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राजस्थान विधान मंडल के अधिनियम

LAW DEPARTMENT

NOTIFICATION

Jaipur, November 18, 1954

No. F. 12(26)L/53.— — — The following Act of the the Rajasthan State Legislature has received the assent of the President on the 6th day of November, 1954 and is hereby published for general informations:—

The Rajasthan Irrigation and Drainage Act, 1954

(Act No. XXI of 1954)

(Received the assent of the President on the 6th day of November, 1954)

An

Act

to regulate irrigation and drainage in Rajasthan.

Be it enacted by the Rajasthan State Legislature as follows :—

1. Short title and extent. — (1) This Act may be called the Rajasthan Irrigation and Drainage Act, 1954.

(2) It extends to the whole of Rajasthan.

2. Commencement.— It shall come into force on such date and in such areas as the State Government may by notification in the Rajasthan Gazette, specify from time to time.

3. Interpretation. — (1) In this Act, unless the context otherwise requires,—

(i) "Irrigation Officer" means an Officer appointed under this Act to exercise control or jurisdiction over an irrigation or drainage work or works;

"Superintending Irrigation Officer" means an officer appointed under this Act to exercise control over irrigation and drainage works in a circle constituted under section 4;

"Divisional Irrigation Officer" means an Officer appointed under this Act to exercise control over irrigation and drainage works in a division constituted under section 4;

"Sub-Divisional Irrigation Officer" means an Officer appointed under this Act to exercise control over all irrigation and drainage works in a sub-division constituted under section 4;

(ii) "Irrigation works" means a work or system of works, natural or artificial, not being a minor irrigation work as defined in section 2 of the Rajasthan Minor Irrigation Works Act, 1953, and includes—

(a) any canal, channel, pipe or reservoir constructed, maintained or controlled by the State Government for the supply or storage of water,

(b) any work, embankment, structure or supply and escape-channel connected with such canal, channel, pipe or reservoir,

(c) any water course,

(d) any part of a river, stream, lake or natural collection of water or natural drainage channel to which the State Government applies the provisions of Part II of this Act;

(iii) "drainage work" includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, but does not include works for the removal of sewage from towns;

(iv) "water course" means any channel, not maintained at the cost of Government, which is supplied with water from a canal, channel, pipe or reservoir and includes any subsidiary work belonging to such channel;

(v) "outlet" means an opening constructed in a canal through which water passes into a water course or directly on to any land.

(2) The provision of the General Clauses Act, 1897, of the Central Legislature, shall mutatis mutandis apply, so far as may be, to this Act in the same manner as they apply to a Central Act.

4. Territorial divisions and appointment of officers. – (1) For the purposes of this Act–

(i) the territories of the whole State shall consist of such number of circles,

(ii) every circle shall consist of such number of divisions, and

(iii) each division shall consist of such number of subdivisions,

as the State Government may, from time to time, determine and notify in the Rajasthan Gazette; and all circles, divisions and sub- divisions existing on the date on which this Act comes into force shall be deemed to be circles, divisions and sub- divisions constituted and notified under this section.

(2) The State Government may, by notification in the Rajasthan Gazette–

(a) create new, or abolish existing, circles, divisions and sub-divisions, or

(b) define or alter the limits of any of them.

(3) The State Government may, from time to time, by notification in the Rajasthan Gazette, appoint–

(i) an officer to exercise general control over all irrigation and drainage works throughout Rajasthan, and

(ii) such other officers as it considers necessary to exercise control over irrigation and drainage works in a circle or a division or a sub- division constituted under sub- section (1).

(4) The state Government may, from time to time, declare by notification in the Rajasthan Gazette, the officers by whom and the local limits within which all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

(5) All officers mentioned in clause (i) of sub-section (1) of section 3 shall be respectively subject to the orders of such officers as the State Government from time to time directs.

PART II

Of the Application of Water for Public Purposes

5. Notification to issue when water supply is to be applied for public purposes. – Whenever it appears expedient to the State Government that the Water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water should be applied or used by the State Government for the purpose of any existing or projected irrigation or drainage work, the State Government may, by notification in the Rajasthan Gazette declare that the said water will be so applied or used after a day to be named in the said notification not being earlier than three months from the date thereof.

6. Powers of irrigation officers. – At any time after the day so named any irrigation officer, acting under the orders of the State Government in this behalf, may enter on any land or remove any obstructions and may close any channels, and do any other thing necessary for such application or use of the said water.

7. Notice inviting claims for compensation. – As soon as is 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 apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 8 may be made before him.

8. Matter for which compensation shall not be or may be awarded. – (1) No compensation shall be awarded for any damage caused by–

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

But compensation may be awarded in respect of any of the following matters:–

- (e) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or, under ground, in use at the date of the said notification;
- (f) stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification;

- (g) stoppage or diminution of supply of water through any natural channel which has been used for the purposes of irrigation within the five years next before the date of the said notification;
- (h) damage done in respect of any right to a water course or the use of any water to which any person is entitled under Part IV of the Indian Limitation Act, 1908 or under the Indian Easements Act, 1882 of the Central Legislature as adapted to Rajasthan;
- (i) any other substantial damage not falling under any of the above clauses (a), (b), (c) or (d) and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

(2) In determining the amount of such compensation, regard shall be had to the diminution in the market value, at the time of awarding compensation, of the property in respect of which compensation is claimed and where such market value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property caused by the exercise of the powers conferred by this Act.

(3) No right to any such supply of water as is referred to in clauses (e), (f) and (g) of sub-section (1), in respect of a work or channel not in use at the date of the notification, shall be acquired as against the State Government except by grant or under Part IV of the Indian Limitation Act, 1908, or under the Indian Easements Act, 1882 of the Central Legislature as adapted to Rajasthan.

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

9. *Limitation of claims.* – No claim for compensation for any such stoppage, diminution or damage shall be made after the expiration of one year from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

10. *Enquiry into claims and amount of compensation.* – (1) The Collector shall proceed to enquire into any such claim and to determine the amount of compensation, if any, which should be given to the claimant.

(2) Except as otherwise provided in this Act, the provisions of the law relating to compulsory acquisition of land in force at the time when any inquiry under sub-section (1) is made shall apply to every such inquiry.

11. *Abatement of rent on interruption of water supply.* – Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water supply, in

respect of which compensation is allowed under section 8, takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

12. *Enhancement of rent on restoration of water supply.* – (1) If a water supply increasing the value of such holding is afterwards restored to the said land, the rent of the tenant may be enhanced in respect of the increased value of such land due to the restored water supply, to an amount not exceeding that at which it stood immediately before the abatement.

(2) Such enhancement shall be on account only of the restored water supply and shall not affect the liability of the tenant to enhancement of rent on any other ground.

13. *Compensation when due.* – (1) All sums of money payable for compensation under this part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of.

(2) Simple interest at the rate of six per cent per annum shall be allowed on any such sum remaining unpaid after the said three months except where the non-payment of such sum is caused by the willful neglect or refusal of the claimant to receive the same.

Part III

On the Construction and Maintenance of Works

14. *Power to enter etc.* – (1) Any irrigation officer or other person acting under the general or special order of an irrigation officer, may enter upon any lands adjacent to any irrigation work, or on or through which an irrigation work 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 or water gauges, and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected work under the charge of the said irrigation officer.

(2) Where such inquiry cannot otherwise be completed, such officer or other person may for reasons to be recorded in writing cut down and clear away any part of any standing crop, fence or jungle.

(3) Such officer or person may also enter upon any land, building or water course on account of which any water rate is chargeable for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water rate, and of doing all thing necessary for the proper regulation and management of such irrigation work.

(4) If such officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any irrigation work, 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.

(5) In every case of entry under this section the irrigation officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section and in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector; and such decision shall be final.

15. *Power to enter for repairs and prevent accidents.* – (1) In case of any accident happening or being apprehended to an irrigation work any divisional irrigation officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such irrigation work, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

(2) In every such case such irrigation officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the irrigation officer shall refer the matter to the Collector who shall proceed to award compensation for the damage.

16. *Application by persons desiring to use water.* – (1) Any person desiring to use the water of any irrigation work may apply in writing to the divisional or sub-divisional irrigation officer requesting him to construct or improve a water course at the cost of the applicant.

(2) The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional Irrigation Officer, and how the payment is to be made.

(3) When the assent of the Superintending Irrigation Officer is given to such application, all the applicants shall, after the application has been duly attested before the Collector, be jointly and severally liable for the cost of such works to the extent mentioned therein.

(4) Any amount becoming due under the terms of such application and not paid to the divisional irrigation officer, or the person authorised by him to receive the same, on or before the date on which it becomes due, shall on the demand of such officer, be recoverable by the Collector, as if it were an arrear of land revenue.

17. *Government to provide means of crossing irrigation works.* – (1) There shall be provided, at the cost of Government, suitable means of crossing

irrigation works constructed or maintained at the cost of Government at such places as the State Government think necessary for the reasonable convenience of the inhabitants of the adjacent lands.

(2) On receiving a statement in writing, signed by not less than five of the owners of such lands, to the effect that suitable crossings have not been provided on any irrigation work, the Collector shall cause enquiry to be made into the circumstances of the case, and, if he thinks that the statement is established, he shall report his opinion thereon for the consideration of the State Government and the State Government shall cause such measures in reference thereto to be taken as it thinks proper.

18. *Persons using water course to construct works passing water across roads etc.* – (1) The Divisional Irrigation Officer may issue an order to the persons using any water course to construct suitable bridges, culverts, or other works for the passage of the water of such water course across any public road, irrigation work or drainage channel in use before the said water course was made, or to repair any such works.

(2) Such order shall specify a reasonable period within which such construction or repair shall be completed; and if, after the receipt of such order the persons to whom it is addressed do not within the said period, construct or repair such works to the satisfaction of the said irrigation officer, he may, with the previous approval of the superintending irrigation officer, himself construct or repair the same, and if the said persons do not when so required, pay the cost of such construction or repairs as declared by the divisional irrigation officer, the amount shall, on the demand of the divisional irrigation officer, be recoverable from them by the Collector, as if it were an arrear of land revenue.

19. *Adjustment of claims between persons jointly using water course.* – (1) If any person, jointly responsible with others for the construction or maintenance of a water course or jointly making use of a water course with others, neglects or refuses to pay his share of the cost of such construction or maintenance or to execute his share of any work necessary for such construction or maintenance, the Divisional or Sub-Divisional Irrigation Officer, on receiving an application in writing from any person injured by such neglect or refusal shall serve notice on all the parties concerned that on the expiration of a fortnight from the service, he will investigate the case accordingly, and make such order thereon as to him seems fit.

(2) Such order shall be appealable to Commissioner whose order thereon shall be final.

(3) Any sum directed by such order to be paid within a specified period, may if not paid within such period, and if the order remains in force, be recovered by the Collector from the person directed to pay the same, as if it were an arrear of land revenue.

20. Supply of water through intervening water course. – (1) Whenever application is made to a Divisional Irrigation Officer for a 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 existing water course, he shall give notice to the person 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 enquiry on such day, the Divisional Irrigation Officer shall determine whether, and on what condition, the said supply shall be conveyed through such water course.

(2) When such officer determines that a supply of water from any irrigation work may be conveyed through any water course as aforesaid, his decision shall, when confirmed or modified by the superintending irrigation officer, be binding on the applicant and also on the persons responsible for the maintenance of the said water course.

(3) Such 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 divisional or superintending irrigation officer may determine.

(4) Such applicant shall also be liable for his share of the cost of maintenance of such water course so long as he uses it.

21. Application for construction of new water course. – Any person desiring the construction of a new water course may apply in writing to the Divisional Irrigation officer stating–

- (i) that he has endeavored 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 said irrigation officer, 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.

22. Procedure of irrigation officer thereupon. – If the Divisional Irrigation Officer considers–

- (1) that the construction of such water course is expedient;

And (2) that the statements in the application are true;

he shall call upon the applicant to make such deposit as the Divisional Irrigation Officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section 28, and upon such deposit being made, he shall cause enquiry to

be made into the most suitable alignment for the said water course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof and shall forthwith publish a 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.

23. *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 Divisional Irrigation Officer, stating—

- (i) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water course;
- (ii) that he desires the said irrigation officer, 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.

(2) If the Divisional Irrigation Officer considers—

- (a) that the said transfer is necessary for the better management of irrigation from such water course;

And (b) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Irrigation Officer 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 28 in respect of such transfer; and upon such deposit being made, he shall publish a notice of the application in every village.

24. *Objection to construction or transfer applied for.* – (1) Within thirty days from the publication of a notice under section 22 or section 23, as the case maybe, any person interested in the land or water course to which the notice, refers, may apply to the Collector by petition, stating his objection to the construction or transfer for which application has been made.

(2) The Collector may either reject the petition or may proceed to inquire into the validity of the objection giving previous notice to the Divisional Irrigation Officer of the place and time at which such inquiry will be held.

(3) The Collector shall record in writing all orders passed by him under this section and the grounds thereof.

25. *When applicant may be placed in occupation.* – If no such objection is made, or (where such objection is made) if the Collector over-rules it, he shall give notice to the Divisional Irrigation Officer and shall proceed to place the said applicant in occupation of the land marked out or of the water course to be transferred as the case may be.

26. Procedure when objection is held valid. – If the Collector considers any objection made as aforesaid to be valid, he shall inform the Divisional Irrigation Officer accordingly, and, if such officer see fit, he may, in the case of an application under section 21, alter the boundaries of the land so marked out and may give fresh notice under section 22.

27. Procedure when irrigation officer disagrees with Collector. – If the irrigation officer disagrees with the Collector, the matter shall be referred to the Commissioner for decision. Such decision shall be final and the Collector, if so directed, shall, subject to the provisions of section 28, cause the said applicant to be placed in occupation of the land so marked out or of the water course to be transferred as the case may be.

28. Expenses to be paid by applicant. – (1) No such applicant shall be placed in occupation of such land or water course until he has paid to the person named by the Collector such amounts as may be determined to be due as compensation for the land or water course so occupied or transferred, and for any damage caused by the marking out of occupation of such land, together with all expense incidental to such occupation or transfer.

(2) 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 if it were an arrear of land revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

29. Conditions binding on applicant placed in occupation. – (1) When any such applicant is placed in occupation of land or of a water course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest:–

- (i) All works necessary for the passage across such water course or water courses, existing previous to its construction and of the drainage intercepted by it, and for affording proper communication across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Irrigation Officer;
- (ii) Land occupied for a water course under the provisions of section 22 shall be used only for the purpose of such water course;
- (iii) The proposed water course shall be completed to the satisfaction of the Divisional Irrigation Officer within one year after the applicant is placed in occupation of the land;

In cases in which land is occupied or a water course is transferred on the terms of a rent charge–

- (iv) The applicant or his representative in interest shall, so long as he occupied such a 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;
- (v) If the right to occupy the land ceases owing to breach of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such persons as the Collector determines;
- (vi) 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 becomes due, as if it were an arrear of land revenue, and shall pay the same, when recovered to the person to whom it is due.

(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.

30. *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.

Part IV

On the Supply of Water

31. *Water supply to be subject to rules.* – In the absence of a written contract, or so far as any such contract does not extend, every supply of water from an irrigation work shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the State Government in respect thereof.

32. *Conditions of water supply.* – Such contracts and rules must be consistent with the following conditions:–

- (a) The Divisional Irrigation Officer may not stop the supply of water to any water course, or to any person, except in the following cases:–

- (i) Whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority and with the previous sanction of the State Government;
 - (ii) Whenever and so long as any water course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom;
 - (iii) Within periods fixed from time to time by the Divisional Irrigation Officer.
- (b) No claim shall be made against the State Government for compensation in respect of loss caused by the failure or stoppage of the water in an irrigation work by reason of any cause beyond the control of the State Government, or of any repairs, alterations or additions to the irrigation work or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Irrigation Officer considers necessary; but the person suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is authorised by the State Government.
- (c) If the supply of water to any land irrigated from an irrigation work be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Divisional Irrigation Officer may award to the petitioner reasonable compensation for such loss.
- (d) When the water of an irrigation work is supplied for irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity and to apply only to that crop; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year.
- (e) Unless with the permission of the Superintending Irrigation Officer, no person entitled to use the water of any irrigation work, or any work, building or land appertaining to any irrigation work, shall sell or sublet or otherwise transfer his right to such use; provided that the former part of this clause shall not apply to the use, by a cultivating tenant, of water supplied by the owner of a water course for the irrigation of the land held by such tenant.

But all contracts made between the State Government and the owner or occupier of any immovable property, as to the supply to water of such property, shall be transferred therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place.

- (f) No right to the use of the water of an irrigation work shall be, or be deemed to have been, acquired under part IV of the Indian Limitation Act, 1908, or under the Indian Easements Act, 1882, of the Central Legislature as adapted to Rajasthan; nor shall the State Government be bound to supply any person with water except in accordance with the terms of a contract in writing.

Part V

Of Water Rates

33. *Liability when persons 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 can not 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.

34. *Liability when water runs to waste.* – If water supplied through a water course be suffered to run to waste, and if, after inquiry by the Divisional Irrigation Officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such course, shall be jointly liable for the charges made in respect of the water so wasted.

35. *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 or waste.

(2) All questions under section 33 or section 34 shall be decided by the Divisional Irrigation Officer subject to an appeal to the Superintending Irrigation Officer, or such other appeal as may be provided under section 60.

36. *Charge on occupier for water how determined.* – (1) The rates to be charged for water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the State Government and such occupiers as accept the water shall pay for it accordingly.

(2) A rate so charged shall be called the 'Occupier's' rate.

(3) The rules here in before referred to may prescribe and determine what persons or classes of persons are to be occupiers for the purposes of this section, and may also determine the several liabilities, in respect of the payment of the occupier's rate, of tenants and of persons to whom tenants may have sub- let their lands, or of proprietors and of persons to whom, proprietors may have let the lands held by them in cultivating occupancy.

37. "Owner's rate". – In addition to the occupier's rate, a rate, to be called the 'owner's rate', maybe imposed, according to rules to be made by the State Government, on the owners of irrigated lands, in respect of the benefit which they derive from such irrigation.

38. Amount of owner's rate. – The owner's rate shall not exceed the sum which, under the rules for the time being in force for the assessment of land revenue, might be assessed on such land, on account of the increase in the annual value or produce thereof caused by the irrigation, and for the purpose of this section only, land which is held free of revenue, shall be considered as though it were temporarily settled and liable to payment of revenue.

39. Owner's rate, when not chargeable. – No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land revenue at irrigation rates during the currency of such assessment.

40. Certified dues recoverable as land revenue. – Subject to the provisions of section 41, any sum lawfully due under this part, and certified by the Divisional Irrigation Officer to be so due, which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land revenue.

41. Lambardars or Patels may be required to collect irrigation dues. – The Collector may require the Lambardar or Patel, if any, of any local area to collect any sums payable under this Act in respect of any land or water in such local area, and deposit the amount so collected in the State Treasury as directed by the Collector, and in the event of any person failing to pay any sum so required, it shall be recovered from him as an arrear of land revenue.

Part VI

Of Drainage

42. Power to prohibit obstructions or order their removal. – (1) Whenever it appears to the State Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage channel, the State Government may, by notification published in the Rajasthan Gazette, prohibit, within limits to be defined in such

notification, the formation of any obstruction or may, within such limits, order the removal or other modification of such obstruction.

(2) Thereupon so much of the said river, stream or drainage channel as is comprised within such limits, shall be held to be a drainage work as defined in section 3.

43. Power to remove obstructions after prohibition. – (1) The Divisional Irrigation Officer, or other person authorised by the State Government in that behalf, may, after such publication, issue an order to the person, causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

(2) If, within the time so fixed, such person does not comply with the order, the said irrigation officer may himself remove or modify the obstruction and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land revenue.

44. Preparation of schemes for works of improvement. – Whenever it appears to the State Government that any drainage works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands, the State Government may cause a scheme for such drainage works to be drawn up and published together with an estimate of its cost and a statement of the proportion of such cost which the State Government proposes to defray and a schedule to the lands which it is proposed to make chargeable in respect of the scheme.

45. Power of persons employed on such scheme. – The persons authorised by the State Government to draw up such scheme may exercise all or any of the powers conferred on irrigation officers by section 14.

46. Rate of lands benefited by works. – (1) An annual rate, in respect of such scheme, may be charged, according to rules to be made by the State Government on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable.

(2) Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits :—

- (i) Six percent, per annum on the first cost of the said works, adding thereto the estimated yearly cost of the maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate;

- (ii) In the case of agricultural land, the sum which under the rules then in force for the assessment of land revenue might be assessed on such land on account of the increase of the annual value or produce thereof caused by the drainage work;
- (iii) Such rate may be varied from time to time within such maximum by the State Government;
- (iv) So far as any defect to be remedied is due to any irrigation work, road or other work or obstruction, constructed or caused by the State Government or by any person, a proportionate share of the cost of the drainage works required for the remedy of the said defect shall be borne by the State Government or such person, as the case may be.

47. Recovery of rate. – Any such drainage rate may be collected and recovered in manner provided by sections 40 and 41 for the collection and recovery of water rates.

48. Disposal of claims to compensation. – Whenever in pursuance of a notification made under section 42 any obstruction is removed or modified, or whenever any drainage work is carried out under section 44, all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work, may be made before the Collector and he shall deal with the same in the manner provided in section 10.

49. Limitation of such claims. – No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Part VII

Of Obtaining Labour for Irrigation and Drainage Works

50. Power to prescribe number of labourers to be supplied by persons benefited by irrigation works. – (1) In any district in which an irrigation or drainage work is constructed, maintained or projected by the State Government, the State Government may, if it thinks fit, direct the Collector–

- (a) to ascertain the proprietors, sub– proprietors or farmers, whose villages or estates are or will be, in the judgment of the Collector, benefited by such irrigation or drainage work, and
- (b) to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub– proprietors, or farmers the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate, for employment on

any such irrigation or drainage work when required as hereinafter provided.

(2) The Collector may, from time to time, add to or alter such list or any part thereof.

51. Procedure for obtaining labour for works urgently required. –

(1) Whenever it appears to a Divisional Irrigation Officer duly authorised by the State Government that unless some work is immediately executed, such serious damage will happen to any irrigation or drainage work as to cause sudden and extensive public injury,

and that the labour necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such injury,

the said officer may require any person named in such list to furnish as many labourers (not exceeding the number which according to the said list, he is liable to supply) as to the said officer seem necessary for the immediate execution of any work.

(2) Every requisition so made shall be in writing and shall state—

(a) the nature and locality of the work to be done.

(b) the number of labourers to be supplied by the person upon whom the requisition is made, and

(c) the approximate time for which and the day on which the labourers will be required.

and a copy thereof shall be immediately sent to the Superintending Irrigation Officer for the information of the State Government.

(3) The State Government shall fix, and may from time to time alter the rates to be paid to any such labourers; provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar works; and in the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this part prevented from following his ordinary occupation.

(4) The State Government may direct that the provisions of this part shall apply, either permanently or temporarily (as the case may be), to any district or part of a district for the purpose of effecting necessary annual silt clearances, or to prevent the proper operation of an irrigation or drainage work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

Part VIII

Of Jurisdiction

52. Jurisdiction under this Act of Civil Courts. – Except where herein otherwise provided all claims against the State Government in respect of anything done under this Act may be tried by the Civil Courts; but no such court shall in any case pass an order as to the supply of water to any crop sown or growing at the time of such order.

53. Settlement of reference as to mutual rights and liabilities of persons interested in water course. – (1) Whenever a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water course, any such person may apply in writing to the Divisional Irrigation Officer stating the matter in dispute; and such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter, and, after such enquiry, he shall pass his order thereon unless he transfers (as he is hereby empowered to do) the matter to the Collector who shall thereupon enquire into and pass his order on the said matter.

(2) Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made and shall thereafter remain in force until set aside by the decree of a Civil Court.

54. Power to summon and examine witness. – Any officer empowered under this Act to conduct any inquiry may exercise all such powers connected with the summoning and examining of witnesses, as are conferred on Civil Courts by the Code of Civil Procedure, and every such inquiry shall be deemed a judicial proceeding.

Part IX

Of Offenses and Penalties

55. Offenses under Act. – Whoever, without proper authority and voluntarily does any of the acts following, that is to say–

- (1) damages, alters, enlarges or obstructs any irrigation or drainage work;
- (2) interferes with, increase or diminishes the supply of water in, or the flow of water from, through, over or under, any irrigation or drainage work;
- (3) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any irrigation or drainage work;
- (4) being responsible for the maintenance of a water course or using a water course, neglects to take proper precautions for the prevention of waste of

- the water thereof or interferes with the 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 labourers under Part VII of this Act, fails without reasonable cause to supply or assist in supplying the labourers required of him;
 - (7) destroys or moves any level mark or water gauge fixed by the authority of a public servant;
 - (8) passes, or causes animals or vehicles to pass, on or across any of the works, banks or channels of an irrigation or drainage work contrary to rules made under this Act, after he has been desired to desist therefrom
 - (9) violates any rule made under this Act for breach whereof a penalty may be incurred;

shall be liable, on conviction before a Magistrate of the Second Class, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

56. *Saving of prosecution under other laws.* – Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act:
provided that no person shall be punished twice for the same offence.

57. *Compensation to persons injured.* – Whenever any person is fined for an offence under this Act the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

58. *Power to arrest without warrant.* – Any person in charge of, or employed upon, any irrigation or drainage work may remove from the lands or buildings belonging thereto, or may take into custody 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 irrigation or drainage work;
- (2) without proper authority interferes with the supply of flow of water in or from any irrigation or drainage work or in any river or stream, so as to endanger, damage or render less useful any irrigation or drainage work.

59. *Definition of “irrigation work”.* – In this part the expression "irrigation work" (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied by the State Government for the purpose of irrigation works, and all buildings, machinery, fences, gates and

other erections, trees, crops, plantations or other produce, occupied by, or belonging to the State Government, upon such lands.

Part X

Of Subsidiary Rules

60. Power to make rules. – (1) The State Government may, from time to time, make rules to regulate the following matters:–

- (a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;
- (b) the cases in which, and the officers to whom, and conditions subject to which, orders and decisions given under any provisions of this Act, and not expressly provided for as regards appeal, shall be appealable;
- (c) the person by whom, the time, place or manner at or in which anything for the doing of which provision made in this Act, shall be done;
- (d) the amount of any charge made under this Act;
- (e) and generally to carry out the provisions of this Act.

(2) Such rules shall be published in the Rajasthan Gazette, and shall thereupon have the force of law.

PRABHU DAYAL LOIWAL,

Secretary to the Government.