

SINDH IRRIGATION AND DRAINAGE AUTHORITY (SIDA) HYDERABAD

NOTIFICATION

No. MD/SIDA/NDP/RULES/ 20 /2000, dated January 05, 2000 - In exercise of the powers conferred by section 30 of the Sindh Irrigation and Drainage Authority Act, 1997, the Government, of Sindh are pleased to make the following rules:

Short title and commencement. Application. Definition.

1. (1) These rules may be called the Sindh Irrigation and Drainage Authority Rules, 1999.
- (2) They shall come into force at once.
2. (1) In these rules, unless there is anything repugnant in the subject or context:-
 - (i) "Act" means the Sindh Irrigation and Drainage Act, 1997
 - (ii) "aggregate water entitlement" means the share of each canal command supplied by the barrage under the "Water apportionment Accord, 1991";
 - (iii) "authorized water allocation" means the proportionate share (of the aggregate water entitlement) authorized by the AWB for each point of off-take in its canal system;
 - (iv) canal command" means the area commanded by a main canal off-taking from a barrage or a link canal/feeder canal;
 - (v) "concession" means the operating license granted by the Authority to an AWB or FO under these rules;
 - (vi) "financial year" means the year commencing on 1st July and ending on 30th June;
 - (vii) "section" means the section of the Act.
 - (viii) "water service charges" means the charges levied by the Authority for the supply of Irrigation Water, the evacuation of drainage effluent and/or other services associated with the . operation of the water management infrastructure as defined in these rules;
- (2) The words and expression used but not defined in these rules shall have same meanings as assigned to them in SIDA Act 1994.

Inventory of transferred assets and liabilities.

- 3 (1) Government shall as soon as may be cause to be prepared by external expertise an inventory of the assets and liabilities transferred to the Authority pursuant to the provisions of section 29 of the Act and such inventory shall be jointly signed by the Government and the Authority and the Government Shall bear all costs thereof.
- (2) Where the Government at any time transfers or causes to be transferred to the Authority such assets as it may decide, the inventory shall be prepared and signed as provided in sub-rule (1).
- (3) The assets transferred to the Authority shall be used and disposed of in accordance with these rules.

Title to water Management Infrastructure and other Assets.

4. (1) The water management infrastructure together with any other such infrastructure and land assigned or transferred by the Government to the Authority under section 29 shall be held and enjoyed by the Authority intrust on lease for a period of twenty five years.
- (2) The Authority's title to all movable property transferred to it by the Government shall be unqualified.
- (3) The Authority's title to assets other than those transferred to it by the Government, whether movable or immovable shall be such as agreed between the Authority and the party from which the assets are acquired.

Conditions governing use and disposal of transferred water management infrastructure and lands.

5. (1) The Authority shall not sell, dispose of, alienate, mortgage or otherwise encumber or transfer the usage of such infrastructure without the prior written permission of the government.
- (2) The Authority may, subject to normal commercial prodence, lease out any lands, house, building or workshop for a period not exceeding five years without prior written permission of the Government.
- (3) The Authority shall not undertake major modifications to such infrastructure without the prior written permission of the Government.
- (4) The permission in the foregoing sub-rules shall not be unreasonably withheld.

- (5) The Authority shall at all times ensure and facilitate inspection by the Government of such infrastructure.
- (6) Government shall not unduly and unreasonably restrict the commercial freedom of the Authority in managing the assets entrusted to it.
- (7) Where the Government is satisfied that the Authority has committed any breach of any of its obligations it may require the Authority to undertake such corrective actions as specified by the Government and where such corrective actions are not legally possible, the Authority shall pay to the Government such compensations as the Government may determine for the loss sustained by the government by the breach committed by the Authority.
- (8) Nothing in the preceding rule shall apply to any water management infrastructure, lands or other assets acquired and held by the Authority other than those acquired by it by transfer from the Government.

Transfer of Authority employees to AWB.

- 6. (1) On the establishment of an AWB under section 23-
 - (a) the employees of the Authority working within the jurisdiction of such AWB shall stand transferred to it in accordance with the provisions of the Sindh Area Water Board, Farmer Organizations and Water course Associations Regulations, 1982;
 - (b) all assets and liabilities of the Authority located in or pertaining to the area of jurisdiction of the AWB shall stand transferred to it on such terms and conditions as may be determined by the Government.
- (2) The inventory of such assets and liabilities shall jointly be signed by the Authority and the concerned AWB and the assets and liabilities shall be entered in the balance sheet of the AWB according to the Accounting Standards of the Pakistan Institute of Chartered Accountants.
- (3) The water management infrastructure together with any other such infrastructure and lands assigned or transferred by the Authority to the AWB under these rules shall be held and enjoyed by the AWB in trust from the Authority for a period of twenty years.
- (4) The AWB's title to all movable property, transferred to it by the Authority shall be unqualified.
- (5) The AWB's title to assets other than those transferred to it by the Authority, whether movable or immovable shall be such as agreed to between the AWB and the party from which the assets are acquired.

Assigning of concession to operate water management infrastructure to AWBs and/or Farmer Organization and nature of title to assets.

- 7. (1) The Authority shall assign to an AWB on the date of its establishment a concession to operate, maintain, develop and improve the water management infrastructure and associated lands located within the area of jurisdiction of that AWB.
 - (2) Such concession shall transfer to the AWB leasehold title to the water Management infrastructure and associated lands in the jurisdiction of AWB's area on the terms and conditions and for the un-expired period of the leasehold title enjoyed by the Authority and such infrastructure and lands shall be held and enjoyed by the AWB in trust from the Authority, subject to the provision of sub-rule (5).
 - (3) The AWB's title to all movable property transferred to it by the Authority shall be un-qualified.
 - (4) The AWB shall maintain, manage and improve the water management infrastructure and lands transferred to it by the Authority with all due prudence and care and in accordance with its mandate, subject only to the conditions that the AWB -
 - (i) Shall not sell, dispose of, alienate mortgage or otherwise encumber or transfer the usage of such infrastructure without the prior written permission of the Authority;
- Provided that such permission shall not be unreasonably withheld and the AWB may, subject to normal commercial prudence, lease out any such transferred land, house, building or workshop for a period not exceeding five years without such written permission.
- (ii) Shall not undertake major modifications to that infrastructure without prior written permission from the Authority.
 - (iii) Shall at all times ensure and facilitate inspection by the Authority or Government of such infrastructure.

- (5) Where Authority is satisfied that the AWB has committed any breach of any of its obligations it may require the AWB to undertake such corrective actions as specified by the Authority and where such

corrective actions are not legally possible the AWB shall pay to the Authority such compensation as the Authority for the loss caused to it by breach.

(6) Nothing in sub-rule (4) and (5) shall apply to any water management infrastructure or other assets acquired and held by the AWB other than these acquired by it by transfer from the Authority.

(7) At the date of establishment of an FO, the AWB of that area shall assign to it a concession to operate, maintain, develop or improve the water management infrastructure and associated lands in the area of jurisdiction of that FO.

(8) Such concession shall transfer to the FO the leasehold title to such infrastructure and lands on the terms and conditions and for the expired period of, the lease hold title enjoyed by the AWB, and such infrastructure and lands shall be held and enjoyed by the FO in trust from the AWB. Provided that such concession shall be renewable normally of a period of not less than five years and that on the occasion of such transfer, the AWB and the FO shall jointly sign an inventory of the assets transferred.

Determination of water Service and other charges.

8. (1) Subject to other rules, the Authority shall levy water rates for the supply of water not later than the first day of the financial year and these rates shall be applicable throughout the Rabi and Kharif seasons of that financial year.

Provided that where the Authority fails to levy such rates by the due date, the rates applicable in the previous financial year shall be deemed to apply, till the revised rates are levied by the Authority.

(2) The water rates may be levied for each canal command within the area of jurisdiction of the Authority and shall to the maximum possible avoid across subsidies between or within canal commands in its area of jurisdiction.

(3) An AWB, shall propose the water charges for the area of its jurisdiction and such charges shall be levied as and when approved by the Authority.

(4) The Authority shall, levy water rates in accordance with the provisions of section 21 and submit to the Government detailed proposals governing the classification of drainage systems in its area of jurisdiction and the recovery of the operating and maintenance costs pertaining thereto.

(5) In the determination of charges for non-agricultural users of water or for any non-water service provided by the Authority or the AWB; the Authority or the AWB concerned shall ensure that the rates are annually reviewed and levied on the basis of the true costs of provision of such services.

Enforcement of Liability to pay Water Service Charges.

9. (1) The Authority shall, not later than six months after the end of each agricultural season, prepare a consolidated statement for each canal system showing the water charges assessment and recovery rates for the season together with the accumulated arrears, and cause the statement to be published in at least three newspapers in the province.

(2) The surcharges for late payment of any water rate; drainage cess or other service charge levied by the Authority shall be fixed by the Authority at a level not lower than the overdraft rate prevailing at that time in the commercial banking sector.

(3) Where any person or entity incurs a financial obligation to the Authority arising from the provision of water supply and fails fully to fulfill that obligation within a period of three months from the date at which that obligation becomes due, the Authority shall issue to that person or entity a written notice of its intention to suspend water supply or other services to the defaulter with effect from the commencement of the following cropping seasons, and where such sums remain outstanding on expiry of the prescribed period, the Authority shall proceed to recover the outstanding arrears in accordance with the Act.

(4) The provisions of this rule shall mutatis mutandis apply to the AWB.

Aggregate water entitlements of canal commands and liability of the Authority

10. (1) The Authority shall with the approval of the Government determine and publish the aggregate water entitlement for each canal commands supplied by the barrages.

(2) The aggregate water entitlement under sub-rule (1) shall be determined on the basis of the designed discharge at headworks for the command area, or to the infrastructure for water extraction, conveyance, storage or drainage within that command area since the commissioning of the canal system; or on the increased requirement for industrial, domestic environmental, or health-related water usage in that command area which have occurred since commissioning of that canal system.

(3) The aggregate water entitlement of a canal system shall constitute the basis on which-

- (a) the Authority shall supply water to that canal command prior to the establishment of an AWB in that command;
- (b) the Authority shall establish periodic contracts of supply with an AWB,
- (c) the AWB shall establish the authorized water allocation for the points of off-take within its canal system.

(4) Where an AWB decides that its aggregate water entitlement would, in any given season/year generate irrigation supplies surplus to its requirements, such surplus part of its entitlements may form the subject of a contract of sale between that AWB and the Authority or any other AWB.

(5) The Authority shall permit no reduction in the supply of water to any canal system or AWB relative to its aggregate entitlement in any one period without a proportionate and corresponding reduction in the supplies to all other system/AWBs which it supplies, except where-

- (a) The total quantum of water available to the Authority at its barrages falls below 10% of the absolute allocations to the provinces of Sindh and Balochistan under the Provincial Water Accord of 1991; or
- (b) Due to flood or other climatic event, a canal system/AWB, requests a reduction in its supply; or
- (c) Maintenance works are required to the headworks supplying a canal system/AWB, provided always that such works can not be carried out in some other period more acceptable to the AWB; or
- (d) Due to Force Majeure (but not otherwise) the Authority is unable to meets its obligations.

Explanation: For the purpose of this sub-rule Force Majeure means an even which is beyond the reasonable control of the Authority and which makes performances of its obligations impossible or impracticable.

(6) Where the total quantum of water available to the Authority falls below the level defined in sub-rule (5) the Authority may, for the period of such deficit, operate an interim system of rotation/reduction among the canal commands/AWBs which it supplies.

(7) After consultation with the AWBs and approval the Authority shall publish a Manual of Procedures governing the application of such system of rotation/reduction among the canal system.

(8) Where the Authority fails to supply the aggregate water entitlement of a canal system for reasons other than those provided for in sub-rule (5)-

- (a) The Government shall require the Authority to undertake such remedial measures as specified by it as deemed fit by the Authority to prevent such failure in future;
- (b) The Authority shall refund to the water users affected by that failure the amount of pre-paid water charges (if any) corresponding to the deficit in the supply of water relative to the aggregate water entitlement of that canal system/AWB.

(SYED ALI GOHAR SHAH)
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