

THE HARYANA CANAL AND DRAINAGE ACT, 1974

(HARYANA ACT NO. 29 OF 1974)

TABLE OF CONTENTS

Sections

1. Short title, extent and commencement.
2. Definitions.
3. Power to appoint officers.
4. Utilization of water for public purposes.
5. Power to prohibit installation of tubewells.
6. Power of canal officer.
7. Compensation for damages.
8. Limitation for claims.
9. Enquiry into claims and amount of compensation.
10. Abatement of rent on interruption of water-supply.
11. Payment of compensation.
12. Power to enter and regulate water-supply.
13. Power to enter for repairs and payment of compensation.
14. State Government to provide means of crossing canals.
15. Liability of persons to construct works for passage of water.
16. Adjustment of claims between persons jointly using watercourse and recovery thereof.
17. Preparation of draft scheme.
18. Publication of scheme.
19. Publication of scheme after approval.
20. Appeal and revision.
21. Notice of acquisition of land.
22. Recovery of cost from share-holders.
23. Direction for maintenance of watercourse.
24. Restoration of demolished or altered etc. watercourse.
25. Bar of jurisdiction of Civil Court.
26. In absence of written contract, water-supply to be subject to rules.
27. Power to stop water-supply and compensation.
28. Liability when person using unauthorisedly cannot be identified.
29. Liability when water runs to waste.
30. Charges recoverable in addition to penalties.
31. Determination of water charges.

32. Owner's rate.
33. Amount of owner's rate.
34. Water-rate by whom payable.
35. Certified dues recoverable as land revenue.
36. Power to contract for collection of dues.
37. Agency to collect Canal dues.
38. Fines not included in certified dues.
39. Detention of vessels violating rules.
40. Recovery of fines for offences in navigating canals.
41. Power to seize and detain vessel on failure to pay charges.
42. Power to seize cargo or goods, if charges due thereon are not paid.
43. Procedure for recovery of such charges after seizure.
44. Procedure in respect of vessels abandoned and goods unclaimed.
45. Powers to prohibit obstructions or order their removal.
46. Power to remove obstructions after prohibition.
47. Provisions regarding field drains.
48. Preparation of schemes for works of improvement.
49. Powers of persons employed on such schemes.
50. Rate on lands benefited by works.
51. Recovery of rate.
52. Disposal of claims to compensation.
53. Limitation of such claim.
54. Jurisdiction under this Act of Civil Courts.
55. Power of Deputy Collector to order use or distribution of water and settlement of differences.
56. Correction of Clerical errors.
57. Power to summon and examine witnesses.
58. Offences under the Act.
59. Saving of prosecution under other laws.
60. Protection of action taken in good faith.
61. Compensation to the person injured.
62. Power to arrest without warrant.
63. Definition of canal.
64. Power to remove difficulties.
65. Power to make rules.
66. Repeal and Savings.

¹THE HARYANA CANAL AND DRAINAGE ACT, 1974

(HARYANA ACT NO. 29 OF 1974)

(Received the assent of the Governor of Haryana on the 23rd August, 1974, and first published for general information in the Haryana Government Gazette (Extraordinary), Legislative Supplement Part I of 23rd August, 1974.)

1	2	3	4
Year	No.	Short title	Whether repealed or otherwise affected by legislation.
1974	29	The Haryana Canal and Drainage Act, 1974	Amended by Haryana Act 18 of 1977 ² Amended by Haryana Act 29 of 1980 ³ Amended by Haryana Act 8 of 1988 ⁴

AN

ACT

to regulate irrigation, navigation and drainage in Haryana.

Be it enacted by the Legislature of the State of Haryana in the Twenty-fifth Year of Republic of India as follows :—

PART I

PRELIMINARY

1. (1) This Act may be called the Haryana Canal and Drainage Act, 1974.

Short title,
extent and
commencement.

(2) It extends to the whole of the State of Haryana.

(3) It shall come into force on *such date as the State Government may, by notification, specify.

1. For Statement of Objects and Reasons, see *Haryana Government Gazette* (Extraordinary), dated the 7th November, 1973, pages 2063-64.

* Specifies the 7th April, 1976, as the date on which this Act shall come into force, vide Irrigation and Power Departments, notification No. 1916-4PW 11-76/11990, dated the 5th April, 1976.

2. For Statement of Objects and Reasons, see *Haryana Government Gazette* (Extraordinary), dated the 3rd July, 1977, page 1184.

3. For Statement of Objects and Reasons, see *Haryana Government Gazette* (Extraordinary), dated the 5th July, 1980, page 1260.

4. For Statement of Objects and Reasons, see *Haryana Government Gazette* (Extraordinary), dated the 22nd December, 1987, page 2027.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Canal" includes,—

- (a) all canals, channels and reservoirs constructed, maintained or controlled by the State Government for the supply of water ;
- (b) all works, embankments, structures, including outlets, supply and escape channels connected with such canals, channels or reservoirs ;
- (c) all watercourses ;
- (d) all parts of a river, stream, lake or natural collection of water or natural drainage channel, to which the State Government has applied the provisions of Part II of this Act ;
- (e) all field drains ;
- (f) all State tubewells ;
- (g) all drains, works, embankments and structures, connected with drains, maintained or controlled by the State Government.

(2) "Canal Officer" means an officer appointed under this Act by the State Government, by notification, to exercise control or jurisdiction over a canal or any part thereof ;

"Chief Canal Officer" means an officer exercising general control in respect of canals in the State ;

"Superintending Canal Officer" means an officer exercising general control over a canal or portion of a canal ;

"Divisional Canal Officer" means an officer exercising control over a division of a canal ;

"Sub-Divisional Canal Officer" means an officer exercising control over a sub-division of a canal ;

"Deputy Collector" means an officer appointed to perform the functions of Deputy Collector under this Act ;

(3) "Collector" means the head revenue officer of a district, and includes any other officer appointed under this Act by the State Government, by notification, to exercise all or any of the powers of a Collector ;

(4) "Commissioner" means a Commissioner of a Division, and includes any officer appointed under this Act by the State Government, by notification, to exercise all or any of the powers of a Commissioner ;

(5) "culturable commanded area" means that portion of a culturable irrigable area which is commanded by flow or lift irrigation from an irrigation channel, outlet or State tubewell ;

(6) "district" means a district as fixed for revenue purposes ;

(7) "drainage work" includes escape channels from canals, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by the State Government under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns ;

(8) "field drain" includes drains and other similar works constructed or maintained by landowners themselves ;

(9) "prescribed" means prescribed by rules framed under this Act ;

(10) "shareholder" means a person who is interested in the land which is irrigated or likely to be irrigated by a canal and also includes a person who is interested in a field drain ;

(11) "State tubewell" means a tubewell hitherto constructed, maintained or controlled or which may be hereafter constructed, maintained or controlled by the State Government or the Haryana State Minor Irrigation (Tubewells) Corporation Limited, and includes all mechanical and electrical appliances, tools and structures appertaining to it and necessary for the abstraction of water from it ;

(12) "temporary watercourse" means a watercourse which has been running for a period of not less than six months prior to the date of its demolition, alteration, enlargement or obstruction, but which is not a watercourse as hereinafter defined ;

(13) "tubewell" means any device for lifting water from below the surface of the ground by mechanical means operated otherwise than by human or animal power ;

(14) "vessel" includes boats, rafts, timber and other floating bodies; and

(15) "watercourse" means any channel including all its subsidiary works which is applied with water from a canal, but not maintained at the cost of the State Government, and is sanctioned under this Act or is in existence under an agreement or by prescription.

Power to
appoint
officers.

3. (1) The State Government may, from time to time, declare, by notification, the officers of the State Government or of the Haryana State Minor Irrigation (Tubewells) Corporation Limited, by whom, the matters in respect of which and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

(2) All officers mentioned in clause (2) of section 2 shall be subject to the orders of such officers as the State Government may, from time to time, direct.

PART II

OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES

Utilization of
water for public
purposes.

4. (1) 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 or still water, should be applied or used by the State Government for the purposes of any existing or projected canal or drainage work, the State Government may, by notification, declare that the said water will be so applied or used after a day to be named in the said notification, not being a day earlier than three months from the date of such notification.

(2) As soon as it is practicable after the issue of aforesaid notification, the Collector shall cause public notice to be given in the manner prescribed, stating that the State Government intends to apply or use the said water.

(3) The persons affected by such notification shall be entitled to lodge claims for compensation in respect of matters mentioned in section 7 before the Collector.

- 5.** The State Government may, by notification, prohibit installation of any tubewell other than a State tubewell within a distance of,—
- (a) not exceeding 150 metres from a State tubewell ;
 - (b) not exceeding 100 metres from any unlined irrigation channel other than a minor and a water course ;
 - (c) not exceeding 25 metres from any minor.

Power to prohibit installation of tubewells.

Explanation.— For the purposes of this section minor means an irrigation channel the capacity of which does not exceed forty cusecs.

- 6.** At any time after the day so named, any canal officer, acting under the orders of the State Government, may enter on any land and remove any obstruction, close any channel, demolish any tubewell and do any other thing necessary for the application or use of the said water.

Power of canal officer.

- 7.** No compensation shall be awarded for any damage caused by—

Compensation for damages.

- (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 underground, 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 purposes of irrigation within five years next before the date of the said notification ;

- (h) damage done in respect of any right to a watercourse or the use of any water to which any person is entitled under the Limitation Act, 1963, Part IV ;
- (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.

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.

Limitation for claims.

8. 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.

Enquiry into claims and amount of compensation.

9. 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. Sections 9 to 14, 18 to 22, 25, 27, 29 to 31, 45 and 51 to 55 of the Land Acquisition Act, 1894, shall apply to such inquiries.

Abatement of rent on interruption of water supply.

10. (1) Every tenant holding under an unexpired lease, 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 7, 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.

(2) If water-supply is afterwards restored to the said land, the rent of the tenant may be enhanced, in respect of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement :

Provided that 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 grounds.

11. 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 and simple interest at the rate of six percent 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 wilful neglect or refusal of the claimant to receive the same.

Payment of compensation.

PART III OF THE CONSTRUCTION AND MAINTENANCE OF WORKS

12. (1) Any Canal Officer, or the person acting under the general or special order of Canal Officer, 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-soils; and make and set up suitable landmarks, level-marks and watergauges; and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said Canal Officer; and, where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle; and may also enter upon any land, building or watercourse on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of water-supply, or of measuring the lands irrigated thereby or chargeable with water-rate, and doing all things necessary for the proper regulation and management of such canal :

Power to enter and regulate water-supply

Provided that, if such Canal 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 canal, he shall previously give the occupier or such building, court or garden at least seven days' notice in writing of his intention to do so.

(2) In every case of entry under this section, the Canal 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 of the Collector and such decision shall be final.

Power to enter for repairs and payment of compensation.

13. (1) In case of any accident happening or being apprehended to a canal any Divisional Canal Officer 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 purposes of repairing or preventing such accident.

(2) In every such case such Canal 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 Canal Officer shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the State Government had directed the occupation of the lands under section 35 of the Land Acquisition Act, 1894.

State Government to provide means of crossing canals.

14. (1) There shall be provided and maintained, at the cost of the State Government, suitable means of crossing canals at such places as the State Government thinks 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 canal, the Collector shall cause an 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.

Liability of persons to construct works for passage of water.

15. (1) The Divisional Canal Officer may issue an order to the persons using any watercourse to construct suitable bridges, culverts or other works for the passage of the water of such watercourse across any public road, canal or drainage-channel in use before the said watercourse 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 ;

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 satisfactions of the said Canal Officer, he may, with the previous approval of the Superintending Canal 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 Canal Officer, the amount shall, on the demand of the Divisional Canal Officer, be recoverable from them as arrears of land revenue.

16. (1) If any person, jointly responsible with others for the construction or maintenance of a watercourse, or jointly making use of a watercourse 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 Canal 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 shall investigate the case, and shall on the expiration of that period, investigate the case accordingly, and make such order thereon as he may deem fit. Such order shall be appealable to the Superintending Canal Officer.

Adjustment of claims between persons jointly using watercourse and recovery thereof.

(2) An appeal shall lie to the Superintending Canal Officer, within a period of thirty days, from the date of the communication of the decision of the Divisional Canal Officer under sub-section (1) and the order of the Superintending Canal Officer 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 persons directed to pay the same, as arrears of land revenue.

17. (1) Notwithstanding anything contained to the contrary in this Act but subject to the rules prescribed, Divisional Canal Officer may, on his own motion or on the application of a shareholder, prepare a draft scheme to provide for all or any of the matters, namely :—

Preparation of draft scheme.

- (a) the construction, alteration, extension and alignment of any watercourse or re-alignment of any existing watercourse ;
- (b) allotment of any new areas to a watercourse or an outlet or reallocation of areas served by one water-course to another or from one outlet to another, or for exclusion of an area, from an outlet or a watercourse ;
- (c) construction of a new outlet, shifting or modification of an existing outlet.

Explanation.— Any change in the design or size or both of an outlet, whose design or size or both have been changed in an unauthorised manner, for restoring the same to its authorised discharge shall not be deemed to be a modification ;

- (d) the lining of any watercourse ;
- (e) the occupation of land for the deposit of soil from watercourse clearances ;
- (f) any other matter which is necessary for the proper maintenance and distribution of supply of water from a watercourse or an outlet.

(2) Every scheme prepared under sub-section (1) shall, amongst other matters, set out the estimated cost thereof, the alignment of proposed watercourse or re-alignment of the existing watercourse, as the case may be, the site of the outlet, the particulars of the shareholders to be benefited and a sketch plan of the area proposed to be covered by the scheme.

Publication of scheme.

18. (1) Every scheme shall, as soon as may be after its preparation, be published in such form and manner as may be prescribed for inviting objections and suggestions in respect thereof within twenty-one days of its publication.

(2) After considering such objections and suggestions, if any, the Divisional Canal Officer shall approve, modify or reject the scheme within thirty days of the time for the receipt of such objections and suggestions, unless this period is extended by the Superintending Canal Officer for good and sufficient reasons :

Provided that in the following cases, the prior approval of the Chief Canal Officer shall be obtained for allowing—

- (a) a new outlet on a main canal or branch canal ;
- (b) an outlet with discharge of less than 0.75 cusec.

Publication of scheme after approval.

19. (1) The Divisional Canal Officer shall, as soon as may be, publish the fact of rejection of scheme or the particulars of the scheme approved or modified by him under sub-section (2) of section 18 in the prescribed manner and call upon the shareholders to implement it at their own cost within the period to be specified by him and if the

shareholders fail to implement the same, he shall undertake the construction or implementation of the scheme himself, and recover the cost thereof from the shareholders in the manner and period to be specified by him. Any sum which remains unpaid, within the specified period for this purpose, may be recovered by the Collector from the defaulting person as arrears of land revenue.

(2) An officer, not below the rank of Sub-Divisional Canal Officer, shall check the implementation of scheme at site.

20. (1) An appeal against the decision of the Divisional Canal Officer under sub-section (2) of section 18 shall lie to the Superintending Canal Officer within thirty days of the publication of the scheme under section 19.

Appeal and
revision.

(2) An appeal shall lie against the decision of the Superintending Canal Officer passed under sub-section (1) in regard to any of the matters covered under clauses (a), (b) and (c) of sub-section (1) of section 17, to the Chief Canal Officer within thirty days of the date of such decision.

(3) The Chief Canal Officer or the Superintending Canal Officer may *suo motu*, call for the record of any case, pending before, or disposed of by any subordinate authority, for the purpose of satisfying himself as to the legality or propriety of any proceedings or of any order made therein and may pass such order in relation thereto as he may think fit :

Provided that no such order shall be made without affording the person affected an opportunity of being heard.

21. (1) The Divisional Canal Officer may, either of his own motion or on the application of a shareholder, publish in the manner prescribed a notice of his intention to acquire any land required for implementation of the scheme.

Notice of
acquisition of
land.

(2) Any person interested in the land notified under sub-section (1) may, within twenty-one days from the publication thereof, apply to the Divisional Canal Officer by petition stating his objections to the proposed acquisition of his rights.

(3) After considering the objections, the Divisional Canal Officer may proceed to take the occupation of the land so required on behalf of the shareholders.

(4) Compensation, to be fixed by the Divisional Canal Officer on the principles set out under section 23 of the Land Acquisition Act, 1894, shall be payable by the shareholders in proportion to the culturable commanded area under the scheme held by each one of them to the owner or occupier of any land for such acquisition and on failure of payment, the amount shall be recoverable as arrears of land revenue.

(5) Any person aggrieved from the order of the Divisional Canal Officer in respect of compensation may prefer an appeal, within thirty days of the passing of the order to the Collector whose decision shall be final.

Recovery of cost from shareholders.

22. On failure of any shareholder to execute the work within the period specified in the notice under sub-section (1) of section 19, the Divisional Canal Officer may proceed to carry out the work himself and the cost in proportion to the culturable commanded area under the scheme held by them shall be recoverable from the shareholders as arrears of land revenue.

Direction for maintenance of watercourse.

23. On execution of the scheme, the Divisional Canal Officer shall, by requisition in writing, direct the shareholders to take over and maintain the watercourses and on failure of the shareholders to comply with this direction, he shall make arrangements for maintenance of watercourse at the shareholders' cost in proportion to the culturable commanded area under the scheme held by them and the same shall be recoverable as arrears of land revenue.

Restoration of demolished or altered etc. watercourse.

24. (1) If a person demolishes, alters, enlarges or obstructs a watercourse or a temporary watercourse or causes any damage thereto, any person affected thereby may apply to the Sub-Divisional Canal Officer for directing the restoration of the same to its original condition.

(2) On receiving an application under sub-section (1) the Sub-Divisional Canal Officer may, after making such enquiry as he may deem fit, require, by a notice in writing served on the person found to be responsible for so demolishing, altering, enlarging, obstructing or causing damage, to restore, at his own cost, the watercourse or temporary watercourse to its original condition within such period not exceeding twenty-one days, as may be specified in the notice :

Provided that in case of a temporary watercourse its restoration shall not be for a period exceeding one year.

(3) If such person fails to the satisfaction of the Sub-Divisional Canal Officer, to restore the watercourse or temporary watercourse to its original condition within the period specified in the notice served on him under sub-section (2) the Sub-Divisional Canal Officer may cause the watercourse or temporary watercourse to be restored to its original condition and recover the cost incurred in respect of such restoration from the defaulting person. The Sub-Divisional Canal Officer may order recovery of a sum not exceeding Rs. 500 from the defaulting person by way of penalty. Out of this sum so recovered the Sub-Divisional Canal Officer may order any amount to be paid to the aggrieved person for the damage caused to him. In case the penalty is not paid the same shall be recoverable as arrears of land revenue.

(4) Any person aggrieved by the order of the Sub-Divisional Canal Officer, may prefer an appeal within fifteen days of the passing of such order to the Divisional Canal Officer, whose decision on such appeal shall be final.

(5) Any sum which remains unpaid within a period to be specified for this purpose by the Divisional Canal Officer may be recovered as arrears of land revenue.

25. 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 under sections 17 to 24.

Bar of jurisdiction of civil court.

PART IV OF THE SUPPLY OF WATER

26. In the absence of a written contract, every supply of canal water shall be deemed to be given at the rates and subject to the conditions prescribed.

In absence of written contract, water-supply to be subject to rules.

27. Such contracts and rules must be consistent with the following conditions :—

Power to stop water-supply and compensation.

(1) The Divisional Canal Officer may not stop the supply of water to any watercourse, or to any person, except in the following cases :—

(a) whenever it is necessary to stop such supply for the purpose of executing any work ordered by the

competent authority and with the previous sanction of the Superintending Canal Officer;

- (b) whenever and so long as any watercourse is not maintained in such proper customary repair so as to prevent the wasteful escape of water therefrom ;
- (c) within periods fixed from time to time by the Divisional Canal Officer ;
- (d) whenever water is not used for the purpose for which it was being supplied ;
- ¹[(e) whenever water is used by any person in an unauthorised manner, the supply thereof to such person on his next two turns, shall be stopped.

Explanation— Stoppage of supply of water under clause (e) shall not in any way affect the recovery of any charges for such unauthorised use of water or any penalties incurred on account of such use under this Act or any penalties or punishment which may be imposed under any other law for the time being in force.]

- (2) No claim shall be made against the State Government for compensation in respect of loss caused by the failure or stoppage or reduction of water in the canal by reason of any cause beyond the control of the State Government or of any repairs, alterations or additions to the canals, or of any measures taken for regulating the proper flow of water therein or for maintaining the established course of irrigation which the Divisional Canal 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.
- (3) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner prescribed in sub-section (2), the occupier or owner of such land may present a petition for compensation to the

1. Inserted by Haryana Act 8 of 1988.

Collector for any loss arising from such interruption, and the Collector may award to the petitioner reasonable compensation for such loss.

- (4) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, 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 matured within that year.
- (5) If any written contract or agreement for the supply of canal water has been made in which the period has not been specifically mentioned, it shall be deemed to have been made for one year unless such contract or agreement is renewed for another year :

Provided that a contractor agreement executed before the commencement of this Act, shall, if a period of one year or more has already expired, cease to have effect on the date of commencement of this Act.

- (6) No person, entitled to use the water of any canal or any work, building or land appertaining to any canal, shall sell or sublet or otherwise transfer his right to such use, without the permission of the Superintending Canal Officer :

Provided that the aforesaid provision shall not apply to the use by a cultivating tenant the water supplied to the owner for the irrigation of the land held by such tenant :

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

- (7) 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, Part IV, nor shall the State Government be bound to supply any person with water except in accordance with the terms of a contract in writing.
- (8) Where the supplies are made under some contract or agreement for specified purposes, the Divisional Canal Officer may stop such supplies after giving notice to the person concerned and after affording him an opportunity of being heard, on the ground that there is breach of contract or agreement or the water is needed for public purposes by the State Government.

PART V

OF WATER RATES

Liability when person using unauthorisedly cannot be identified.

28. If water supplied through a canal is used in an unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person who has derived or may derive benefit therefrom, shall be liable to the charges prescribed for such use.

Liability when water runs to waste.

29. If water supplied through a watercourse or an out-let be suffered to run to waste and if, after enquiry by the Sub-Divisional Canal 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 water supplied through such watercourse or an outlet shall be jointly liable for the charges made in respect of water so wasted.

Charges recoverable in addition to penalties.

¹**[30.** (1) All charges for the unauthorised use or waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

(2) All question, under sections 28 and 29, shall be decided by the Divisional Canal Officer.

(3) An appeal shall lie to the Superintending Canal Officer against the decision of the Divisional Canal Officer within a period of thirty days from the date of such decision.

1. Substituted by Haryana Act 29 of 1980 and further substituted by Haryana Act 8 of 1988.

(4) The Chief Canal Officer may, on an application made in this behalf by an aggrieved person, within a period of thirty days from the date of the order, revise an order passed in appeal under subsection (3).

(5) All questions, appeals and applications pending for disposal on the commencement of the Haryana Canal and Drainage (Amendment) Act, 1987, before the Canal Executive Officers, Collectors and Commissioners, as the case may be, shall also be decided by the Divisional Canal Officers, Superintending Canal Officers and Chief Canal Officers respectively.]

31. (1) The rates to be charged for canal water supplied for purposes of irrigation to the occupiers of land shall be determined in the manner prescribed and such occupiers as accept the water, shall pay for it accordingly. The rate so charged shall be called the "occupier's rate" or "water rate".

Determination
of water
charges.

(2) The State Government may prescribe what persons are to be deemed 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 sublet their lands or of proprietors.

32. In addition to the occupier's rate, a rate to be called the "owner's rate" may be imposed, in the manner prescribed on the owners of canal irrigated lands in respect of the benefit which they derive from such irrigation.

Owner's rate.

33. The owner's rate shall not exceed the sum which under the rules for the time being in force for the assessment of land holding tax might be assessed on such land.

Amount of
owner's rate.

34. Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land and may be deducted by him from such rents or profits before division, or may be recovered by him from the persons liable to such rate in the manner customary for the recovery of other charges on such rents or profits.

Water-rate by
whom payable.

Certified dues recoverable as land revenue.

35. Any sum lawfully due under this part, and certified by the Divisional Canal Officer to be so due, which remains unpaid after the day on which it becomes due, shall be recoverable from the person liable for the same as arrears of land revenue.

Power to contract for collection of dues.

36. (1) The Divisional Canal Officer may enter into an agreement with any person for the collection and payment to the State Government by such person of any sum payable under this Act by a third party.

(2) When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work or building in respect of which such sum is payable, or for or in which the canal water shall have been supplied or used.

(3) If such person makes default in the payment of any sum collected by him under this section such sum may be recovered from him in the manner provided in section 35, and if such sum or any part of it be still due from the said third party, the sum or part so due may be recovered in like manner from such third party.

Agency to collect Canal dues.

37. (1) The Collector may require the Lambardar or any other person engaged to collect the land revenue, or any tax in lieu thereof, to collect any sums payable under this Act by a third party in respect of any land or water in such estate and to pay it to the State Government in the manner prescribed.

(2) Such sum shall be recoverable as if they were arrears of land revenue due in respect of the defaulter's share in such estates; and for the purpose of collecting such sum from the persons liable to pay the same, such Lambardar or person may exercise the powers laid down in the law for the time being in force in respect of the collection by him of the rents of land or of shares of land revenue or any tax in lieu thereof.

(3) The State Government may prescribe—

(a) for remunerating the persons collecting sums under this section ; and

(b) for indemnifying them against expenses properly incurred by them in such collection.

Fines not included in certified dues.

38. Except as otherwise provided, nothing in sections 35, 36 and 37 applies to fines.

PART VI

OF CANAL NAVIGATION

39. (1) Any vessel entering or navigating any canal contrary to the rules made in that behalf by the State Government, or so as to cause danger to the canal or the other vessels therein, may be removed or detained, or both removed and detained, by the Divisional Canal Officer, or by any other person duly authorised in this behalf.

Detention of vessels violating rules.

(2) The owner of any vessel causing damage to a canal, or whose vessel has been removed or detained under this section, shall be liable to pay to the State Government such sum as the Divisional Canal Officer, with the approval of the Superintending Canal Officer, determines to be necessary to defray the expenses of repairing such damage or of such removal or detention, as the case may be.

40. Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure or if the Magistrate imposing the fine so directs as though it were a charge on such vessel.

Recovery of fines for offences in navigating canals.

41. If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorised to collect the same, the Divisional Canal Officer may seize and detain such vessel and the furniture thereof, until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to seize and detain vessel on failure to pay charges.

42. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal is not paid on demand to the person authorised to collect the same, the Divisional Canal Officer may seize such cargo or goods and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to seize cargo or goods, if charges due thereon are not paid.

43. (1) Within a reasonable time after any seizure under section 41 or section 42, the said Canal Officer shall give notice to the owner or person in charge of the property seized that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not

Procedure for recovery of such charges after seizure.

sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named. If such claim be not so discharged, the said Canal Officer, may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale :

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo or goods.

(2) The residue of such furniture, cargo or goods, and of the proceeds of the sale, shall be made over to the owner or person incharge of the property seized.

Procedure in respect of vessels abandoned and goods unclaimed.

44. (1) If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purpose of a canal, be left unclaimed for a period of two months, the Divisional Canal Officer may take possession of the same. The officer so taking possession may publish a notice, in the manner prescribed, that, if such vessel and its contents, or such cargo or goods, are not claimed on or before the day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel, contents, cargo or goods be not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

(2) The said vessel and its contents and the said cargo or goods if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls, charges and expenses incurred by the Divisional Canal Officer, on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal Officer.

(3) If the Divisional Canal Officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid, and the proceeds to be paid into the district treasury, thereto be held until the right thereto be decided by a Court of competent jurisdiction.

PART VII

OF DRAINAGE

45. 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, 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. On the issue of such notification, 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 2.

Powers to prohibit obstructions or order their removal.

46. (1) The Divisional Canal 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.

Power to remove obstructions after prohibition.

(2) If within the time so fixed such person does not comply with the order, the said canal 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 notification, such expenses shall be recoverable from him or his representative in interest as arrears of land revenue.

47. The provisions contained in sections 17 to 25 shall apply *mutatis mutandis* to field drains.

Provisions regarding field drains.

48. 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, it may cause a scheme for such drainage works to be drawn up and published by the Divisional Canal Officer, together with an estimate of its cost which the State Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

Preparation of schemes for works of improvement.

Power to persons employed on such schemes.

49. The Divisional Canal Officer may exercise all or any of the powers conferred on the Canal Officers under section 12.

Rate on lands benefited by works.

50. The cost, other than that which is to be defrayed by the State Government, in respect of such scheme, may be charged from the owners of all lands made chargeable under section 48. Such cost either wholly or in part, may be recovered in kind of land or labour in the manner prescribed.

Recovery of rate.

51. Any sum certified by the Divisional Canal Officer to be due under section 50 and which remain unpaid after the expiry of the period during which it was payable, shall be recoverable from the owner liable for the same as if it were an arrear of land revenue.

Disposal of claims to compensation.

52. Whenever in pursuance of a notification made under section 45, any obstruction is removed or modified or whenever any drainage-work is carried out under section 48, 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 9.

Limitation of such claim.

53. No such claim shall be entertained after the expiry of one year from the occurrence of the loss complained of or unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

PART VIII

OF JURISDICTION

Jurisdiction under this Act of Civil Courts.

54. Except as 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 canal water to any crop sown or growing at the time of such order.

55. (1) The Deputy Collector may, if in his opinion it is necessary so to do, pass an order as to the use or distribution of water from a watercourse amongst persons in any estate or a group of estates or in any holding or group of holdings in such estate or estates :

Power of Deputy Collector to order use or distribution of water and settlement of differences.

Provided that no such order shall be passed by the Deputy Collector without making any inquiry into the matter and without giving a 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, construction or maintenance of a watercourse, any such person may apply in writing to the Deputy Collector stating the matter in dispute.

(3) On receipt of an application under sub-section (2) the Deputy Collector shall give notice to the other persons interested that, on a day to be named in such notice, he shall proceed to enquire into the said matter, and after the inquiry he shall pass an order thereon.

(4) An order passed under sub-section (1) or sub-section (3) as to the use or distribution of water for any crop sown or growing at the time when such order is made or with regard to the construction or maintenance of a watercourse shall, subject to an order passed on appeal or revision under sub-sections (5) and (6), be final.

(5) An appeal shall lie to the Divisional Canal Officer against an order referred to in sub-section (4) within a period of thirty days from the date of such order.

(6) The Superintending Canal Officer within whose jurisdiction the watercourse is situated, may, *suo motu* or on an application made in this behalf by an aggrieved person, revise an order passed in appeal by a Divisional Canal Officer under sub-section (5) :

Provided that no such application shall lie unless it is made within a period of thirty days from the date of such order.

(7) No order passed under this section shall be liable to be called in question in any civil court.

56. Clerical or arithmetical mistakes in an order passed by an officer under this Act arising from any accidental slip or omission may at any time be corrected by the authority concerned either of its own motion or on the application of any of the parties.

Correction of clerical errors.

Power to
summon and
examine
witnesses.

57. Any officer empowered under this Act to conduct an enquiry 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 enquiry shall be deemed to be a judicial proceeding.

PART IX OF OFFENCES AND PENALTIES

Offences under
the Act.

58. Whoever, without proper authority, does any of the following acts :—

- (a) damages, alters, enlarges or constructs any canal or drainage work ;
- (b) interferes with, increases or diminishes the supply of water in or the flow of water from, through, over or under, any canal or drainage-work ;
- (c) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work ;
- (d) being responsible for the maintenance of a water-course, or using a watercourse, neglects to take proper precautions for the prevention of waste of a water thereof, or interferes with the authorised distribution of the water therefrom, or uses such water in any unauthorised manner;
- (e) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the State Government for entering or navigating such canal ;
- (f) while navigating on any canal neglects to take proper precautions for the safety of the canal and of vessel thereon;
- (g) corrupts or fouls the water of any canal ;
- (h) destroys or moves any level mark or watergauge fixed by the authority of a public servant ;

(i) passes, or causes animals or vehicles to pass, on or across any of the works, banks or channels of a canal or drainage-work contrary to rules made under this Act, after he has been desired to desist therefrom ;

(j) disobeys any order passed under section 55 ;

shall, in respect of offences under clauses (a), (b) and (c) above be liable on conviction to a fine not exceeding one thousand rupees or to imprisonment not exceeding six months or to both and in respect of other offences shall be liable on conviction to a fine not exceeding one hundred rupees or to imprisonment not exceeding one month or to both.

59. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act.

Saving of prosecution under other laws.

60. (1) No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or order made thereunder.

Protection of action taken in good faith.

(2) No suit or other legal proceedings shall lie against the State Government or any other person in respect of any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or rules or orders made thereunder.

61. 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.

Compensation to the person injured.

62. Any person in charge of or employed upon any canal or drainage-work may remove from the lands or building 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, who, within his view, commits any of the following offences :—

Power to arrest without warrant.

(a) wilfully damages or obstructs any canal or drainage-work ;

(b) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger damage or render less useful any canal or drainage work.

Definition of canal.

63. In this part the word 'Canal' shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied by the State Government for the purposes of Canals, 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

Power to remove difficulties.

64. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions or give such directions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.

Power to make rule.

65. (1) The State Government may, after previous publication, make rules for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

- (a) distribution and regulation or supply of water ;
- (b) construction of new channels, extension of existing channels, and abandonment of old channels ;
- (c) assessment and realisation of water-rates ;
- (d) utilisation of water for purposes other than irrigation ;
- (e) alteration in outlets ;
- (f) any other matter which has been or may be prescribed.

(3) In making any rule under this section, the State Government may provide that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

Repeal and savings.

¹**[66. (1)** The Northern India Canal and Drainage Act, 1873, shall, in its application to the State of Haryana, stand repealed.

1. Substituted by Haryana Act 18 of 1977.

(2) Save as provided in sub-section (2) of section 30 of this Act, such repeal shall not affect—

- (a) any application, appeal or revision pending before the commencement of this Act or filed thereafter against any order passed before the commencement of this Act ;
- (b) any right of appeal or revision, if any, in respect of an order passed under clause (a) above,

and such application, appeal or revision shall be continued and disposed of by the competent authority under the provisions of the repealed Act as if this Act had not come into force.]