

The Sindh Irrigation and Drainage Authority Act, 1997

NOTIFICATION

Karachi the 15th September, 1997

No. PAS/Legis-B-8/97.-The Sindh Irrigation and Drainage Authority Bill, 1997 having been passed by the Provincial Assembly of Sindh on 28th June, 1997 and assented to by the Governor of Sindh on 11th August, 1997 is hereby published as an, Act of the Legislature of Sindh.

THE SINDH IRRIGATION AND DRAINAGE AUTHORITY ACT, 1997. SINDH ACT NO. IV OF 1997

(First published after having received the. assent of the Governor of Sindh in the Gazette of Sindh (Extra ordinary) dated 15th September, 1997.)

AN ACT

to provide for the establishment of the Irrigation and Drainage Authority in the Province of Sindh.

Preamble

WEREAS it is expedient to provide for the establishment of the Irrigation and Drainage Authority in the Province of Sindh for equitable distribution of Irrigation water and effective drainage and flood control sustainable on long term basis through participation of beneficiaries in the operation and management of irrigation and drainage network and to provide for matters connected therewith or incidental thereto;

It is hereby enacted as follows:

CHAPTER I PRELIMINARY

Short title and Commencement.

1. (1) This Act may be called the Sindh Irrigation and Drainage Authority Act, 1997.
- (2) It extends to the whole of Province of Sindh.
- (3) It shall come into force at once.

2. In this Act, unless there is any thing repugnant in the subject or context.

- (i) "Authority" means the Sindh Irrigation and Drainage Authority established under section 3;
- (ii) "AWB" means an Area Water Board established . under section 23;
- (iii) "Board" means the Board of Management. constituted under section 7;
- (iv) "canal" means a canal as defined in the Sindh Irrigation Act, 1879:
- (v) "Chairman" means the Chairman of the Authority;
- (vi) "drain" means a natural drain, surface or sub-surface drain. age network provided for the evacuation of the surplus sub-soil and surface water from the laud under the command of a canal system;
- (vii) "drainage cess" means the ,drainage cess levied for convoyance and disposal of effluent through the drains;
- (viii) "FO" means the Farmers Organization formed under section 26;
- (ix) "Government" means the Government of Sindh:
- (x) "Local Council" means, a local council constituted under the Sindh Local Government Act 1979;
- (xi) "Managing Director" means the Managing Director of the Authority;
- (xii) "member", means the member of the Authority;
- (xiii) "prescribed" means prescribed by rules or regulations under this Act;
- (xiv) "regulations" means regulations made under this Act;
- (xv) "rules" means rules made under this Act;
- (xvi) "WAPDA" means the Water and Power Development Authority;
- (xvii) "water" includes any water standing or Planning on surface or sub-surface at any palce in the Province but does not include the water in the inter provincial reservoirs and/or rivers and canals as is allocated to any other Province;
- (xviii) "water rate" means the charge levied for supply of water under the water Apportionment Accord, 1991.

CHAPTER II

ESTABLISHMENT OF THE AUTHORITY

3. (1) As soon as may be after the commencement of this Act there shall be established an Authority to be known as the Sindh Irrigation Authority and Drainage Authority.
- (2) The Authority shall be a body corporate with power to acquire hold and dispose of property, having perpetual succession and a common seat and shall by the said name, sue and sued.
- (3) The Headquarters of the Authority shall be at Hyderabad.

Board of Constitution of the Authority.

4. (1) The Authority shall consist of:
 - (a) Minister for Irrigation or. any other person appointed by Government. Chairman
 - (b) Senior Member, Board of Revenue. Member
 - (c) Additional Chief Secretary Planning and Development Department. Member
 - (d) Secretary Finance Department. Member
 - (e) Secretary Irrigation and Power Department. Member
 - (f) Secretary Agriculture Department. Member
 - (g) Managing Director of the Authority. Member
 - (h) A representative of Farmer's Organization. Member
 - (2) The Chairman other than the ex-officio Chairman and member other than the ex-officio members shall unless resigned or removed earlier, hold office for four years and shall be eligible for re-appointment for one similar term.
 - (3) In the case of death, resignation or removal of such Chairman or a member another Chairman or as the case may be, a member may be appointed in his place for the un-expired term of such Chairman or member.
 - (4) The Chairman or a member way by writing under his hand resign from his office but his resignation shall not take effect until it is accepted by Government;
5. (1) There shall be at least one meeting of the Authority each quarter of a year.
 - (2) The meetings of the Authority shall be held at such time and as such places and in such manner as may be prescribed by regulations or until regulations are made in this behalf, as and when convened by the Chairman.
 - (3) Notwithstanding the provisions of sub-section (1), the Chairman shall convene a meeting of the Authority if three or more members to request him in writing and such meeting shall be convened after giving at least seven days notice within a period of not exceeding fifteen days of receipt of such requisition.
 - (4) The quorum for a meeting of the Authority shall be three members.
 - (5) The Chairman or, in his absence, a member elected by the members present in a meeting or the Authority shall preside at such meeting of the Authority.
 - (6) In the event of an equality of votes the Chairman or the member presiding a meeting shall have a casting vote, .
 - (7) The Chairman and a member shall receiver such allowance as may be prescribed by Authority for attending a meeting of the Authority.

6. Government may by notification remove the Chairman or a member other than the ex-officio Chairman and member if he-
 - (a) is incapable of discharging his responsibilities -under this Act.
 - (b) has been declared insolvent; or
 - (c) has been declared to be disqualified for employment, or has been dismissed from the service of Government or has been convicted for an offence involving moral turpitude; or
 - (d) has knowingly acquired or has continued to hold without the permission in writing, of Government, directly or indirectly or through a partner any share or interest in any contract or employment with on behalf of the Authority or in any land or property which, to his knowledge, is likely to benefit or has benefited as a result of the operations of the Authority:

Provided always that no action shall be taken under this section against the Chairman or member without affording him an opportunity of being heard.

7. (1) Subject to the overall control and guidance of the Authority, the day to day management of the affairs of the Authority shall be carried out by a Board of Management consisting of the Managing Director and not more than four General Managers as may be appointed by the Authority with, the approval of Government,.
- (2) The Managing Director and the General Managers shall have such qualifications, technical background and practical experience in the profession relevant to their job description provided that the Managing Director and the General Managers shall respectively possess at least twenty years and fifteen years professional standing in the field of Irrigation and Drainage.
- (3) The Managing Director or a General Manager may be removed if he has incurred any of the disqualification mentioned in section 6.
- (4) Subject to other provisions of this section, the Managing Director and General Managers shall be appointed on such terms and conditions may be prescribed by rules.
- (5) The Managing Director and General Managers shall unless resigned or removed earlier hold office for four years and shall be eligible for re-appointment for another similar term or for such shorter terms as Government may decide.
- (6) The Managing Director or any General Manager may, at any time, resign; provided that his resignation shall not take effect until accepted by Government.

CHAPTER-III POWERS AND DUTIES OF THE AUTHORITY

8. The Authority shall have the following powers and duties:-

(A) GENERAL.

- (1) Subject to the provisions of the Water Apportionment Accord, 1991, to receive Irrigation Water of the Barrages within the Province and/or from the inter Provincial/Link canals and deliver the same in agreed quantities to the various AWB's bodies or persons in the manner and on the terms and conditions as may be prescribed by the Authority at the relevant Canal head works and to receive drainage effluent at the designated points and convey the same to the inter provincial outfall drains.
- (2) to exercise such powers of Government under the Irrigation Act, 1879 and rules as are not inconsistent with or in derogation to any provision of this Act, rules or regulations.
- (3) to levy and collect Water rate and drainage cess and surcharge for late payment of such rate and cess.
- (4) to prescribe and receive fees or charge for providing any service under this Act.
- (5) to recover any amount payable to the Authority under this Act as arrears of land revenue.

(B) POLICY AND REGULATION.

- (1) To formulate and implement policy Guide lines and procedures for the proper and efficient implementation of the provisions of this Act;
- (2) to formulate and implement policies in the water resources sector with a view to continuously improve and achieve effective economical and efficient utilization, preservation and improvement of such water resources on sustainable basis;
- (3) to prescribe training requirements and programme which may be necessary for the purpose of this Act and to prescribe the manner and authority for conducting such training and programmes.
- (4) to investigate and adjudicate complaints on any disputes and/or differences under this Act between the different entities established under this Act and between such entities and individual or group of individuals;
- (5) to prescribe the procedures for obtaining and filling of documentation regarding water allocation;
- (6) to grant, renew or cancel the licences or leases as may be prescribed.

(C) CAPITAL OPERATIONS.

- (1) To plan, design, construct, operate and maintain the irrigation drainage, storage reservoirs and flood control infrastructure including hill torrent control and development work for irrigation of lands including watershed management practices in catchment areas of any river hill torrents or streams;
- (2) to maintain records, registers and Data banks as may be necessary for the effective performance of any or all of its powers and duties under this Act;
- (3) to take all such steps as may reasonably be necessary for the removal and prevention of (omitted) and unauthorized construction along or the properties of the Authority.
- (4) to operate and maintain the equipment, machinery and stores of the Authority effectively, (omitted) and in a business like manner.

(5) to under take or assign any person, in the prescribed manner anti-erosion operations including conservation of forests and reforestation in the catchment areas of any river, hill torrents or streams and for the purpose or clearing or breaking of and as may be necessary be restricted or prohibited,

(D) FINANCE AND ADMINISTRATION.

- (1) To under take any works, incur expenditure, procure machinery plant and stores required by the Authority;
- (2) to negotiate, execute and adopt/rectify all such contracts as may be considered necessary or expedient for the purpose of this Act;
- (3) to utilize the Authority Fund to meet the cost and expenses incurred on account of and in connection with the due performance of the various functions of the Authority under this Act including the payments of salaries, gratuity, pension and other remunerations to the officers, employees and other persons engaged by the Authority;
- (4) to properly manage finances and maintain accounts and assets of the Authority;

(E) TRANSITION

- (1) to promote formation, growth and development of AWBs/FOs as self supporting and financially self sustaining entities and to ensure orderly and systematic induction thereof into the operations of the Authority.
- (2) to prepare or cause to be prepared and regularly update or cause to be updated staffing and Operational and Financial Plans which will generally deal with and reflect such matters as may be prescribed by it;
- (3) to formulate policies with a view to ensure that the Authority and other entities under this Act become fully operative and self supporting and financially self sustaining entities as regards Operation and Maintenance cost of Irrigation and Drainage as defined in Chapter V within a period of seven to ten years:

(F) RESEARCH AND DEVELOPMENT.

- (1) To formulate implement and regularly update policies, studies and research programmes with a view to solve /eliminate and prevent Water logging and salinity, and to develop irrigated agriculture;
- (2) to conduct studies with a view to regularly analyse and evaluate the impact of the operations and policies of the Authority on the ecology the environment with a view to establish the various available options for the minimization of the adverse impact of such operations and policies if and, and to adopt the optimal option (s) for further action;
- (3) to coordinate/regulate the measures being undertaken/required to be undertaken for recording/gauging surface waters' monitoring of groundwater table and the quality of water and the compilation of data relevant thereto and in this regard to establish and regularly maintain proper liaison with similar work being undertaken in other Provinces;
- (4) to publish or cause to be published the various policies, details data and information relevant to the affairs of the Authority on a regular basis and to ensure reasonable access of the public to the same.

9. CONTRACTUAL SERVICES.

The Authority may, under a written agreement as to the terms and conditions including the extent and manner of payment for the same under take execution of any scheme (s) of exercise technical supervision and administrative and financial control, over the execution of any scheme framed or sponsored by Government or any other Agency.

10 Acquisition of any land or any interest in land for the Authority for the purposes of or any scheme under this Act shall, be deemed to be an acquisition of a public purpose within the scope and meaning of the Land Acquisition Act, 1894, the provisions whereof shall have effect accordingly.

- (1) As soon as any scheme has been completed by the Authority or at a later date, the Authority may arrange by a written agreement with a Local Council or other Agency within whose jurisdiction any particular area covered by the scheme lies, to take over and maintain any of the works comprising such scheme in the said area.
- (2) Government may direct the Authority to hand over any scheme (s) completed by it to any agency of Government or a Local Council or takeover such scheme (s) completed by any agency on such terms and conditions as may be determined by Government;

(3) The Authority shall have the powers to check; monitor and suggest works carried out by WAPDA in the Province;

12. Subject to the relevant provisions in the Water Apportionment Accord (1991) the Authority shall have control over all the rivers canals, drains, stream, hill torrents, springs, except such reservoirs as are under control of WAPDA and under ground water resources within the Province.

CHAPTER IV ESTABLISHMENT

13. (1) Subject to any other provisions of this Act the Authority may from time to time employ such officers and servants, or appoint in accordance with regulations as it may consider necessary for the performance of its functions: provided that the Authority may appoint experts and consultants on such terms and conditions as it may deem fit,

(2) Notwithstanding any thing contained in sub-section (1) any regulation made or orders or instructions - issued by the Authority, the Authority may at time, for reasonable cause, relieve or remove from its service any parson after giving him, not less than ninety days, notice or pay, for the period by which such notice falls short of ninety days.

14. The Authority shall be competent to take disciplinary action against its officers and employees in accordance with the regulations.

15. (1) The Managing Director, Members of the Board Officers and employees of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of Section 21 of the Pakistan Penal Code.

(2) No suit, prosecution or other legal proceedings shall lie against the Authority; the Managing Director Members or Officers and employees of the Authority in respect of say, thing done or intended to be done in good faith under this Act.

16. The Authority may by general or special order, delegate to the Managing Director, a member of the Board or officer or employees of the Authority any of its powers, under this Act subject to conditions a it may impose.

17. (1) All employees of the Irrigation Wing of the Provincial Irrigation and Power Department except such employees as may be specified by Government in this behalf shall, subject to any other provision (s) contained herein, on the commencement of this Act stand transferred to and become the employees of the Authority.

(2) The employees under sub-section (1) shall serve the Authority on such terms and conditions as may be prescribed by rules but such terms and conditions shall not be less favourable than the terms sand conditions of service admissible to them immediately before their transfer; Provided that the Authority shall be competent to take disciplinary action, against any employees.

(3) Government shall contribute towards the pension and gratuity admissible to and transfer the provident fund of such employees to the Authority in accordance with rules. Provided nothing contended in Industrial Relations Ordinance, 1969 shall apply to or in relation to the Authority.

CHAPTER V FINANCE

18. (1) There shall be a fond to be known as the "Authority Fund" vested in the Authority.

(2) The Authority fund shall` consist of:

- (a) all sums received by the Authority, in respect of water charges, sale proceeds and drainage cess;
- (b) grants made by Government;
- (c) loans obtained from Government;
- (d) grants made by local councils as required by Government;
- (e) sale proceeds of bonds or any other debt instruments issued under the Authority of government;
- (g) foreign assistance and loans obtained from different foreign agencies with the sanction of, and on such terms and -conditions as may be approved by Government is consultation with the Federal Government.
- (h) all other sums receivable by the Authority,

19. The Authority shall be deemed to be a Local Authority under the Local Authorities Loans Act, 1914 for the purpose of borrowing money under the said Act, and the making and execution of any scheme under this Act, shall be deemed to be a work which such Authority is legally authorized to carry out.

20. The liability of the Government of the creditors of the Authority shall be limited to the extent of grant made by Government and the loan raised by the Authority with the sanction of -the Government.

21. (1) The Authority shall normally supply water to different areas on equitable and reasonable assured basis.

(2) The rates at which the Authority shall supply water shall be so fixed as to provide for meeting the operation and maintenance cost of the system within a period of seven to ten years; provided always that before proposing any enhancement in the existing rates and/or, agreeing to the same the Authority/AWBs concerned shall use their best endeavours to reduce the quantum of the following measures-

- (i) reducing cost
- (ii) improving assessment and collection drainage cess;
- (iii) recovery of arrears;
- (iv) recovery of cost of providing drainage flood control to non farming beneficiaries;
- (v) disinvestment of fresh water tubewells in SCARP areas.

(3) The components of O & M to be recovered from the farmers in the form of abiana shall be the full O & M cost of Irrigation Canals and Secondary drains.

(4) The O & M cost of flood protection and public sector FWO tubewells with be excluded from abiana. A nominal proportion (say) five to ten percent) of the O & M cost of SGW tubewells and/or, main drains may however, be borne by the farmers should such a need is felt by the Authority at some later stage.

22. (1) The Authority shall not later than, six months after the end of hood each financial year prepare financial statements including a balance sheet as at the end of the financial year. income and expenditure account for the financial year, and a statement of changes in financial position or statement of sources and application of funds for the financial year, and cause then accounts to be audited every year by the Commercial Auditors to be appointed by the Authority.

(2) The balance sheet shall give a true and fair view of the state of affairs of the Authority as at the end of its financial year and the income expenditure account shall give a true and fair view of e surplus or deficit of income over expenditure of the Authority for the financial year.

(3) Accounting Standards of the Pakistan Institute of Chartered Accountants shall be followed in regard to the Books of Accounts and preparation of the Financial Statements.

(4) Accounting policies shall be stated as part of the Financial statements.

(5) The Authority shall attach to its Financial Statements a Statement providing information on any material changes and commitments affecting the financial position of the Authority which have occurred between the end of the financial year to which the financial statements relate and the date on which the financial statements were prepared.

(6) In the month of February each year the Authority shall submit to the Government for information projected financial statements for the next year.

(7) The Commercial Auditors shall carry out audit in accordance with the professional standards of Auditing prescribed by then Pakistan Institute of Chartered Accountants, and shall issue a report on the audit.

(8) The Authority shall provide a copy of the Audit report of the Commercial Auditors and Financial Statements together with detailed information and explanation is regard to any observation resegnation qualification or adverse remarks contained in the Auditor's Report to the Government and shall file a copy with the Accountant General of the province within 30 days of the receipt of the report.

(9) The Authority shall carry out all directives issued by Government for compliance with any observations, reservations, qualification or adverse remarks in the Audit Report.

CHAPTER VI AREA WATER BOARD

23. (1) Government shall, within one year Of the commencement of this Act notify AWBs together with their respective territorial jurisdictions which will preferably be based on the canal commands provided that such AWBs shall commence functioning on successful completion of pilot study of specified AWBs on canal commands.

(2) The Area Water Board shall consist of a Chairman and the following members:

- (a) Two representatives of FO elected by the Chairman of the FOs by covered in AWB.
 - (b) One MPA from concerned area of the AWB to be nominated by the Chairman SIDA.
 - (c) A representative of the Authority.
 - (d) Two representatives of Government one of whom shall be from the Agriculture Department not below the rank of Director:
 - (e) Director of the AWB.
 - (f) Two technocrats one each with proven backgrounds in (i) Water Resources Management and (ii) Finance respectively. Both to be nominated by Chairman, SIDA.
- (3) The members shall in the first meeting of the Board elect from amongst themselves Chairman of the Board;
- (4) The Chairman shall preside over the meetings of the Board.
- (5) Where the Chairman, for any reason is unable to attend - a meeting of the Board, the members present at such meeting may elect one of the present members to act as Chairman for that meeting.
- (6) A member other than Ex-officio members shall unless resigned or remained for a term of four years and shall be eligible to hold office for renomination for similar term.

24. (1) The Board shall meet at least once in every quarter of a year; provided that the Chairman of the Board shall upon receipt of a requisition of the Board, after giving seven days notice to all the members, within a period not exceeding fifteen days from the date of receipt of such requisition.

(2) The quorum for a meeting of the Board shall be five members.

25. The Board shall subject to control and direction of the Authority:

- (1) formulate and implement policies to achieve effective, economical and efficient utilization of irrigation water at its disposal;
- (2) ensure that it becomes fully operative as a self-supporting and financially self-sustaining entity within a period between seven to ten years from the date of its constitution;
- (3) Plan, design, construct, operate and maintain the irrigation drainage and flood control infrastructure located within its territorial jurisdiction;
- (4) perform any other functions assigned by the Authority.

CHAPTER VII FARMERS' ORGANISATIONS

26. A. FORMATION OF FOS.

- (1) Every SIDA and AWB shall, within one year of its establishment devise and implement pilot programme, policies and take steps there under to ensure that FOs are formed at the minor/distributary level in a phased and orderly manner in accordance with the relevant Bye-Laws and Regulations framed by the Authority;
- (2) The -SIDA AWB concerned shall enable the FOs formed under (1) above to become financially self sustaining and self sufficient for the due and effective performance of their functions prescribed under this Act within a maximum period of seven years from the respective dates of their formation under, (1) above.
- (3) Provided always that FOs established by Agriculture Department, NGOs community organisations and other sponsoring entities shall be deemed to be FOs within the meaning of this Act.

B. The Authority shall within such period as may be reasonable but in no case exceeding one year from the date of coming into force of this Act shall publish/cause to be published Bye Laws/Regulations relevant to the formation of the FOs in the Province.

C: Functions and Powers of FOs.

- (1) To operate, manage and improve the irrigation and drainage infrastructure comprising of minors, distributaries and drains together with any structures thereon located within the Area relevant to the FO concerned in a phased manner.
- (2) To obtain irrigation water from the SIDA or AWB concerned at the head of the minor or the distributary and to supply the same to their members and other water users if any.
- (3) To receive the drainage effluent from their water users and to convey the same through field/collector drains to the designated nodal points of the drainage system.
- (4) To collect the agreed water charges/other dues, if any, from its water users and to pay the agreed consideration for supply, of irrigation water and conveyance and/or disposal of drainage effluent to the SIDA or AWB concerned.

- (5) To engage, hire or employ any consultants, advisors and employees as may be deemed necessary or be otherwise reasonably required for the due and effective performance of various powers and functions on such terms and conditions as may; be prescribed including terms and conditions relevant to the conclusion or premature termination of such engagement etc of any consultants, advisors or employees, as the case may be.
- (6) Any other power. and function not being inconsistent with the functions and powers given above which may be vested in the FOs under the Bye-Laws and Regulations framed by the Authority.

CHAPTER VIII REPORTS AND STATEMENTS

27: (1) The FOs AWBs and the Authority shall submit to Government as soon as possible after the end of every financial year but; before the expiry of a period of seven months of such end of the financial year, a report on the conduct of their affairs for that year including audited financial statement for the year in question.

(2) Government may reasonable require the submission of the following:-

- (i) any return, statement, estimate, statistics or other information regarding any matter under the control of such entity; or
- (ii) a report, to any such matter; or
- (iii) a copy of any document in the charge of such entity; and she entity concerned shall comply with every such requisition.

(3) The Authority and AWBs shall cause to be published their Annual Reports submitted under sub-section (1) together with brief particulars of the projects proposed to be undertaken during the next financial year in at least one English/Urdu/Regional Language Newspaper.

CHAPTER IX MISCELLANEOUS

28. Where the Authority suffers any loss by grant of remission of water rate or drainage cess, compensation to the extent of loss shall be paid to the Authority by Government.

29. (1) On the commencement of this Act all assets and liabilities and all rights and obligations of the Irrigation Wing of the Irrigation and Power Department shall stand transferred to the Authority, on such terms and conditions particularly as regards to use and disposal of the said assets as maybe prescribed by Government.

(2) All contracts made by the Irrigation and Power Department relating to irrigation, drainage and flood control shall be deemed to be contracts made by the Authority:

(3) All decisions, and/or instruments shall be signed /authenticated for and on behalf of- the Authority by the signatures of the Managing Director and/or any other employee or employees off the Authority duly authorised by the Managing Director in this behalf.

(4) The Irrigation & Power Department, Government of Sindh will be the controlling department of the Authority on behalf of the Government of Sindh.

(5) Present, management system of Administrative tiers in the Department will continue till introduction of new management system of AWBs;

30. Government may make rules for carrying out the purposes of this Act.

31. Subject to rules, the Authority may with the approval of Government make regulations for giving effect to the provisions of this Act.

32. If any difficulty arises in giving effect to any of the provisions of this Act Government may make such orders, not inconsistent with the provisions of this Act as may appear to it to be necessary for the purpose of removing the difficulty.

33. In case of any conflict or inconsistency between any provision (s) of this Act any other law(s), the provisions of this Act to the extent of such conflict or inconsistency, as the case may be shall prevail.

34. The Sindh Irrigation and Drainage Authority Ordinance 1997, is hereby repealed.