
- (4) In all other matters relating to compensation including principles for determining compensation the provisions of the State Land Acquisition Act, Svt. 1990 shall be applicable.

CHAPTER III

WATER COURSES AND FIELD CHANNELS

13. Preparation of draft scheme -

- (1) Notwithstanding anything contained to the contrary in this Act and subject to the rules prescribed by the Government in this behalf, Canal Officer, may, on his own motion or on the application of an owner or occupier, prepare a draft scheme to provide for all or any of the matters, namely :-
 - (a) the construction, alteration, extension and realignment of any water course or existing water course constructed or maintained by the owners or occupiers;
 - (b) reallocation of areas served by one water course to another;
 - (c) the lining of any water course;
 - (d) the occupation of land for the deposit of soil from water course clearances;
 - (e) any other matter which is necessary for the proper maintenance and distribution of supply of water from a water course.
- (2) Every scheme prepared under sub-section (1) shall amongst other matters, set out the estimated cost thereof, the realignment of any water course or existing water course, as the case may be, the site of the outlet, the particulars of the owners or occupiers or beneficiaries to be benefited and other persons who may be affected thereby, and a

sketch plan of the area proposed to be covered by the scheme.

14. Publication of the scheme -

- (1) 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 thirty days from the date of notification.
- (2) After consideration of such objections and suggestions if any, the Canal 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.
- (3) The Divisional Canal Officer may, on his own motion 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-section (2) revise the scheme approved by the Canal Officer :
Provided that such revision shall not be made without affording the person affected an opportunity of being heard.
- (4) An owner or occupier aggrieved by the order of the Divisional Canal 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 the Superintending Canal Officer whose decision thereon shall be final.

15. Acquisition of land -

- (1) After a scheme has been approved by the Canal Officer, or, where an appeal is pending before the Divisional Canal Officer, after it has been disposed of by him, the Canal Officer shall acquire the land by agreement with the owner thereof, or the Canal Officer shall notify in the manner prescribed a notice of his intention to acquire the land required for implementation of the scheme.
- (2) Any person interested in the land notified under sub-section (1), may, within fifteen days from the publication thereof, apply to the Divisional Canal Officer by petition stating his objections to the proposed acquisition.
- (3) After considering the objections, the Canal Officer may make an order for acquisition of the land.
- (4) The Canal Officer may after holding such enquiry as he deems necessary make an assessment of amount of compensation payable in respect of land, standing crops, trees and structures, if any on such land, or for any physical damage caused to them within fifteen days of the order, made under sub-section (3).
- (5) In determining an amount of compensation the Canal Officer shall give a reasonable opportunity of being heard to the person having an interest in the land.

- (6) The Canal Officer may take possession of the land after tendering the estimated amount of compensation as stated in sub-section (4) to the person having an interest in the land and the land shall thereupon vest absolutely in the Government free from any encumbrance.
- (7) If any person having an interest in the land acquired by the Government does not agree with the estimated amount of compensation he may prefer an appeal to the Superintending Canal Officer within 30 days of the passing of the order.
- (8) That Superintending Canal Officer, when the appeal has been preferred, must dispose of the appeal within 6 months of the filing thereof and the amount of compensation, if enhanced, will be deposited within one month thereof. It will carry interest at the rate of 9% per annum from the expiry of one month of the order given by the Superintending Canal Officer.
- (9) The principle to be followed in awarding compensation shall be the market value of land acquired at the time of the publication of the notice under sub-section (1).

16. Implementation of scheme -

- (1) The Canal Officer shall, after getting the occupation of the land under sub-section (6) of section 15, take steps to implement the scheme at the cost of the Government.
- (2) Any water course constructed under sub-section (1) shall be the property of the Government.
- (3) Unless ordered by the Government to the contrary, any extension, alteration or realignment of water courses at the instance of the owners or occupiers shall be done at the cost of the owners or occupiers.

17. Maintenance of water courses - On execution of the scheme, the Canal Officer shall by requisition in writing, direct the owners or occupiers to take over and maintain the water course and on failure of any owners or occupiers or beneficiaries to comply with this direction, he shall make arrangements for maintenance of the water course at the cost of such owners or occupiers or beneficiaries in proportion to the culturable commanded area under the scheme held by them.

18. Persons using water course to construct works -

- (1) The Canal Officer may issue an order to the persons using any field channel to construct suitable bridges, culverts or other works as approved by the Canal Officer for the passage of the water of such field channel across any public road, canal or drainage channel in use before the said field channel was made or to repair any such works.
- (2) Such order shall specify a reasonable period within which such construction or repairs shall be completed.

- (3) If, after the receipt of such order, the persons to whom it is addressed do not within the said period, construct or repair such works to the satisfaction of the said Canal Officer, he may with the previous approval of the Divisional Canal Officer, himself construct or repair the same, and demand the cost of such construction or repairs.

19. Protection of water courses against demolition etc :—

- (1) If a person demolishes alters, enlarges, obstructs or encroaches upon a water course or field channel or cause any damage thereto, any person affected thereby may apply to the Canal Officer for directing the restoration of the water course or field channel to its original condition.
- (2) The Canal Officer may, on his own motion or on the information given by village Patwari, Zilladar or any other officer or on receiving an application under sub section (1) after making such enquiry as he may deem fit, require by a notice, in writing served on the persons found to be responsible for so demolishing, altering, enlarging, obstructing, encroaching or causing damage to restore, at his own cost, the water course or field channel to its original condition within such period as may be specified in the notice.
- (3) If such person fails, to the satisfaction of the Canal Officer, to restore the water course or field channel to its original condition within the period specified in the notice served on him under sub-section (2), the Canal Officer may cause the water course or field channel to be restored to its original condition and recover the cost incurred in respect of such restoration from the defaulting person.
- (4) Any person aggrieved by the order of the Canal Officer may prefer an appeal, within thirty days of the passing of such order, to the Divisional Canal Officer, whose decision on such appeal shall be final.

20. Adjustment of claims between persons jointly using water course –

- (1) If any person, jointly responsible with others for the maintenance of a water course or field channel, or jointly making use of a water course with others neglects or refuses to pay his share of the maintenance or to execute his share of any work necessary for such maintenance, the Zilladar, on receiving an application in writing from any person injured by such neglect or refusal, shall serve notice on all the parties concerned that on the expiration of seven 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 there on as he deems fit.
- (2) Such order shall be appealable to the Divisional Canal Officer, whose decision thereon shall be final.
- (3) Any sum directed by such order shall be paid within a specified period.

21. Supply of water through intervening water course –

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

22. Application for transfer of existing water course –

- (1) Any person desiring that a field channel should be transferred from its present owner to himself may apply in writing to the Canal Officer, stating –
 - (a) that he has endeavoured unsuccessfully to procure such transfer from the owner of such field channel ;
 - (b) that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for procuring such transfer;
 - (c) that he is able to defray the cost of such transfer.
- (2) If the Canal Officer considers –
 - (a) that the said transfer is necessary for the better management of the irrigation from such field channel; and
 - (b) that the statement in the application are true, he shall call upon the applicant to

make such deposit as he considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section 27 in respect of such transfer, and upon such deposit being made, he shall affix a notice of the application at a conspicuous place in every village and shall send a copy of the notice to the Tehsildar of every tehsil through which such field channel passes.

23. Objections to transfer applied for –

- (1) within fourteen days of the affixation of notice under section 22, any person interested in the field channel to which the notice refers, may apply to the Canal Officer by petition stating his objections to the transfer for which application has been made.
- (2) The Canal Officer may either reject the petition or may proceed to enquire into the validity of the objections giving previous notice to persons concerned stating the place and time at which such enquiry will be held :

provided that such notice shall also be given to the Tehsildar of the area through which field channel passes.
- (3) The Canal Officer shall record in writing all orders passed by him under this section and the grounds thereof.

24. Transfer of field channel to the applicant- If no such objection is made, or where such objection is made and the Canal Officer over rules it he shall intimate the Tehsildar to that effect, and shall transfer the field channel from the present owner to the applicant.

25. Procedure when objection is held valid - If the Canal Officer considers any objection made as aforesaid to be valid he shall inform the Tehsildar accordingly.

26. Procedure when Tehsildar disagrees with Canal Officer –

- (1) If the Tehsildar disagrees with the Canal Officer, the matter shall be referred for decision to the Divisional Canal Officer.
- (2) The decision of the Divisional Canal Officer shall be final, and the Canal Officer, if he is so directed by such decision shall subject to the provisions of section 27 cause to transfer the field channel from the present owner to the applicant.

27. Expenses to be paid by the applicant before transfer of field channel –

- (1) No such decision shall be made until the applicant has paid to the person named by the Canal Officer such amount as the Canal Officer determines to be paid as compensation for field channel so transferred together with all expenses incidental to such transfer.
- (2) The Canal Officer shall make recommendation for the payment of compensation under this section to Divisional Canal Officer who, in determining the compensation to be paid under this section, shall follow the provisions of the state land acquisition act

Samvat 1990 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 field channel transferred.

- (3) Any person aggrieved by the order of the Divisional Canal Officer regarding compensation may prefer an appeal, to the Superintending Canal Officer within thirty days of the order. The order of the Superintending Canal Officer on such appeal shall be final.

28. Conditions binding on applicant –

- (1) When a field channel is transferred to the applicant the following rules and conditions shall be binding on him and his representative in interest, namely :—
 - (a) All works necessary for the passage across such field channel, existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighboring lands shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Canal Officer.
 - (b) In case in which a field channel is transferred on the terms of a rent charge, the applicant or his representative in interest shall, so long as he occupies such field channel, pay rent for the same at such rate and on such days as are determined by the Canal Officer when the applicant is placed in occupation.
 - (c) The Canal Officer may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation.
- (2) If any field 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 field channel shall cease absolutely.

29. Construction and maintenance of field channels –

- (1) Whenever it appears expedient to the Canal Officer either on his own motion or on the application of an owner or occupier or beneficiary that with a view to utilising irrigation potential created by an irrigation work, field channels should be constructed in any area, he may cause to be served on the owner or occupier or beneficiary concerned a notice in the prescribed form containing the exact location of sluices or outlets on the irrigation works and specifying the area of irrigable land to be served by the same and direct them to construct such field channels at their own cost within a specified time which shall not be more than three months from the date of issue of the notice.
- (2) If the owner or occupier or beneficiary fails to construct the field channels in his land, as directed by the Canal Officer within the time prescribed under sub-section (1); the

Canal Officer may, after giving the owner or occupier a reasonable opportunity of being heard, construct the field channels at the cost of the Government and recover the cost plus 15% of the actual cost pro rata from the owners or occupiers or beneficiaries.

30. Maintenance of field channels –

- (1) It shall be the duty of owners or occupiers or beneficiaries to maintain the field channels in a proper state of repairs at their own cost.
- (2) If the Canal Officer is satisfied that any field channel is not being properly maintained, he shall, after providing an opportunity to the owner or occupier or beneficiary concerned to take such action as may be directed by him proceed to have such repairs made as he may consider to be suitable at the cost of the owners or occupiers or beneficiaries plus 15 % of the actual cost.

31. Acquisition of land for construction of field channels –

- (1) When there is any dispute between the owners or occupiers or beneficiaries for the construction of a field channel, the Canal Officer shall, acquire the land required for such construction.
- (2) The provisions relating to acquisition of land for the construction of water courses mentioned in section 15 shall apply for acquisition of land for the construction of field channels with the modification that the compensation payable shall be paid by the owners or occupiers or beneficiaries.

32. Use of land acquired under this Act- Land acquired under-

- (a) section 31 and not required for the purpose for which it was acquired, shall revert back to the original owner thereof after recovering its cost from him. The cost so recovered shall be paid back to the beneficiaries from whom compensation for such land was originally recovered under sub-section (2) of section 31; and
- (b) any other provision of this Act for any purpose other than that mentioned in section 31 shall be used only for irrigation works.

33. Preparation of draft scheme in culturable commanded area –

- (1) Notwithstanding any thing contained to the contrary in this Act and subject to the rules, that may be made by the Government in this behalf, an officer designated by the Government in this behalf may, on his own motion or on the application of not less than fifty percent of the owner 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, a sketch plan of the area proposed to be covered by the said scheme and particulars of the owners or occupiers 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 thirty 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 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-section (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 or beneficiary 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 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 or beneficiaries in the group or block of fields 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 or beneficiaries 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 owners or occupiers or beneficiaries 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 Government, or by any agency determined by the Government in that behalf, and the cost of the works so executed by the Government or by the said agency, as the case may be, shall be recoverable by the Government or the said agency as the case may be from the owners or occupiers or beneficiaries who fail, or indicate their inability, to execute or get executed the works as required.

- (9) The share of the individual owners or occupiers or beneficiaries of the cost of the works executed in the said group or block of fields by the Government or by the said agency, as the case may be, shall be as determined by the Government or by the said agency, as the case may be.

34. **Bar of Civil Courts jurisdiction** - Notwithstanding anything contained in this Act or any other law for the time being in force, no civil court shall have jurisdiction to entertain or decide any question relating to matters falling within this Chapter.

CHAPTER IV

REGULATION OF IRRIGATION SUPPLIES

35. **Application of the provisions of Chapter IV** - The provisions of this Chapter shall apply in respect of water from an irrigation work supplied under sections 37, 38 and 43.

36. **Supply of water from Irrigation work** - Water from an irrigation work may be supplied -

- (a) as provided in section 37;
- (b) on an application for irrigation or non-irrigation purposes as provided in section 38; or
- (c) under a scheme in accordance with the provisions of section 43.

37. **Regulation of water supply from irrigation works** - A Zilladar duly empowered by the Government by a notification in respect of any irrigation work or class of irrigation works may, after such inquiry as he deems fit, regulate in respect of any irrigation work for each year or part thereof or for a specified term of years at a time, as circumstances may require -

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

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

38. **Application for permission to use water from an irrigation work** -

- (1) Any person, desiring to have supply of water from an irrigation work for irrigating land not included in any area to which supply of water is regulated under section 37, shall make a written application to that effect to the Zilladar subject to any general or special order made by the Government determining the extent of lands for which water can be made available from such irrigation works such officer may, if in his opinion such supply can be made without detriment to the supply of water to lands included in any areas to which supply of water is regulated under section 37, order the supply of water and for such period not exceeding six years subject to such conditions as may be specified in such order.

- (2) If after a period of six successive years of supply of water made to any land referred to in sub-section (1) the occupier, owner or beneficiary of such land applies for the supply of water being made permanent, such application, with the opinion of the Zilladar, shall be forwarded to the Canal Officer concerned who shall take steps to include the land in the area to which supply of water is regulated by section 37.
- (3) The water rate leviable for the use of water for temporary cultivation under sub-section (1) shall be the normal water rate.
- (4) With the sanction of and subject to such conditions, payments and restrictions, as may be imposed by the Government or such officer as may be authorised by the Government in this behalf, the superintending canal officer may, without detriment to the supply of water to lands included in any area to which supply of water is regulated under section 37 give permission for water to be taken from an irrigation work, for use for domestic purposes, gharats, fish/cattle ponds and cottage industries.
- (5) If any person uses from an irrigation work without obtaining the permission required under this section, he shall in addition to any penalty he incurs under this Act, for such unauthorised use of water, be liable to pay water rate at such rate as may be determined by the prescribed officer, not being less than ten times and not exceeding thirty times the normal rate, he would otherwise have been required to pay, had he applied for and obtained the permission.

39. Non-supply of water in certain circumstances –

- (1) The supply of water to any water course or field channel or to any person, who is entitled to such supply shall not be stopped, except –
 - (a) whenever and so long as it is necessary to stop such supply for the purpose of maintenance of an irrigation work or execution of any work ordered by the competent authority,
 - (b) whenever and so long as any field channel by which such supply is received is not maintained in such repair as to prevent the wasteful escape of water thereof,
 - (c) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water,
 - (d) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water ,
 - (e) within the periods fixed from time to time by the Divisional Canal Officer of which due notice shall be given ,
 - (f) whenever there is diminution in the supply of the water in the irrigation work due to any natural or seasonal causes and so long as it is necessary to do so,
 - (g) for any reasons beyond the control of the Department.

40. Sale or subletting of right to use water of irrigation work –

- (1) No person entitled to use the water of any irrigation work shall sell or sublet or otherwise transfer his right to such use or use it for purposes other than irrigation.

- (2) Every right to the supply of water for agricultural purposes to any land or other immovable property shall be attached thereto and shall be presumed to have been so transferred whenever a transfer of such land or immovable property takes place.
- 41. Supply of water for irrigation of one or more crops –** When water from an irrigation work is supplied for the irrigation of one or more crops only the right to use such water shall be deemed to continue only until such crop or crops shall come into maturity, and to apply only to such crop or crops.
- 42. Power to prescribe the kind of crop to be grown under the irrigation area –**
- (1) Where the Government is satisfied that for the better cultivation of lands, and production of crops and due preservation and proper utilisation of water resources of any irrigation work or in the public interest, it is expedient to regulate the kind of crops that should be sown, planted or grown on lands under the irrigable command of an irrigation work or any part thereof and the period during which such crops should be sown, planted or grown on such lands, the Government may having regard to the soil characteristics climate, rainfall and water available, by order in writing, make a declaration to that effect. Such a declaration shall be given vide publicity in such manner by the Zilladar authorised by the Government, as he may think fit.
- (2) On such a declaration, the Zilladar, with the approval of the superior officer authorised by the Government, may specify by notice published in such manner as may be determined by him, the kind of crops that shall be sown, planted or grown on the lands under the irrigable command of the irrigation work or any part thereof, the area of crops, and the period during which such crops shall be sown, planted or grown. The Zilladar shall subject to the provisions of sections 39.(1) and 40 (2) thereupon by order regulate the supply of water from the irrigation work for sowing, planting and growing such crops during the periods specified in the order.
- (3) The Government may, by notification, determine the crops and the periods during which such crops may be sown, planted or grown and regulate supply of water for the purpose and lay down the extent of irrigation for sowing, planting or growing different crops on the lands under the irrigable command of an irrigation work.
- (4) On the publication of the notice under sub section (2) no persons shall sow plant or grow or allow any crop other than the crop or crops specified in such notice, to be sown, planted or grown on any land under the irrigable command of the irrigation work or any part thereof, specified in such notices and during the periods specified therein
- (5) Any person aggrieved by any notice given under sub section (2) may, within thirty days from the date of publication of such notice, file an appeal before such officer not below the rank of Divisional Canal Officer as the Government may appoint. The

Appellate Officer may on hearing the parties pass such order as he thinks fit; and thereupon the notice shall stand modified to such extent as may be specified in the order.

- (6) The person, who has sown, planted or grown any unauthorised crop or allowed any land to be sown, planted or grown with such unauthorised crop shall –
- (a) be liable for contravening the provisions of this section; and
 - (b) also be liable to pay such water rate as may be prescribed by the Government, not being less than five times and not exceeding ten times the water rates which he would otherwise have been required to pay in addition to any penalty he may incur under the Act for such unauthorised crop;

Provided that if no water is utilised either directly or indirectly from the irrigation work for growing any crop the provisions of sub-sections (4) and (5) shall not be applicable :

Provided further that it shall be incumbent upon the Zilladar to report the contraventions made by the owners or occupiers or beneficiaries in this behalf to the superior authority.

43. Preparation of draft schemes for supply of water from irrigation work –

- (1) Where in the opinion of the Government an irrigation work is likely to irrigate lands not exceeding 100 hectares in an area or as may be prescribed, the Government may, in the public interest, by notification prepare a draft scheme for supply of water from such irrigation work to such lands. The draft scheme shall provide for handing over the management of the irrigation work and distribution of water therefrom to the Water Committee appointed under section 45.
- (2) The draft scheme shall contain the following particulars, that is to say :–
 - (a) the area to which the scheme applied ;
 - (b) the survey numbers of lands included in such area and the names of owners and occupiers thereof ;
 - (c) the period or periods during which water will be supplied to such lands ;
 - (d) the crop or crops which will be permitted to be grown thereon ;
 - (e) the water rate at which water may be supplied to such land included in the scheme ;
 - (f) the amount to be paid by the Government for the management of the irrigation work to the Water Committee; and
 - (g) fixing a period of not less than three months from the date of publication of such notification, submission of objections or suggestions to such scheme.

- (3) After the publication of such notification, it shall also be published by the Canal Officer duly empowered in this behalf as soon as practicable in the language of the residents of the area through which the irrigation work passes in such place or places and in such manner as he thinks fit for the information of the owners and occupiers who are likely to be affected by such notifications.
- (4) After considering such objections and suggestions if any, as may have been received within the period fixed as aforesaid, the Government may, after making due inquiries sanction the draft scheme with or without any modification or may reject it.
- (5) The scheme as sanctioned under sub-section (4) shall be published in the village, the Panchayat concerned and at the headquarters of the tehsil and of the district in which the lands included in the scheme are situated, in such manner as the Government deems fit and shall on such publication be final.

44. Enforcement, variation and cancellation of the scheme –

- (1) The scheme shall come into force on such date as the Government may, by notification, appoint.
- (2) The scheme may at any time be varied by a subsequent scheme made, published and sanctioned in accordance with the provisions of section 43.
- (3) The scheme may at any time be cancelled by the Government by a notification.

45. Constitution functions and supersession of Water Committee –

- (1) After a scheme has come into force under sub-section (1) of section 44 the Government shall constitute a Water Committee to execute the scheme subject to the superintendence, direction and control of the Canal Officer appointed by the Government for the purpose.
- (2) The Water Committee shall consist of five persons elected by beneficiaries of lands included in the scheme from amongst themselves in the manner as may be prescribed.
- (3) The members of the Committee shall ordinarily hold office for a period of three years from the date of their election.
- (4) The Water Committee may meet from time to time, and may follow such procedure as it deems fit for the transaction of its business.
- (5) The Water Committee shall –
 - (a) manage the irrigation work and ensure proper distribution of water to the lands included in the scheme;
 - (b) decide the crops to be grown during any period or periods according to the provision of the scheme;

- (c) carry out day to day maintenance and repairs of the irrigation work;
 - (d) maintain the irrigation system of the irrigation work beyond the outlet in a fit state of supply of water;
 - (e) assist the Canal Officer –
 - (i) in detecting and preventing encroachment on the irrigation work and on the lands appertaining thereto;
 - (ii) for preventing damage to the irrigation work ;
 - (iii) for repairing any damage caused to the irrigation work ;
 - (f) have power to impose a penalty for unauthorised use of water, of use of water out of turn or for growing crops contrary to the provisions of the scheme ;
 - (g) maintain accounts of the amount paid to it in such manner as may be prescribed.
- (6) The penalty may consist of a fine not exceeding two hundred rupees.
- (7) Any person aggrieved by the decision of the Water Committee may within thirty days from the date of receipt of the decision of the Water Committee make an appeal to the Canal Officer or any officer duly empowered by the Government for the purpose.
- (8) The Government may not later than two years from the date of the order, call for and examine the record of any inquiry or proceeding underlying such order of the Water Committee, or of the officer appointed by it, for the purpose of satisfying itself as to the legality or propriety of any decision or order passed or as to the regularity of the proceeding, and it may pass any order upholding, annulling, modifying or reversing the order of the Water Committee or of any such officer:
- Provided that no order affecting any person shall be made unless such person is given a reasonable opportunity of being heard.
- (9) If at any time the Government is of opinion –
- (a) that the Water Committee has persistently made default in the performance of the function imposed on it by or under this Act ; or
 - (b) that the circumstances exist which render it necessary in the public interest so to do,
- The Government may by notification, supersede the Water Committee for such period, not exceeding two years as may be specified in the notification:
- Provided that before issuing a notification, under this subsection for the reasons mentioned in clause (a), the Government shall give a reasonable opportunity to the Water Committee to show cause why it should not be superseded and shall consider the explanation and objections, if any of the Water Committee.

- (10) Upon the publication of a notification under sub-section (9) superseding the Water Committee –
- (a) all the members shall, as from the date of supersession, vacate their offices as such;
 - (b) all the powers, functions and duties which may, by or under this Act be exercised, performed or discharged by the Water Committee shall, until the Water Committee is reconstituted under sub-section (11), be exercised, performed or discharged by the Canal Officer as the Government may direct;
 - (c) all property owned or controlled by the Water Committee shall until the Water Committee is reconstituted under sub-section (13) vest in the Government.
- (11) On the expiration of the period of supersession specified in the notification issued under sub-section (9), the Government may –
- (a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary ; or
 - (b) reconstitute the Water Committee by fresh election, and in such case any person who vacated his office under clause (a) of sub-section (9) shall not be deemed to be disqualified for election :

Provided that the Government may at any time before the expiration of the period of supersession, whether originally specified under sub-section (9) or as extended under this sub-section, take action under clause (b) of this sub-section.

CHAPTER V

LEVY AND RECOVERY OF WATER RATE

46. Levy of water rates – Whenever –
- (a) water is supplied, made available or used for purposes of irrigation or for purposes other than irrigation from any irrigation work belonging to the Government or constructed or maintained by or on behalf of the Government or through moisture retained for the irrigation of the preceding crop ; and
 - (b) water from any such work, by direct flow or percolation or by indirect flow, percolation drainage from or through adjoining land , irrigates any land under cultivation or flows into a reservoir and thereafter by direct flow or percolation or by indirect flow-percolation or drainage from or through or adjoining land irrigates any land under cultivation and, in the opinion of the Canal Officer or Zilladar such irrigation is beneficial to crops on such land ;

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

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

47. **Procedure for assessment** – The Zilladar shall prepare an assessment of the water charges for the lands in respect of which water was supplied, made available or used from an irrigation work, and serve the same on the owner or occupier or beneficiary through the village Lamberdar.
48. **Appeal** – An appeal against the assessment order of the Zilladar shall lie to the Canal Officer in the prescribed manner within twenty one days of the passing of the order.
49. **Notice of demand** – As soon as an assessment is made under section 47 or where an appeal has been preferred and disposed of under section 48, the Canal Officer shall serve a notice of demand in the prescribed manner for the amount of water charges assessed.
50. **Payment of water rates** – Any person on whom a notice of demand has been served under section 49 shall be liable to pay the same within the period fixed by the Government in this behalf.
51. **Liability when the person using water unauthorisedly cannot be found or when water runs waste :–**
- (1) If water supplied through any irrigation work is used in an unauthorised manner and if the person by whose act or neglect such use has occurred cannot be found after such enquiry as the Zilladar may deem sufficient the Zilladar after giving not less than 15 days notice to the owners, occupiers and beneficiaries of all lands benefited thereby and after hearing their representations, if any, make an order for the recovery of such charges as may be specified by the Government not exceeding thirty times the water rates for such use from such owners and occupiers in such proportion as he may find just, in addition to any penalty he may incur under the Act for such unauthorised use.

- (2) If water supplied through a water course and field channel be suffered to run to waste, and if, after enquiry, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, the person or all the persons chargeable in respect of the water supplied through such water course or field channel shall in addition to any penalty he incurs under the Act for such waste of water, be liable or jointly liable as the case may be for the charges, not exceeding ten times the water rates as may be specified by the Government.
- (3) All questions, arising under this section shall be decided by the Zilladar and any person aggrieved by the decision of Zilladar may prefer an appeal to Canal Officer within twenty days of the decision.
- (4) The decision made by the Zilladar under this section subject to any order passed by Canal Officer on appeal from such decision, if any, shall be final.
- (5) All charges for the unauthorised use or waste of water may be recovered, as water rates, in addition to any penalties incurred on account of such use or waste.

52. Water rate by whom payable when charged on land held by several owners – Where a water rate is charged on and held by several joint owners, occupiers or beneficiaries it shall be payable by such owners, occupiers or beneficiaries in proportion to the benefits which each individual owner, occupier or beneficiary derives from irrigation the common land to be determined by Zilladar at the time of making assessment whose assessment in this behalf shall be final.

CHAPTER VI

BETTERMENT CHARGE

53. Levy of betterment charges –

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

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

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

- (2) For the purpose of levy of betterment charge the Divisional Canal Officer shall by notification, specify the dates of commencement and completion of the construction, expansion, improvement or alteration of any irrigation work, and different dates of

commencement and completion of any irrigation work depending upon the date on which water is made available to such lands :

Provided that the provisions of sub-section (2) shall be deemed to have been satisfied in respect of Zamindari Khuls including their branches, sub-branches, outlets, water courses and supply channels taken over by the Government whether before or after the commencement of this Act.

54. **Determination of betterment charges** – The amount of betterment charges payable in respect of any land referred to in section 53 shall be such as the Government may, from time to time determine.
55. **Recovery of betterment charges** – The provisions of section 52 shall apply mutatis mutandis to the recovery of betterment charges.

CHAPTER VII

LEVY OF PROJECT PARTICIPATION CHARGES

56. **Levy of project participation charges** – The Government may at any time by notification levy a tax to be known as project participation charges on the owner, occupier or beneficiary of lands benefited by irrigation from irrigation projects constructed at the cost of the Government, in the manner and the proportion as may be prescribed.

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

Explanation II – A land shall not be deemed to be benefited merely by reason of the execution of repairs of an irrigation work wholly or partly at the expense of the Government.

57. **Enforcement of the provisions of this Chapter** – The Government may by rules provide for the manner in which, and the agency by whom, the provisions of the Chapter shall enforced.

CHAPTER VIII

OBTAINING LABOUR AND MATERIALS FOR IRRIGATION

WORK IN EMERGENCY

58. **Procedure for obtaining labour for works urgently required** –

(1) Whenever it appears to the Divisional Canal Officer or any Officer acting under his general or special orders in this behalf, that, unless some work or repair is immediately executed, such serious damage will happen to any irrigation work as to cause sudden and extensive public injury or serious interruption of the established course of irrigation and that labour necessary for the proper execution thereof cannot be obtained in the

ordinary manner in time to prevent such injury or interruption or to remedy it within a reasonable time, the Divisional Canal Officer or any officer acting under the said orders, may, by public proclamation by beat of drum require any able-bodied person, who reside or owns land in any village within eight kilometres of the place where the work is to be executed and whose name appears in the list hereafter mentioned to attend in person at such place and to carry out such duties as he may allot to him in connection with the execution of the work necessary for the safety of the particular irrigation work.

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

59. **Preparation of list of persons liable to carry out duties** – Subject to such rules as may be made in this behalf, the Divisional Canal Officer in consultation with the Collector shall prepare a list of persons liable to carry out the duties as aforesaid, and may from time to time add to or alter such list or any part thereof.
60. **Requisition of materials** – Whenever it appears to a Divisional Canal Officer or any officer acting under his general or special orders in this behalf, that it is essential for carrying out urgent works on any irrigation work to prevent public injury caused by damage to works, he may enter upon or into any immovable property in the neighbourhood of the irrigation work requiring immediate repair, or other work and take possession appropriate cut or remove any trees, timber, bamboos, mats, ropes, straw, earth, stone and other materials, and prepare an inventory of the materials taken. Such materials shall be paid for at the highest prices for which they are sold in the neighbourhood and in case damage is sustained by any person in consequence of the removal, seizure or cutting of any such material, compensation shall be paid for such damage by the Divisional Canal Officer in accordance with the procedure laid down in sections 67 and 68.
61. **Appeal** – Any person aggrieved by fixation of wages under sub-section (2) of section 58 may prefer an appeal within sixty days to the Superintending Canal Officer whose decision shall be final.

CHAPTER IX

DRAINAGE AND PREVENTION OF WATER LOGGING

62. **Power to prohibit obstructions** – Whenever it appears to the Government that injury to any land for public health or public convenience has arisen or may arise from the encroachment upon any irrigation work the Government may, by notification, prohibit, within limits to be defined in such notification, the formation of any encroachment, or may within such limits, order the removal or other modification of such encroachment.

63. Power to remove obstructions after prohibition –

- (1) The Divisional Canal Officer or other person authorised by the Government in that behalf may, after the notification under section 62, issue an order to the person causing or having control over any such encroachment to remove or modify the same within a time to be fixed in the order.
- (2) If within the time so fixed such person does not comply with the order, the Divisional Canal Officer may remove or modify the encroachment with the assistance of police force and recover the expenses involved in such removal or modification from the 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.

64. Preparation of schemes for drainage works –

- (1) Whenever it appears to the Government that any drainage work excluding field drain is necessary in the interest of public health or for improvement of any lands, or for the proper cultivation or irrigation thereof or that protection from floods or other accumulation of water or injurious salts or from erosion by a river, is required for any lands the Government may by notification declare that the drainage work shall be constructed 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) Divisional Canal Officer or any officer duly empowered under this Act shall cause public notice to be given at convenient places, stating that the Government intends to construct the drainage work excluding field drain referred to in sub-section (1)
- (3) The provisions contained in sections 11 and 12 regarding the acquisition of land for the construction of work shall apply, mutatis mutandis, to the construction of drainage work referred to in sub-section (1).

65. Scheme for field drains –

- (1) Notwithstanding anything contained to the contrary in sub-section (1) of section 64, the Divisional Canal Officer may cause a scheme for field drains 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, particulars of the owners or occupiers to be benefited and other persons who may be affected thereby and sketch plan of the area proposed to be covered by the scheme.

- (3) The provisions contained in section 14, 15 and 17 to 20 shall apply mutatis mutandis to the scheme drawn up for field drains.
- (4) The Divisional Canal Officer may construct the field drains on behalf of the owners or occupiers and recover the cost pro rata from the owners or occupiers.

CHAPTER X

AWARD OF COMPENSATION

- 66. Compensation for damage caused consequent on the exercise of powers conferred in this Act** – Compensation may be awarded in the event of only substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained:

Provided that no compensation shall be so awarded in respect of any damage arising from –

- (a) deterioration of climate or soil ; or
- (b) stoppage of navigation or of the means of floating timber or watering cattle ; or
- (c) stoppage or diminution of the supply of water in consequence of the exercise of the power conferred by section 3, if no use has been made of such supply within five years immediately before the date of issue of the notification under section 3 ; or
- (d) failure or stoppage to any water in an irrigation work where such failure or stoppage is due to –
 - (i) any cause beyond the control of the Department;
 - (ii) the execution of any repairs, alterations or additions to the irrigation work;
 - (iii) any measures considered necessary by the Divisional Canal Officer, for regulating the proper flow of water in the irrigation work or for maintaining the established course of irrigation ; or
 - (iv) circumstances mentioned under clause (a) to (g) of section 39 :

Provided further that any person who suffers loss from any stoppage or diminution of water supply to his lands due to any of the causes named in clause (d) of the preceding provision shall be entitled to such remission of the water rate payable by him as may be authorised by the Government.

- 67. Limitation of claims** – No claim for compensation under this Act for any damage shall be entertained after the expiration of two years from the time when the damage complained or commenced ; provided that the Divisional Canal Officer on sufficient cause shown to his satisfaction by the claimant for not making the claim within such period may condone the delay, and entertain the claim.

68. Compensation for damage caused by entry on land –

- (1) In every case of entry upon any land or building or the utilization of materials under sections 4,5,6,7 and 60 the Canal Officer or the person making the entry shall ascertain and record the extent of the damage if any, caused by the entry, or in the execution of any work, to any crop, tree, building or other property and the value of the materials taken or utilised and, within one month from the date of such entry compensation shall be tendered by the Canal Officer to the owner or occupier of the property , as the case may be.
- (2) If such a tender is not accepted within a week of the tender, the Canal Officer shall forthwith refer the matter for the purpose of determining the amount of compensation to the Divisional Canal Officer who shall decide the matter with the previous approval of the Superintending Canal Officer.
- (3) The Superintending Canal Officer either suo moto or on the application of the person concerned, when the matter has not been referred to the Divisional Canal Officer, may revise the order of the Canal Officer within a period of two years from the date of the order.

69. Claims to be preferred to the Divisional Canal Officer –

- (1) Unless otherwise provided all claims for compensation under this Act other than claims of the nature provided for in section 68 shall be made to the Divisional Canal Officer concerned.
- (2) The Divisional Canal Officer shall enquire into all such claims and determine the amount of compensation, if any, which should be awarded. In determining such amount, the Divisional Canal Officer shall be guided by the provisions of sections 23 and 24 of the State Land Acquisition Act Samvat 1990 :

Provided that 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 of the diminution of the annual net profits of such property caused by the exercise of the powers conferred by this Act :

Provided further that no order determining the amount of compensation shall be made by the Divisional Canal Officer under this section without the previous approval of the Superintending Canal Officer.

70. Appeal – Any person aggrieved by the order of the Superintending Canal Officer or the Divisional Canal Officer under section 68 or of the Divisional Canal Officer under section 69 may, within six months from the date of the communication of the order, prefer an appeal to the prescribed authority.

71. **Compensation when due and interest payable –** All sums of money payable for compensation awarded under this Chapter shall become due three months after the final award is made, and simple interest at the rate of nine percentum per annum shall be allowed on any such sum remaining unpaid after the said three months except when the non payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

CHAPTER XI

SETTLEMENT OF DISPUTES.

72. **Power of Canal Officer to order use of distribution of water –**

- (1) The Zilladar may, if he considers necessary, pass an order as to the use or distribution of water from a dam, storage tank or water course or field channel amongst persons in any land or a group of lands or in any holding or group of holdings in such land or lands:

Provided that no such order shall be passed by the Zilladar without making any inquiry into the matter and without giving notice to all the persons interested that on a day to be named in such notice, he shall proceed to inquire into the said matter.
- (2) Whenever a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use or maintenance of a dam, Storage tank or water course or field channel or field drain any such person may apply in writing to the Zilladar stating the matter in dispute.
- (3) On receipt of an application under sub-section (2), the Zilladar shall give notice to the other persons interested, and on a day to be named in such notice, he shall proceed to enquire into such matter and after the enquiry, he shall try to bring about a compromise between the parties.
- (4) On the failure of the Zilladar to bring about a compromise, he shall pass an interim order as regards the use or maintenance, of a Storage tank or water course or field channel or field drain pending the disposal of the dispute and he shall forward the dispute to the Canal Officer along with his findings and the Canal Officer shall pass an order thereon after giving a hearing to the parties.
- (5) The Divisional Canal Officer, within whose jurisdiction the dam, Storage tank or water course or field channel or field drain is situated, may, on his own motion or on an application made in this behalf by an aggrieved person, revise an order passed by a Canal Officer under sub-section (4).
Provided that no such application shall lie unless it is made within a period of thirty days from date of such order.
- (6) No order passed under this section shall be liable to be called in question in any civil court.

CHAPTER XII

SAFETY OF IRRIGATION WORK

73. **Limitation in respect of irrigation works** – Except as may be prescribed, no person other than the Canal Officer shall –

- (a) interfere with or encroach upon an irrigation work ;
- (b) construct any earthen or masonry bund or weir on any channel or stream, flowing above or below any irrigation work;
- (c) excavate within the vicinity of an irrigation work.

74. **Power to remove encroachment** – The Canal Officer may issue an order to the person concerned interfering or encroaching upon any irrigation work to remove the same within a time to be fixed in the order; and if the person concerned does not comply with the order, the Canal Officer may remove the encroachment and take such other action as may be necessary and recover the expenses thereof from the person concerned :

Provided that the Canal Officer may, in case of an emergency remove the encroachment with the assistance of police force or take the necessary action before issuing the order, and recover the expenses thereof from the person concerned.

75. **Obligation of owners in respect of works effecting safety of canals** –

- (1) Every owner whose tank, well, pond, spring pond or other reservoir is situated above any irrigation work shall maintain the bunds and surplusings arrangements of such tank well, pond, spring pond, spring channels or reservoir in a safe and efficient condition.
- (2) If, in the opinion of the Canal Officer, such bunds or surplusings arrangements of the works referred to in sub-section (1) are not in a fit condition and are likely to endanger the irrigation works below, then the owner concerned shall be served with a notice to bring such bunds or surplusings arrangement to a reasonably fit condition, in such manner and within such time as may be specified in the notice.
- (3) If the said owner fails to comply with the notice within the time specified or does repairs which in the opinion of the Canal Officer are unsatisfactory, the Canal Officer may carry out the necessary repairs with the assistance of police force, and recover the cost from the said owner.
- (4) From any order of the Canal Officer under this section an appeal shall lie within thirty days from the date of communication of the order to the Divisional Canal Officer, whose decision thereon shall be final .

76. **Prohibition to conduct operations near irrigation work** – No person shall, without permission of the Canal Officer, conduct any operation requiring the use of any explosives, within such distance, as may be prescribed, from the boundaries of an irrigation work.

77. **Fishing and plying of boats, etc** – No person shall have the right to fish or ply any vessel in a reservoir, pond or tank or across or along a canal or channel maintained or controlled by the Government without the permission in writing of the Government or of such officers as may be empowered in this behalf by the Government, and except under such terms and conditions and subject to payment of such fees as may be prescribed.
78. **Letting out of water from canal prohibited** – No person other than the Canal Officer or any Officer duly empowered in this behalf shall let out water from a canal or channel by cutting the bund, constructing a sluice or outlet or any other similar contrivance.
79. **Prohibition to abstract water from irrigation works** –
- (1) Save as provided in this Act no person shall abstract water for any purpose by the installation of pump sets or other electrical or mechanical devices for pumping water from an irrigation work except with the permission of the Divisional Canal Officer within whose jurisdiction such pump sets or other devices for abstraction of water are installed and subject to such terms and conditions and subject to the payment of such fees, as may be prescribed :

Provided that no such permission shall be issued unless the Divisional Canal Officer is satisfied that the surplus water available is required for irrigation work.
 - (2) If any person abstracts water from an irrigation work in violation of sub-section (1), the Divisional Canal Officer or any person authorised by him in that behalf shall have the power to enter any property, place or premises in which any construction is made or any pump set or other electrical or mechanical device is installed for the abstraction of the water and remove or cause to be removed such construction or pump set or other device.
 - (3) The Divisional Canal Officer or the person authorised under sub-section (2) may also confiscate any pump set or other electrical or mechanical device, if he is satisfied that such confiscation is necessary for the prevention of the abstraction of water.
80. **Depositing produce of mines in or near channels prohibited** – No person shall deposit any produce of mines or earth or any other material in or near any channel or field drain or other work, whether natural or artificial through which rain or other water flows into any irrigation work.
81. **Discharge of sewage or trade effluent in the water of irrigation work prohibited** – No person shall pollute, or discharge sewage effluent or trade effluent in the water of any irrigation work which may cause injury to the irrigation work or may deteriorate the quality of water of the irrigation work or may give rise to the growth of any weeds in the irrigation work.

CHAPTER XIII

OFFENCE AND PENALTIES

82. Offence under the Act – Whoever voluntarily or without proper authority :

- (i) damages, alters, enlarges, obstructs or encroaches upon any irrigation work ;
- (ii) interferes with increase or decreases the level and supply of water in or the flow of water from through, over or under, any irrigation work ;
- (iii) interferes with or alters the flow of a water in any river or stream so as to endanger, damage or render less useful any irrigation work ;
- (iv) being responsible for the maintenance of a water course or field channel, or using a water course or field channel, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorised distribution of water therefrom, or uses such water in an unauthorised manner ;
- (v) causes any vessel to enter or navigate on any irrigation work contrary to the rules for the time being prescribed by the Government ;
- (vi) While navigating on any irrigation work, neglects to take proper precautions for the safety of the irrigation work and of vessels thereon ;
- (vii) neglects, without reasonable cause, to carry out or to continue to carry out duties in connection with the execution of any repair or work, when lawfully bound to do under section 58 ;
- (viii) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant ;
- (ix) opens, shuts, or obstructs or attempts to open, shut or obstruct, any sluice or outlet or any other similar contrivance in any irrigation work ;
- (x) allows cattle to graze or be gathered on the irrigation work or pass any animal or vehicles on any irrigation work ;
- (xi) grows or allow to grow any crop in contravention of notification under sub-section (2) of section 42;
- (xii) uses water from an irrigation work without obtaining the permission required under sub-section (5) of section 38 ;
- (xiii) contravenes any of the provisions of the Act or of any rules made thereunder, shall be liable on conviction before a Judicial Magistrate for offences mentioned in clauses (i) to (viii) and (xii) to a fine not exceeding one thousand rupees or to imprisonment not exceeding one year or with both and for offences mentioned in clauses (vii), (ix) to (xi) and (xiii) to a fine not exceeding five hundred rupees but not less than fifty rupees or with imprisonment not exceeding two months or with both :

Provided that in case of a continuing offence a daily fine of not less than fifty rupees during the period of continuance of the offence shall also be imposed.

83. Person convicted under section 82 liable to repair of damage etc :

- (1) When any person is convicted of an offence under section 82, the Magistrate may order that the said persons, shall remove the obstruction or repair the damage or replace or repair the land mark, level mark, water gauge or apparatus in respect of which the conviction has taken place within a period to be fixed in such order.
- (2) Without prejudice to the powers of the Canal Officer under section 74, if such person neglects or refuses to obey such order with the period so fixed, the Canal Officer may carry out the work in accordance with such order and the cost thereof shall be recoverable from such person.

84. Abetment – Whoever abets any offence punishable under this Act, or attempts to commit any such offence shall be punished with the punishment provided in this Act for such offence.

85. Punishment under other laws not barred – Nothing contained in this Act shall prevent any person from being prosecuted under any other law for the time being in force for any act or omission made punishable by this Act.

86. Offence under this Act to be cognizable – Notwithstanding anything contained in the Code of Criminal Procedure, Svt. 1989 all offences punishable under this Act shall be cognizable and bailable.

87. Power to remove obstruction or damage to work – Any person incharge of, or employed upon any irrigation work, may remove from the land or buildings belonging thereto or may take into custody without a warrant, and without unnecessary delay take to a Judicial Magistrate or in his absence take to the nearest police station any person who within his view---

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

88. Payment of fine as reward to informant –

- (1) Whenever any person is fined for an offence under this Act, the court which imposes such fine or which confirms in appeal or revision a sentence of such fine or a sentence of which such fine forms part, may direct that the whole or any part of such fine may be paid by way of reward to any person who gave information leading to the detection of such offence or to the conviction of the offender.
- (2) If the fine is ordered to be paid as a reward by a court whose decision is subject to appeal or revision, the amount ordered to be so paid shall not be paid until the period specified for presentation of the appeal has elapsed, or if an appeal is preferred till after the decision of the appeal.

89. Offence by a Company –

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

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

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

Explanation – For purposes of this section –

- (a) "Company" means anybody corporate and includes a firm or other association of individuals; and
(b) "Director" in relation to a firm means a partner in the firm.

90. Power to impose fine – Notwithstanding anything contained in this Act, the Divisional Canal Officer or Canal Officer or Zilladar shall also be competent to impose fine not exceeding fifty rupees on a person who is found guilty of any offence specified in section 82 :

Provided that no such fine shall be imposed unless –

- (a) an inquiry, in the manner as may be prescribed is made; and
(b) the offender is given a reasonable opportunity of being heard.

CHAPTER XIV

MISCELLANEOUS

- 91. Recovery of cost of repairing damage when the offender is unascertainable –** When the person causing any damage alterations, enlargement or obstruction to any irrigation work without proper authority cannot, after such enquiry as the Canal Officer may deem sufficient, be ascertained or identified, the Canal Officer may, on a requisition from the Zilladar after giving not less than one month's notice to the owners, occupiers and beneficiaries of all lands benefited thereby, and after hearing their representations, if any, recover from them in such proportion as he thinks fit, the cost of repairing such damage, or of removing such alteration, or obstruction.

92. Recovery of sums –

- (1) Whenever any sum is to be paid by any person under this Act and the sum has not been paid within the time prescribed for such payment, it shall be recoverable with interest at the rate of nine per cent per annum as arrears of land revenue by a Canal Officer who shall have the powers of Assistant Collector under the Land Revenue Act.
- (2) When any sum is recovered as above under sub-section (1) of section 27 and sub-section (1) of section 38, it shall be paid to the person who is entitled to receive the same.

93. Appointment of officers and inspection of irrigation works –

- (1) The Government or, subject to such rules as may be made under this Act, any officer so empowered in this behalf, may :—
 - (a) appoint such officers with such designations, define the local limits of jurisdiction of such officers and assign to them respectively such powers and duties under this Act, as the Government or such officer, may deem fit;
 - (b) invest any government officer in any department either personally or in right of his office, or any other person with such powers and impose upon him such duties, under this Act, as the Government or such officer, may deem fit :

Provided that any assignment of, or investment with powers or duties made under this section may at any time be cancelled or varied by the Government or such officer.
- (2) The Government shall have the powers to direct in the manner prescribed the annual inspection of and submission of report on all irrigation works in respect of their proper maintenance and repair.

94. Power to summon and examine witnesses – Any officer empowered under this Act to conduct any enquiry may exercise all such powers connected with summoning and examining the witnesses and the production of documents as or conferred on a civil court by the Code of Civil Procedure,

Samvat 1977, and every such enquiry shall be deemed to be a judicial proceeding.

95. Bar of certain proceedings etc –

- (1) No suit, prosecution or proceeding shall lie against any officer or servant of the Government for any act done or purporting to be done under this Act without the previous sanction of the Government.
- (2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of the functions imposed by or under this Act.

- (3) Save as otherwise provided in this Act, no suit shall be instituted against the Government in respect of any act done unless the suit is instituted within one year from the date of the act complained of.

96. Village Panchayats –

- (1) The Government may, from time to time, empower the village panchayats to discharge any of the functions entrusted to the Government under this Act.
- (2) Without prejudice to the generality of the foregoing provisions, the Government may entrust the village panchayats with the responsibility of constructing and maintaining small irrigation works such as tanks, tube-wells, water course and field channel and regulate supply of water therefrom.

97. Formation of farmers co-operative societies – If the Government is of the opinion that it is in the public interest to entrust distribution of water supply when given in bulk at the head regulator or outlet to farmers co-operative societies, the Government may by rules provide for the formation of such societies on such conditions as may be prescribed.

98. Power to make rules – The Government may, by notification, make rules for the purpose of carrying into effect the provisions of this Act.

99. Repeal and saving – The Jammu and Kashmir State Canal and Drainage Act, Samvat 1963, is hereby repealed :

Provided that the repeal shall not affect -

- (a) the previous operation of the Act so repealed or anything duly done or suffered thereunder;
- (b) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed ; or
- (c) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed.

(Sd.)

G.A. KHAN,

Deputy Secretary to Government.



INCID SECTT. in

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