

CHAPTER 285

IRRIGATION

Ordinance AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO IRRIGATION.

No. 32 of 1946,

Acts

Nos. 1 of 1951,

48 of 1968,

Law

No. 37 of 1973.

[1st November, 1946.]

Short title. 1. This Ordinance may be cited as the Irrigation Ordinance.

major irrigation work benefiting or intending to benefit, such land, or of all or any of such matters in combination :

Powers and duties of Commissioner. [§2, 48 of 1968.]

1A. (1) The Commissioner shall be responsible for the general supervision and control of Government Agents in the exercise and discharge of the powers and duties conferred and imposed upon them by this Ordinance.

Provided that, with reference to any extent of paddy land in respect of which there is a tenant cultivator, the irrigation rate shall be payable by him instead of the proprietor, and with reference to any extent of paddy land in respect of which there is an allottee or tenant cultivator, the irrigation rate shall be deemed to be a charge in favour of the State imposed not upon the land but upon such allottee or tenant cultivator in respect of water supplied, or to be supplied, to such extent of paddy land or in respect of the cost of or incidental to, the construction or maintenance of any major irrigation work benefiting or intended to benefit, such extent of paddy land, or of all or any of such matters in combination.

(2) The Commissioner may from time to time give general or special directions to a Government Agent as to the performance of his duties relating to the administration of this Ordinance and may direct or authorize any question of doubt or difficulty in connexion with such duties to be referred to the Commissioner for decision.

(3) Any direction or decision of the Commissioner shall be observed and given effect to by the Government Agent concerned.

(2) Any charge referred to in subsection (1) may be imposed by the Government Agent whether by way of provision in the scheme of a major irrigation work or otherwise, and may be varied by him from time to time :

(4) In the exercise of his powers and in the discharge of his duties under this Ordinance, the Commissioner shall be subject to the general direction and control of the Minister.

PART I

IRRIGATION RATES

Provided, however, that any charge imposed upon an extent of land in respect of which there is an allottee or tenant cultivator shall be deemed to be imposed upon such allottee or tenant cultivator ; and

Irrigation rates.

2. (1) An irrigation rate under this Ordinance, with reference to any land to which it relates, is a charge in favour of the State imposed upon the land in respect of water supplied, or to be supplied to such land or in respect of the cost of or incidental to, the construction or maintenance of any

Provided, further, that in respect of any major irrigation work any existing charge imposed—

(a) by the instrument under which the land was granted, leased, held or occupied, or

(b) by express agreement between the State and the owner, lessee, tenant or occupier of the land, or

(c) by resolution of the majority of the proprietors of the irrigable area or tract in which the land is comprised, or

(d) by any other method by which an irrigation rate may have been duly imposed,

shall be deemed to be the charge imposed by the Government Agent.

[§3, 48 of 1968.]

(3) Any charge referred to in subsection (1) may be either conditional or unconditional, and may be either for a fixed amount, or may be subject to estimate, measurement or variation.

[§3, 48 of 1968.]

(4) Every charge referred to in subsection (1) with reference to land other than land in respect of which there is an allottee or tenant cultivator shall be binding on the land and every part thereof; and such land and every part thereof, and the proprietors of such land and every part thereof, shall be liable for the payment of the said charge into whosoever hands the ownership, possession, tenancy, or occupancy of such land or any part thereof under any circumstances may at any time pass, until such charge is extinguished, and notwithstanding anything to the contrary in any written law other than this Ordinance, such charge shall have priority over all mortgages, hypothecations, incumbrances, and charges whatsoever, whether antecedent in date or otherwise, affecting the land.

PART II

DISTRICT AGRICULTURAL COMMITTEES

Constitution of district agricultural committees.

3. There shall be constituted in each administrative district a district agricultural committee which shall consist of a chairman, who shall be the Government Agent, and the holders of such other offices and the representatives of such interests as may be prescribed.

4. It shall be the duty of a district agricultural committee to advise the Government Agent on all matters affecting or incidental to irrigation and paddy cultivation within the district, and on all other matters relating to agriculture, which the Government Agent may refer to the committee for advice.

Duties of district agricultural committees.

5. (1) Regulations may be made for or in respect of all or any of the following matters :—

Regulations.

- (a) the period during which members of a district agricultural committee are to hold office;
- (b) the conduct of business by the committee;
- (c) the procedure to be followed at meetings of the committee; and
- (d) any other matter connected with or incidental to the matters specifically mentioned in this subsection.

(2) Subject to any regulations made under subsection (1), a district agricultural committee may regulate its own procedure.

ADVISORY COMMITTEES

6. (1) In respect of every major irrigation work there shall be an advisory committee consisting of—

Advisory committees in respect of major irrigation works. [§4, 48 of 1968.]

- (a) the Government Agent, who shall be the chairman,
- (b) the presidents of the Cultivation Committees* in the area benefited by the irrigation work,
- (c) a representative appointed by each of the following officers :—
 - (i) the Director of Irrigation,
 - (ii) the Land Commissioner,
 - (iii) the Commissioner of Agrarian Services,

* Cultivation Committees established under the repealed Paddy Lands Act, No. 1 of 1958, continued to function until Cultivation Committees were constituted under the Agricultural Lands Law, No. 42 of 1973. Cultivation Committees ceased to exist upon the repeal of the Agricultural Lands Law by the Agrarian Services Act (No.58 of 1979), and under that Act the assets and liabilities of Cultivation Committees were transferred to the Agrarian Services Committees established under that Act.

- (iv) the Director of Agriculture, and
- (v) the Commissioner of Co-operative Development,
- (d) the divisional Assistant Government Agent, and
- (e) not less than three and not more than five tenant cultivators, owner-cultivators and allottees under the Land Development Ordinance nominated by the Cultivation Committees* concerned.
- (d) the regulation and assessment of the contributions of labour to be made by persons for the purposes of works for the construction or maintenance of which they are, in whole or in part, responsible, and for the payment of money by way of commutation of the liability to make such contributions ; and
- (e) the maintenance, conservation, protection or management of the works referred to in paragraph (d).

(2) It shall be the duty of the advisory committee to advise the Government Agent on all matters connected with irrigation and paddy cultivation within the major irrigation work.

(3) The Government Agent shall summon a meeting of the advisory committee as often as may be necessary and in any case at the commencement of each cultivation season.

PART III

MEETINGS OF PROPRIETORS

Powers of Cultivation Committee and of allottees, tenant cultivators and proprietors. [S6, 48 of 1968.]

†11. (1) Subject to the provisions of subsection (4), the Cultivation Committee* in respect of any irrigable area or tract shall have power to make rules for all or any of the following purposes :—

- (a) the encouragement, extension, regulation, or management of paddy cultivation or any other form of cultivation which is capable of being benefited by an irrigation work ;
- (b) the enforcement of established customs affecting such cultivation ;
- (c) subject to the direction and control of the Government Agent, the appointment of agents and the regulation of their powers, duties, remuneration and duration of office ;
- (2) Rules made under this section may include rules making provision for the form of cultivation known as *betma* cultivation.
- (3) No rules shall be made under this section for any purpose for which regulations have been made under section 64.
- (4) Where any irrigable area or tract falls within the area of jurisdiction of more than one Cultivation Committee,* the rules for any one or all of the purposes referred to in subsections (1) and (2) shall be made at a joint meeting of all such Cultivation Committees*. The constitution of such joint meeting and the procedure to be followed therein shall be in accordance with regulations made under section 117.
- (5) At a meeting of the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, within any irrigable area or tract, a majority of those present at such meeting shall have power—
 - (a) by resolution to amend or rescind any resolution passed or deemed to be passed under this Ordinance, or to correct any irregularity, informality or defect in any proceeding at any earlier meeting of the proprietors or allottees, tenant cultivators and proprietors of that area or tract,

* Cultivation Committees established under the repealed Paddy Lands Act, No. 1 of 1958, continued to function until Cultivation Committees were constituted under the Agricultural Lands Law, No. 42 of 1973. Cultivation Committees ceased to exist upon the repeal of the Agricultural Lands Law by the Agrarian Services Act (No. 58 of 1979), and under that Act the assets and liabilities of Cultivation Committees were transferred to the Agrarian Services Committees established under that Act.

† Sections 7, 8, 9 and 10 are repealed by Act No. 48 of 1968.

(b) to decide upon or otherwise deal with any question arising in connexion with or in the operation of any scheme under this Ordinance, or any resolution passed at any meeting of allottees, tenant cultivators and proprietors under this Ordinance or at any meeting of proprietors under this Ordinance or under any previous Irrigation Ordinance, which may be referred to them by the Minister or the Government Agent, and

(c) to decide, before the commencement of the cultivation season, and subject to the approval of the Government Agent, such matters pertaining to cultivation as—

(i) the dates of the commencement of cultivation operations including ploughing, sowing and reaping, and

(ii) arrangements for the annual maintenance of irrigation works, and any other matters relating to the execution of rules made under subsections (1) and (2).

(6) Where, at a meeting referred to in subsection (5), a decision under paragraph (b) or paragraph (c) of that subsection has not been arrived at whether for want of a quorum or any other cause, the power to make such decision shall be exercised by the Government Agent.

Powers of Cultivation Committees* with respect to *manawari* lands. [§7, 48 of 1968.]

12. With respect to *manawari* lands within its area, a Cultivation Committee* shall have power to make rules for all or any of the following purposes :—

(a) the regulation or management of such lands, and the conservation of rain water,

(b) the enforcement of established customs affecting the cultivation of such lands,

(c) subject to the direction and control of the Government Agent, the appointment of Cultivation Committee* agents and the regulation of their powers, duties, remuneration and duration of office,

(d) the regulation and assessment of the contributions of labour to be made by the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands by the proprietors of those lands for the purposes of the cultivation of such lands, and for the payment of money by way of commutation of the liability to make such contributions of labour.

†14. (1) No rule made in pursuance of the provisions of this Part shall have effect until it is approved by the Minister with the concurrence of the Minister charged with the administration of the Agrarian Services Act, and notification of such approval is published in the Gazette. Every rule shall, upon notification of such approval in the Gazette, be as valid and effectual as if it were herein enacted.

(2) Where notification of the approval of any rule is published in the Gazette under subsection (1), the Government Agent shall forthwith cause such rule to be published in the language or languages prevailing in the district in such manner as the Government Agent may in his discretion consider best adapted for bringing the terms and purport of such rule to the notice of the persons affected thereby.

15. (1) No resolution passed in pursuance of the provisions of this Part shall have effect until—

(a) in the case of a resolution relating to a minor irrigation work, it is approved by the Government Agent, and

* Cultivation Committees established under the repealed Paddy Lands Act, No. 1 of 1958, continued to function until Cultivation Committees were constituted under the Agricultural Lands Law, No. 42 of 1973. Cultivation Committees ceased to exist upon the repeal of the Agricultural Lands Law by the Agrarian Services Act (No. 58 of 1979), and under that Act the assets and liabilities of Cultivation Committees were transferred to the Agrarian Services Committee established under that Act.

† Section 13 is repealed by Act No. 48 of 1968.

(b) in the case of a resolution relating to a major irrigation work, it is approved by the Minister.

(2) Notice of the fact that any resolution has been approved under subsection (1) shall be given in such manner as may be prescribed.

Proxies.
[§11, 48 of
1968.]

* 18. (1) At any meeting of the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, held under the provisions of this Ordinance or any rule or regulation made thereunder, any person entitled to be present at such meeting may, by proxy in writing, authorize any other person to represent him and to vote on his behalf, and the person who is so represented at any such meeting shall be deemed to be present thereat for the purpose of determining whether the meeting is validly constituted or whether any rule or resolution has been duly passed by a majority.

[§11, 48 of
1968.]

(2) Every proxy given for the purposes of subsection (1) shall be signed by the person giving it, the signature being attested by two witnesses.

(3) The Government Agent or other officer presiding at the meeting shall have full power to determine the validity of any proxy presented at any such meeting, and his decision shall be final and conclusive.

Summoning of
meetings.
[§12, 48 of
1968.]

19. (1) The Government Agent may of his own motion summon a meeting of the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, within any irrigable area or tract.

[§12, 48 of
1968.]

(2) The Government Agent shall, on receipt of a written requisition of the allottees and the tenant cultivators, and

where there are no allottees or tenant cultivators of any lands the proprietors of those lands, representing one-fifth of the acreage of any irrigable area or tract, summon a meeting of the allottees, tenant cultivators and proprietors of that irrigable area or tract.

(3) The Government Agent may of his own motion summon any joint meeting of Cultivation Committees† referred to in subsection (4) of section 11. [§12, 48 of 1968.]

(4) Where the irrigable area under a minor irrigation work falls within the area of jurisdiction of a Cultivation Committee‡, such Cultivation Committee‡ may summon a meeting of the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands, the proprietors of those lands, within such irrigable area. [§12, 48 of 1968.]

20. (1) When any meeting other than a meeting of a Cultivation Committee‡ is to be held under the provisions of this Ordinance or any rule or regulation made thereunder, the Government Agent shall cause notice (being the longest notice which, in his opinion, is reasonable in the circumstances) to be given of the time and place of the meeting and its objects. Notice of meetings. [§13, 48 of 1968.]

(2) The notice referred to in subsection (1) shall be given by beat of tom-tom or by exhibiting written notices in the language or languages of the district in suitable places within the area or tract or in such other manner as may appear to the Government Agent to be best adapted for giving publicity thereto.

(3) Where written notices of a meeting are exhibited under subsection (2), a copy of such notice shall be sent to the Mayor of every Municipal Council and to the Chairman of every Urban Council, Town Council and Village Council constituted

* Sections 16 to 17 are repealed by Act No. 48 of 1968.

† Cultivation Committees established under the repealed Paddy Lands Act, No. 1 of 1958, continued to function until Cultivation Committees were constituted under the Agricultural Lands Law, No. 42 of 1973. Cultivation Committees ceased to exist upon the repeal of the Agricultural Lands Law by the Agrarian Services Act (No. 58 of 1979), and under that Act the assets and liabilities of Cultivation Committees were transferred to the Agrarian Services Committees established under that Act.

within the divisional Assistant Government Agent's division in which such meeting is to be held.

Constitution of meetings. [§14, 48 of 1968.]

21. A meeting, other than a meeting of a Cultivation Committee,* which is held under the provisions of this Ordinance or any rule or regulation made thereunder shall not be deemed to be validly constituted unless there are present allottees, if any, tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, representing at least one-third of the acreage affected by any matter to be discussed at the meeting or fifty persons entitled to be present.

Presiding officer. [§15, 48 of 1968.]

22. (1) The Commissioner, or the Government Agent or other officer authorized by the Commissioner or Government Agent shall preside at every meeting, other than a meeting of a Cultivation Committee* held under the provisions of this Ordinance or any rule or regulation made thereunder. The Commissioner, or the Government Agent or other officer so authorized is hereinafter referred to as the "presiding officer". Full minutes, signed by the presiding officer, shall be kept of the proceedings of every such meeting.

[§15, 48 of 1968.]

[§15, 48 of 1968.]

(2) If at any meeting held under the provisions of this Ordinance or any rule or regulation made thereunder any question arises as to the right of any person to vote, the presiding officer may then and there decide the question, and his decision shall be entered in the minutes and shall be final and conclusive.

PART IV†

CULTIVATION COMMITTEES* AND THEIR AGENTS

Duties of Cultivation Committees. [§16, 48 of 1968.]

23. (1) A Cultivation Committee* shall, within the area of its jurisdiction—

(a) attend to all matters connected with the irrigation and cultivation of

land and the preservation of rights and the maintenance of irrigation works connected therewith, and

(b) prevent, as far as practicable, any act or omission which is contrary to any rules or regulations in force under this Ordinance or to establish customs relating to irrigation or cultivation, or whereby damage may be caused to any of the allottees, tenant cultivators or proprietors.

(2) Where within the area of its jurisdiction, any act is committed or any omission made which is contrary to any established custom or any rule or regulation relating to irrigation or cultivation, or whereby any damage may be caused to any allottee, tenant cultivator or proprietor, the Cultivation Committee* shall, if the act or omission be of such a nature as to call for prompt action to prevent damage, take such steps as may be necessary in the circumstances, and shall forthwith report the matter to the Government Agent.

(3) No action taken by a Cultivation Committee* under subsection (2) shall be deemed to preclude an investigation, under the provisions of Part VIII, into the act or omission in consequence of which such action has been taken.

24. (1) It shall be lawful for a Cultivation Committee* to delegate, subject to the direction and control of the Government Agent and subject to its own direction and control, any or all of its duties under section 23 to one or more Cultivation Committee* agents. [§16, 48 of 1968.]

(2) The Government Agent may at any time direct any Cultivation Committee* to discontinue the services of any Cultivation Committee* agent who is guilty of misconduct or neglect of duty or who has been convicted of an offence which in the

* Cultivation Committees established under the repealed Paddy Lands Act, No. 1 of 1958, continued to function until Cultivation Committees were constituted under the Agricultural Lands Law, No. 42 of 1973. Cultivation Committees ceased to exist upon the repeal of the Agricultural Lands Law by the Agrarian Services Act (No. 58 of 1979), and under that Act the assets and liabilities of Cultivation Committees were transferred to the Agrarian Services Committees established under that Act.

† Existing Part IV (sections 23 to 32) is repealed and this new Part IV (sections 23, 24, & 25) has been introduced by section 16, Act No. 48 of 1968.

opinion of the Government Agent disqualifies such Cultivation Committee* agent from holding office, and the Cultivation Committee* shall take action accordingly.

(3) Where a Cultivation Committee* fails to comply with a direction of the Government Agent under subsection (2), he shall report such failure to the Commissioner for action under section 38 of the Paddy Lands Act, No. 1 of 1958.†

Mode of recovering expenditure incurred by Cultivation Committees and their agents. [§16, 48 of 1968.]

25. (1) Where a Cultivation Committee* acting under section 23, or Cultivation Committee* agent acting under sections 23 and 24, or an officer acting in pursuance of any regulation made under part VI, incurs any expenditure in the execution of its or his duty, and the person in consequence of whose act or omission such expenditure was incurred denies his liability to pay the amount incurred, or fails to pay such amount, the Government Agent may, on his being satisfied that such expenditure was properly incurred, and that it is reasonable, sign a certificate setting out the name of the person in consequence of whose act or omission such expenditure was incurred, the amount thereof, the nature of the act or omission, and the name of the Cultivation Committee* or agent or officer by whom the expenditure was incurred, and cause such certificate to be delivered to such person.

(2) Where any person to whom a certificate referred to in subsection (1) has been delivered fails to pay the amount due from him within ten days from the delivery to him of the certificate, the Government Agent may proceed to recover such amount in the manner provided in section 78 or section 78A, as the case may be.

PART V

CONSTRUCTION AND MAINTENANCE
OF IRRIGATION WORKS

GENERAL PROVISIONS

‡33. (1) In any case where it is proposed that any irrigation work be constructed, or that any variation be made in the conditions relating to the construction or maintenance of any irrigation work or the supply of water thereunder, or where any other question relating to any irrigation work has to be determined, a scheme for that purpose may be prepared by the Government Agent. Irrigation schemes. [§17, 48 of 1968.]

(2) It shall be lawful for the Government Agent in consultation with the advisory committee in respect of major irrigation works appointed under section 6— [§17, 48 of 1968.]

- (a) to vary any irrigation rate or contribution in money or in labour imposed or levied under an existing irrigation scheme, notwithstanding that such irrigation rate may be higher than the maximum irrigation rate specified in such scheme; and
- (b) to incur expenses in carrying out operations necessary for the maintenance of any irrigation work and to charge such expenditure to the allottees and tenant cultivators, and where there are no allottees or tenant cultivators of any lands, to the proprietor of the lands benefited by that scheme, notwithstanding anything to the contrary in the scheme relating to such irrigation work.

34. A scheme under this Part may provide for all or any of the following matters :— Scope of irrigation scheme.

- (1) in the case of any irrigation work—
 - (a) for the construction or maintenance of the irrigation work;

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† Repealed by Law No. 42 of 1973, which in turn was repealed by Act No. 58 of 1979 (Agrarian Services Act).

‡ Sections 26 to 32 are repealed by Act No. 48 of 1968.

- [§18, 48 of 1968.]
- (b) for the division of the responsibility for the construction or maintenance of the whole or any part of the irrigation work between the Government and the allottees, proprietors, tenant cultivators, or the Cultivation Committee,* as the case may be ;
- (c) for the variation of the conditions relating to the construction or maintenance of the irrigation work, or the supply of water thereunder, or the variation of any scheme for any of the said purposes ;
- (d) for the division of the irrigable area into tracts, and for the conditions and methods of the distribution of water to such tracts ;
- (e) for the adjustment of the expenses of the maintenance of the irrigation work, in any case in which a scheme involves any extension of the work, between the land comprised in the original irrigable area and the lands comprised in the area benefited by the effect of the extension ;
- (f) for the abandonment of any irrigation scheme or work ;
- (g) for any other matter which, in the opinion of the Minister, may be appropriately included in any scheme.
- (2) In the case of any major irrigation work—
- (a) for the imposition of any irrigation rate upon the lands benefited or to be benefited under any scheme ;
- (b) for the levying of contributions in labour upon the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, for the purpose of the construction or maintenance of the irrigation work or any part thereof, and for the payment of an irrigation rate by way of commutation of the liability to make such contributions in labour ;
- (c) for the estimation and levying of special irrigation rates in respect of water derived by seepage, mechanical appliances or other special means.
- (3) In the case of any minor irrigation work—
- (a) for the assessment of contributions, whether in labour or money, from the several allottees and tenant cultivators, and where there are no allottees or tenant cultivators of any lands, proprietors of those lands ;
- (b) for the payment of money by way of commutation of the liability to make such contributions in labour ;
- (c) for the recovery of such contributions ;
- (d) for any other matter which, in the opinion of the Government Agent, may be appropriately included in any scheme.
35. Where the Commissioner approves any irrigation scheme prepared under section 33 (1) or any variation of rate under section 33 (2), notice thereof shall be given in the Gazette and in such other manner as the Commissioner may determine.
- †44. Save as otherwise expressly provided in this Ordinance and subject in particular to the powers accorded to meetings of proprietors, nothing in this
- [§18, 48 of 1968.]
- [§18, 48 of 1968.]
- [§19, 48 of 1968.]
- Saving of mutual rights and obligations of State and proprietors.

* Cultivation Committees established under the repealed Paddy Lands Act, No. 1 of 1958, continued to function until Cultivation Committees were constituted under the Agricultural Lands Law, No. 42 of 1973. Cultivation Committees ceased to exist upon the repeal of the Agricultural Lands Law by the Agrarian Services Act (No. 58 of 1979), and under that Act the assets and liabilities of Cultivation Committees were transferred to the Agrarian Services Committees established under that Act.

† Sections 36 to 43 (both inclusive) are repealed by Act No. 48 of 1968.

Ordinance shall affect the mutual rights and obligations of the State and the proprietors with reference to any irrigation work constructed or in course of construction at the appointed date.

Saving of rights of the State.

45. Save as otherwise expressly provided in section 58, nothing in this Ordinance, or in any scheme or resolution sanctioned or passed in pursuance of this or any previous Irrigation Ordinance, shall preclude the State on the occasion of the sale or lease of any State land then or subsequently to become benefited by any irrigation work, either actually constructed or under process of construction, or thereafter to be constructed, from imposing in the grant or lease or reserving the right to impose an irrigation rate of such amount and variable in such manner as to the Minister with the concurrence of the Minister in charge of the subject of Finance may seem fit.

under any previous Irrigation Ordinance, the Government Agent, with the assistance of the Director of Irrigation and the Surveyor-General, shall from time to time, in such manner as to him may appear expedient, prepare a specification showing the several lands benefited or to be benefited, with the names of the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands, the proprietors of those lands, and the contribution, in money or labour, payable by each in respect of his land; and such specification shall be conclusive proof that the lands included in the specification and the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands, the proprietors of those lands are severally bound and liable for the payment or rendering of such contribution.

[§23, 48 of 1968.]

[§23, 48 of 1968.]

SPECIAL PROVISIONS APPLICABLE TO MAJOR IRRIGATION WORKS

Confirmation of scheme.

46. (1) No scheme relating to a major irrigation work shall have effect until such scheme has been confirmed by the Minister.

In the specification so prepared, the Government Agent shall be guided by the register of paddy lands prepared and maintained under section 35 of the Paddy Lands Act, No. 1 of 1958.†

[§23, 48 of 1968.]

(2) Notice of such confirmation shall be given in such manner as may be prescribed.

(2) The Government Agent may from time to time amend any specification, and may exclude from liability to contribution any lands included in any specification which may from time to time be found not to be benefited, or may, on notice to the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands, the proprietors of those lands, add thereto such additional lands as may from time to time be found benefited.

[§23, 48 of 1968.]

(3) After the notice referred to in subsection (2) has been given, every person interested in the scheme shall be entitled to inspect the scheme, free of charge, at the kachcheri.

Rates to be variable in accordance with scheme.

47. All irrigation rates provided for by any scheme under this Part shall be subject to periodical revision in accordance with the scheme:

(3) Every specification which is in force at the appointed date shall be revised by the Government Agent within three years after that date and thereafter at intervals of not more than five years; and every specification prepared after the appointed date shall be revised by the Government Agent at intervals of not more than five years.

[§21, 48 of 1968.]

Provided that nothing in the preceding provisions of this section shall be deemed to prejudice the right of the proprietor of any irrigable area to the continuance of any perpetuity rate under any scheme in force at the appointed date.

Specifications.

*50. (1) For the purpose of any irrigation rate leviable under this Ordinance, or any rate leviable in respect of irrigation

51. Whenever it appears to the Minister with respect to any major irrigation work undertaken or completed under the

Procedure in case of default in making specification.

* Sections 48 and 49 are repealed by Act No. 48 of 1968.

† Repealed by Law No. 42 of 1973; which in turn was repealed by Act No. 58 of 1979.

provisions of this or any previous Irrigation Ordinance—

- (a) that the specification, which according to such Ordinance ought to have been made, has not in fact been made ;
- (b) that any specification which has been made is invalid or of doubtful validity by reason of noncompliance with the requirements of such Ordinance,

it shall be lawful for the Minister to direct a specification to be prepared showing the lands benefited or to be benefited by the work, and every specification so made shall for all purposes have the like force and validity as if it had been duly made under the provisions of the Ordinance under which the work was undertaken.

Seepage rates.

*53. (1) Every land which, notwithstanding that it is not irrigable under any major irrigation work, derives substantial benefit from such work by seepage, shall be liable to the imposition in respect of such seepage of an irrigation rate (hereinafter referred to as a "seepage rate") not exceeding half the rate ordinarily payable in respect of lands under the said irrigation work.

[§25, 48 of 1968.]

(2) In any case in which the Director of Irrigation is satisfied that any land is liable to the imposition of a seepage rate under this section, the Government Agent shall, by notice in writing, inform the allottee or tenant cultivator of such land or, where there is no allottee or tenant cultivator of such land, the proprietor of such land, that it is proposed to impose upon such land a seepage rate of the amounts specified in the notice, and call upon such proprietor, if he object to the imposition of a seepage rate, to make application in the manner and within the time provided for by this section.

[§25, 48 of 1968.]

(3) Any allottee, tenant cultivator or proprietor who objects to the imposition of a seepage rate on the ground that the land in question is not deriving substantial benefit by seepage from the irrigation work, may

[§25, 48 of 1968.]

within one month of the receipt of the notice referred to in subsection (2) apply to the Government Agent for an order that the land in question is not liable to the imposition of a seepage rate, and the Government Agent shall have jurisdiction to inquire into and determine the question, and his decision shall be final so far as it relates to the question of the liability of the land to the imposition of the seepage rate, and no further.

(4) In any case in which no application under subsection (3) is made within the time specified in that subsection, or in which, on such application, the question at issue is determined in favour of the Director of Irrigation, it shall be lawful for the Government Agent, by order published in the Gazette, to impose a seepage rate in respect of the land in question in accordance with this section, and to direct the inclusion of the said land in respect of such seepage rate in the specification in force for the purposes of the irrigation work.

[§25, 48 of 1968.]

54. (1) In any case in which any land, not otherwise benefited by any major irrigation work, is capable of deriving benefit from such work by the use of any mechanical appliance, it shall not be lawful—

Irrigation and drainage by mechanical appliances, and rates therefor.

(a) to use such appliance for such purpose, unless a certificate that such use has been authorized is issued by or under the authority of the Director of Irrigation, or

[§ 26, 48 of 1968.]

(b) to erect or use such appliance otherwise than in accordance with the terms or conditions subject to which such authorization has been given.

(2) On the issue of a certificate under subsection (1), the Government Agent may, by order published in the Gazette, impose an irrigation rate upon the land in question of such an amount as may be approved by the Minister with the concurrence of the Minister in charge of the subject of Finance, and such land shall be included in the

* Section 52 is repealed by Act No. 48 of 1968.

specification in force in respect of the irrigation work from which such land derives benefit.

Special irrigation rates. [§27, 48 of 1968.]

55. In any case in which the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, of any area not ordinarily entitled to a supply of water from any major irrigation work desire a special supply of water from such work, such special supply may be sanctioned upon a majority of such persons passing a resolution, at a meeting summoned for the purpose by the Government Agent, approving of the payment of a special irrigation rate, or upon the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, representing two-thirds of the irrigable lands of that area signing an undertaking to pay a special irrigation rate, and thereupon the Government Agent may, by order published in the Gazette, impose such a special irrigation rate, and the particulars of the amount due from the several allottees, tenant cultivators and proprietors in respect of such special rate shall be entered in the specification, or in a special specification, in respect of the irrigation work from which such special supply is given.

[§27, 48 of 1968.]

[§27, 48 of 1968.]

[§ 27, 48 of 1968.]

Maintenance rates.

56. (1) Except in the following cases, that is to say :—

- (a) in the case of any major irrigation work in respect of which a fixed or variable rate per annum in perpetuity is leviable,
- (b) in the case of any major irrigation work in respect of which other special arrangements for the maintenance thereof are sanctioned under this Ordinance,

the lands included in the specification of any major irrigation work constructed, or in course of construction at the appointed date, and the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands the

[§28, 48 of 1968.]

proprietors of those lands, shall severally be bound and liable to an annual irrigation rate (hereinafter called the "maintenance rate") for the maintenance of such irrigation work.

(2) The lands included in the specification of any major irrigation work specified in the Schedule, and the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, shall severally be bound and liable to a maintenance rate for the maintenance of such irrigation work. [§28, 48 of 1968.]

(3) The maintenance rate shall be assessed by the Government Agent and divided *pro rata* among the lands set out in the specification. In making his assessment the Government Agent shall be guided, in the case of any work which has been maintained for a period exceeding five years, by the actual cost of maintenance of such work for the five years preceding the date of assessment, and in the case of any work which has been maintained for a period not exceeding five years, by the estimate of the probable cost of annual maintenance which shall be prepared by the Director of Irrigation.

(4) All maintenance rates shall be reassessed by the Government Agent at the end of every period of five years or at such later date as may in any case be sanctioned by the Minister.

(5) A maintenance rate under this section may be assessed either separately (hereinafter called a "separate rate") in respect of a single irrigation work, or generally (hereinafter called a "general rate") in respect of any group of irrigation works.

(6) An irrigation work which is subject to a separate rate may, on the occasion of any reassessment, be included in a group of irrigation works, and be made subject to a general rate in respect of such group of works, and vice versa :

Provided that before any order is made converting a separate rate into a general rate or vice versa, the Government Agent shall

[§28, 48 of 1968.]

consult the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, of the various works affected at a meeting or meetings summoned by him for the purpose.

(7) For the purposes of every maintenance rate under this section the Government Agent shall from time to time prepare a specification in the manner provided by section 50, and all the provisions of that section shall, with the necessary modifications, apply to such specification.

Power to exempt work from maintenance rate. [§29, 48 of 1968.]

57. (1) In any case in which a majority of the allottees and tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, of the lands under any major irrigation work in respect of which a maintenance rate is payable under section 56, by resolution passed at a meeting summoned for the purpose by the Government Agent, request that such work be exempt from the provisions of that section, and that the Cultivation Committee* within the area of whose jurisdiction such work lies maintain the work, the Minister may, by Order published in the Gazette, direct that, with effect from such date and subject to such terms and conditions as may be specified in the Order, such work shall be exempt from the provisions of that section and shall be maintained by the Cultivation Committee* in accordance with rules made under Part III, such rules not being inconsistent with any terms and conditions so specified.

(2) The Government Agent shall place before the meeting of the allottees, tenant cultivators and proprietors summoned under subsection (1), a scheme of maintenance which shall be prepared by the Director of Irrigation in consultation with the Government Agent, and in which all

the operations which the Cultivation Committee* is expected to undertake for the purposes of the maintenance of the irrigation work shall be clearly and completely specified.

(3) Every irrigation work in respect of which an Order is published under subsection (1) shall with effect from the date specified in the Order be exempt from the provisions of section 56, and shall be maintained by the Cultivation Committee* concerned in accordance with rules made under Part III and the terms and conditions, if any, specified in the said Order :

Provided that in any case in which the Cultivation Committee* fails to maintain such work to the satisfaction of the Government Agent, the Minister may, by Order published in the Gazette, cancel the Order made under subsection (1) in respect of that work, and on the publication of such Order, such work shall cease to be exempt from the provisions of section 56.

58. (1) Where after the appointed date any major irrigation work is constructed wholly for the purpose of benefiting lands held on grant, permit, lease, or otherwise from the State, such lands and the proprietors or owners thereof shall severally be bound and liable to a consolidated irrigation rate for the construction and maintenance of such work and for the water supplied or to be supplied to such lands from such work, in lieu of the rates leviable under the preceding provisions of this Ordinance.

Consolidated irrigation rates.

(2) Subject as hereinafter provided, the following matters shall be taken into consideration in determining the amount of any consolidated irrigation rate to be levied under subsection (1) :—

- (a) the value of the lands benefited or to be benefited by the irrigation work, without taking into consideration the value of any improvement to such lands by the construction of such work ;

* Cultivation Committees established under the repealed Paddy Lands Act, No. 1 of 1958, continued to function until Cultivation Committees were constituted under the Agricultural Lands Law, No. 42 of 1973. Cultivation Committees ceased to exist upon the repeal of the Agricultural Lands Law by the Agrarian Services Act (No. 58 of 1979), and under that Act the assets and liabilities of Cultivation Committees were transferred to the Agrarian Services Committees established under that Act.

- (b) the capital cost of the facilities provided by the irrigation work ;
- (c) the estimated cost of maintenance of such facilities ;
- (d) the cost of any other service to be rendered to the proprietors for the development of such lands ; and
- (e) any other matter which may be prescribed :

Provided that the Minister may, in the circumstances of any particular case, direct that any of the matters specified in paragraphs (a) to (d), or prescribed under paragraph (e) shall not be taken into consideration for the purpose of determining the amount of any consolidated irrigation rate.

Power to remit rate.

59. The Minister may at any time in respect of any year or years remit or refund any rate or any part of a rate payable under this Ordinance.

Payment of contributions in kind.

60. It shall be lawful for the Government Agent to receive in kind instead of in money any contributions under this Ordinance. Such payment in kind shall be made at such rate of commutation, and shall be collected at such time and place and in such manner, as the Government Agent may from time to time direct. If default is made in such payment in kind at the time and place directed by the Government Agent, the amount of the contribution for which such payment in kind was substituted shall be recovered in the manner provided in Part VII.

SPECIAL PROVISIONS APPLICABLE TO MINOR IRRIGATION WORKS

Confirmation of scheme.

61. (1) No scheme relating to a minor irrigation work shall have effect until such scheme has been confirmed by the Minister and until notice of such confirmation has been given in such manner as may be prescribed.

(2) After the notice referred to in subsection (1) has been given, every person interested in the scheme shall be entitled to inspect the scheme, free of charge, at the kachcheri.

62. (1) Where any minor irrigation work is so defectively maintained by the Cultivation Committee* as, in the opinion of the Director of Irrigation, to endanger or impair the effectiveness of any major irrigation work with which such minor work is connected, the Minister may give notice that unless within a time fixed by the notice the arrangements for the maintenance of such minor work are made effective, and unless such work is thereafter effectively maintained, such work will be made subject to a maintenance rate under section 56.

Defective maintenance of minor irrigation work connected with major irrigation work. [§ 31, 48 of 1968.]

(2) If the requirements of any notice given under subsection (1) are not complied with to the satisfaction of the Minister it shall be lawful for the Minister by Order published in the Gazette, to direct that the necessary arrangements for the maintenance of the minor irrigation work in respect of which such notice was given shall be carried out, and that the expenses of carrying out such arrangements and of the subsequent maintenance of such work shall be recovered by a maintenance rate under section 56, and thereupon the said work shall become maintainable by Government and shall be subject to a maintenance rate as though it were a new major irrigation work.

63. (1) Where the Government Agent is satisfied that the condition of any minor irrigation work is so defective, or that such work is so defectively maintained as to endanger or impair the effectiveness of any other such work, or as to prejudice or be likely to prejudice the interests of the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands, the proprietors of those lands, irrigated by that other work, the Government Agent shall summon a meeting

Defective maintenance of other minor irrigation works.

[§32, 48 of 1968.]

* Cultivation Committees established under the repealed Paddy Lands Act, No. 1 of 1958, continued to function until Cultivation Committees were constituted under the Agricultural Lands Law, No. 42 of 1973. Cultivation Committees ceased to exist upon the repeal of the Agricultural Lands Law by the Agrarian Services Act (No. 58 of 1979), and under that Act the assets and liabilities of Cultivation Committees were transferred to the Agrarian Services Committees established under that Act.

[§32, 48 of 1968.]

of the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands, the proprietors of those lands, irrigated by the first-mentioned work and shall explain to them the requirements of the situation, and shall call upon them to make arrangements, either by the framing of rules or otherwise, to remedy the defect to his satisfaction.

[§32, 48 of 1968.]

(2) In the event of the meeting summoned under subsection (1) failing by a resolution of the majority of the allottees, tenant cultivators and proprietors to make arrangements to the satisfaction of the Government Agent to remedy the defect, it shall be lawful for the Minister, by Order published in the Gazette, to direct that the necessary arrangements shall be carried out, and that the expenses of carrying out such arrangements and, if necessary, of the subsequent maintenance of the minor irrigation work shall be recoverable by a maintenance rate under section 56, and the said work shall thereupon become subject to a maintenance rate under that section as though it were a new major irrigation work.

PART VI

PROTECTION OF IRRIGATION WORKS AND CONSERVATION OF WATER

Regulations for the protection of works and conservation of water.

64. Regulations may be made in respect of any irrigation work for all or any of the following matters :—

- (a) the prevention of the obstruction, diversion, or cutting of any *ela*, channel, or other watercourse comprised in the irrigation work, or of any other damage thereto ;
- (b) the prevention of any encroachment upon any such *ela*, channel, or watercourse ;
- (c) the prevention of any interference with any sluice, dam, or regulating machinery or device in or upon any such *ela*, channel, or watercourse ;
- (d) the prevention of the obstruction of or interference with any road or path comprised in the irrigation work ;

- (e) the construction of field channels and dams in approved places and in accordance with approved alignments ;
- (f) the prevention of the waste of any water supplied from the irrigation work ;
- (g) the prevention of the obtaining of water from any such *ela*, channel, or other watercourse in any manner not authorized ;
- (h) the prevention of the diversion by any act or omission, of such water from any of the purposes for which it is intended ;
- (i) the limitation of the extent of land for which water will be supplied in each season for cultivation under the irrigation work and the fixing of dates for the commencement and completion of the supply of such water in each season ;
- (j) the conditions on which water will be supplied from the irrigation work and the charges to be paid for the supply of such water after the date fixed for the completion of cultivation ;
- (k) the maintenance of the irrigation work ;
- (l) any other matters necessary for the protection of the irrigation work, or for the conservation of water supplied therefrom.

65. (1) Where any person obstructs or encroaches upon any *ela*, channel, watercourse, or tank, it shall be lawful for the Government Agent, by notice in writing served on such person, to require him within such time as may be specified in the notice to remove or abate such obstruction or encroachment.

Removal of obstruction or encroachment.

(2) If any person served with a notice under subsection (1) refuses or neglects to comply with the requirements of such notice within the specified time, or if there is any doubt as to who is the proper person to be

served with such notice, it shall be lawful for the Government Agent to cause such obstruction or encroachment to be forthwith removed or abated; and for that purpose it shall be lawful for the Government Agent to enter any land or premises, with such workmen, instruments and things as may be necessary, and to proceed to do therein, or cause to be done, all such things as may be necessary for such removal or abatement.

Recovery of expenses.

66. The expenses incurred in effecting the removal or abatement of any obstruction or encroachment under section 65 shall be paid—

- (a) by the person on account of whose noncompliance with any notice served under subsection (1) of that section such expenses were incurred, or
- (b) in case no such notice was served owing to any doubt as to who was the proper person to be served with such notice, by such person as the Government Agent may determine, after such inquiry as he may deem necessary, to be the person who should have been served with such notice,

and in case of default shall be recoverable in the manner provided in Part VII.

Reference to arbitration.

67. (1) Whenever the owner or occupier of any land or premises, by the clearance or drainage of such land or premises or by any other act or omission, whether of the same nature or not, in any way affecting any *ela*, channel, or watercourse, used for irrigation purposes, or any other irrigation work—

- (a) causes any such *ela*, channel, watercourse, or other irrigation work to be blocked up, obstructed or damaged, so that any land which previously derived benefit therefrom is deprived of that benefit, or
- (b) causes damage of any other nature to any land in the neighbourhood of any such *ela*, channel, watercourse, or other irrigation work,

any person aggrieved by the act or omission of such owner or occupier may make a complaint to the Government Agent.

(2) In any case where—

- (a) the Government Agent is not able, by agreement between the parties concerned, and with or without such assistance as the Director of Irrigation (not being a party concerned) may be willing to contribute, to settle what steps should be taken and what obligations should be assumed by any owner or occupier against whose act or omission a complaint has been made under subsection (1) and by the cultivators of the lands affected by such act or omission, for the purpose of removing any blocking up or obstruction, or the repairing of any damage caused by such act or omission, or the prevention of the recurrence of such blocking up, obstruction, or damage; or
- (b) any of the parties to any such agreement fails to take or to assume, within a reasonable time, any of the steps or obligations which he has thereby agreed to take or assume,

the Government Agent may, by written notice addressed to the parties, direct that the matter in dispute be referred to the arbitration of such arbitrator or arbitrators as may be agreed upon by the parties.

68. The Government Agent may appoint any person for the purpose of representing the interests of the cultivators referred to in section 67 in any matter or dispute or in any arbitration that may take place for its settlement.

Representation of cultivators.

69. (1) In every notice under section 67, the Government Agent shall inform the parties that, unless by a date specified in the notice or on such further date as he may on application fix, the parties have notified to him the name or names of an agreed arbitrator or arbitrators, he will apply to

Arbitrators.

the District Judge to act as arbitrator with or without assessors as to the District Judge may seem proper.

(2) If the parties do not on or before the date specified in the notice under section 67 or such further date as may be fixed by the Government Agent notify to the Government Agent the name or names of an agreed arbitrator or arbitrators, the Government Agent may apply to the District Judge to act as arbitrator; and it shall be the duty of the Judge to act in accordance with such application.

(3) The District Judge may, in his discretion, appoint assessors as he may think fit to assist him in any arbitration under this section.

Duty of arbitrators.

70. It shall be the duty of the arbitrator or arbitrators and the assessors, if any, to visit the place with respect to which the matter in dispute arises, and to determine such matter without any formalities of legal procedure, and to make such award with reference to the steps to be taken by and the obligations to be imposed upon all or any of the parties as may be reasonable in all the circumstances of the case.

Award of arbitrators.

71. (1) In any case in which the Government Agent, or the Director of Irrigation (not being a party concerned), with a view to facilitating a settlement of the dispute, undertakes to execute the operation of carrying silt, earth, water, or any other substance or any other operation for the purpose of preventing damage to any land, an order for the execution of such operation may be embodied in the award.

(2) In any case in which the parties consent to the arbitrator or arbitrators determining any claim for damages that may have been made by a party, an order for the payment of damages may be embodied in the award, and where such an order has been so embodied no action shall lie in respect of such claim.

(3) In the event of the arbitrators not being agreed as to the award or as to any point arising in the course of the proceedings, the opinion of the majority shall prevail.

(4) In the event of there being no opinion supported by a majority of the arbitrators, it shall be lawful for the Government Agent to appoint, by writing under his hand, an umpire to decide all matters in question in the arbitration, and in any such case the award shall be made by the umpire, and shall be as binding in all respects as if it had been made by the arbitrators or a majority of them.

72. (1) The Government Agent shall fix the fee to be paid to an umpire appointed under section 71 and an order directing the payment of such fee shall be included in and form part of any award made by the umpire. Fees.

(2) In the event of assessors being appointed to assist a District Judge in the conduct of an arbitration, the District Judge shall fix the fee of the assessors, and an order directing the payment of such fee shall be included in and form part of any award made by such Judge.

73. Every award made by any arbitrator or arbitrators or by an umpire under this Part, on being registered in the District Court, shall be binding on all parties concerned, and may be enforced in the same manner as a decree of the court : Enforcement of award.

Provided that in so far as such award relates to any obligation to be assumed by the cultivators referred to in section 67, such award shall have the force of a rule made under Part III, and all the provisions of this Ordinance relating to the enforcement of rules under Part III shall apply to such award.

74. (1) In any case in which by any award made under this Part any order is made upon the owner or occupier of any land or premises, the Government Agent shall cause a copy of such order to be served upon such owner or occupier; and if such owner or occupier makes default in complying with such order the Government Agent may from time to time, after reasonable notice to such owner or occupier, himself take the necessary steps to carry out the order, and for that purpose it shall be lawful for the Government Agent or any person thereto authorized in writing Power of Government Agent to carry out order of arbitrators.

by the Government Agent to enter any land or premises with such workmen, instruments and things as may be necessary.

(2) The expenses incurred by the Government Agent under subsection (1) shall be certified under his hand, and shall be a first charge on the land or premises in respect of which notice was served under subsection (1), and on any crop or produce thereof, and on any movables thereon, and where default is made in the payment of such expenses, the Government Agent shall proceed to recover such expenses in the manner provided in Part VII.

- (b) an Additional Assistant Government Agent ;
- (c) the Director, a Deputy Director and an Assistant Director of Works, having authority in the area concerned ;
- (d) the Superintending Engineer having authority in the area concerned ; and
- (e) the Executive Engineer having authority in the area concerned.

PART VII

RECOVERY OF MONEY DUE

Liability where irrigation work is damaged or water is used without authority or is wasted by a person who cannot be identified. [§33, 48 of 1968.]

75. (1) Where water from any *ela*, channel, watercourse or other irrigation work is obtained in any manner not authorized or is allowed to run to waste, and the person who obtained such water or allowed such water to run to waste cannot be identified, then, if any land has derived any benefit from such water, the allottee or tenant cultivator, or where there is no allottee or tenant cultivator of any land the proprietor, of such land shall be liable to pay for such water at such rate as the Government Agent may determine.

*77. (1) All contributions due or deemed to be due under this Ordinance shall be payable in respect of each calendar year, and shall be paid on or before the thirtieth day of June in that year, or on such other date as the Minister with the concurrence of the Minister in charge of the subject of Finance may, by Order published in the Gazette, appoint.

Payment of contributions.

(2) All contributions due or deemed to be due under this Ordinance shall be recovered in accordance with the provisions of this Part.

[§33, 48 of 1968.]

(2) Where any act is committed whereby damage is caused to any irrigation work and the person who committed such act cannot be identified, then, if any land has derived any benefit as a result of the commission of such act, the allottee or tenant cultivator, or where there is no allottee or tenant cultivator of any land the proprietor, of such land shall be liable to pay to the Government Agent the expenses incurred in repairing such damage.

78. (1) Where default is made in the payment of any contribution of money or other sum due or deemed to be due under this Ordinance by a person other than an allottee or a tenant cultivator, the land in respect of which such contribution or other sum is due shall be and is hereby declared to be specially bound and liable for such payment, and it shall be lawful for the Government Agent or any person authorized by writing under his hand, to seize such land and any crop or produce thereof and any movables thereon, to whomsoever such land, crop, produce or movables may belong ; and if such contribution, or other sum, together with any costs payable under section 86, are not sooner paid or tendered, to sell the land, crop, produce or movables, so seized, by public auction at any time not less than twenty-one days from the date of such seizure.

Recovery of contributions, &c., from persons other than allottees or tenant cultivators. [§35, 48 of 1968.]

(3) If default is made in the payment of any sum due under this section, such sum shall be recoverable in the manner provided in Part VII.

[§15, Law 37 of 1973.]

(4) In section 65, section 66 and in this section, "Government Agent" means the Government Agent having authority in the area concerned, and includes—

- (a) an Assistant Government Agent ;

* Section 76 is repealed by Act No. 48 of 1968.

[§35, 48 of 1968.]

(2) Where default is made in any contribution of labour due or deemed to be due under this Ordinance by a person other than an allottee or a tenant cultivator, it shall be lawful for the Government Agent or any person authorized by writing under his hand to cause such labour to be performed by some person other than the defaulter, and the expenses incurred thereby shall be recoverable in the same manner as contributions of money are recoverable under subsection (1).

[§35, 48 of 1968.]

(3) Where the authority imposing any fine or penalty for any offence under this Ordinance by a person other than an allottee or a tenant cultivator orders that, in the event of default in the payment of such fine or penalty, the amount thereof be recovered in the manner provided in this Part, it shall be lawful for the Government Agent or any person authorized by writing under his hand to seize any property whatsoever belonging to the defaulter, wheresoever such property may be found, and, if the amount due, together with any costs payable under section 86, are not sooner paid or tendered, to sell the property so seized by public auction at any time not less than twenty-one days from the date of such seizure.

Recovery of contributions, &c., from allottees and tenant cultivators. [§36, 48 of 1968.]

78A. (1) Where default is made in the payment of any contribution of money or other sum due or deemed to be due under this Ordinance by an allottee or a tenant cultivator, such contribution or other sum may be recovered by deducting the amount of such contribution or other sum from any moneys due to such person in respect of the purchase of a scheduled agricultural product under the Agricultural Products (Guaranteed Prices and Control of Hulling and Milling) Act.

(2) Where the Government Agent is of opinion that the contribution or other sum due or deemed to be due from a person specified in subsection (1) cannot be recovered by the means provided in that subsection, the Government Agent may, by written notice, direct such person to pay the amount of such contribution or other sum within such period as shall be specified in such notice.

(3) Where a person to whom a written notice under subsection (2) has been given fails to pay the amount of the contribution or other sum within the period specified in such notice, the Government Agent shall certify to the Primary Court having jurisdiction over the place where the land or irrigation work in respect of which the contribution or other sum was due is situate, that such contribution or other sum is due from that person, and the Court shall thereupon recover such contribution or sum as a debt due from such person to the Government Agent, notwithstanding that such amount may exceed the amount which that Court may in the exercise of its ordinary jurisdiction order to be recovered, and upon recovery of such contribution or sum shall transmit the same to the Government Agent.

79. (1) Where land is seized under section 78, the Government Agent shall forthwith, after such seizure, cause a notice setting out the facts of the seizure, the reasons therefor, and the date fixed for the sale of the land to be affixed in a conspicuous position on the land.

Notice of seizure and sale.

(2) Where land is seized under section 78, the Commissioner, or the Government Agent or other officer authorized by the Commissioner shall, in addition to the notice referred to in subsection (1), cause a notice setting out the facts of the seizure, the reasons therefor, a specification of the property seized and the date fixed for the sale to be sent by registered post to the proprietor and the mortgagee, if there is a mortgagee, of such land at his or their last known address at least fourteen days before the date fixed for the sale.

[§37, 48 of 1968.]

80. No seizure of any land shall be made under section 78 if the defaulter surrenders sufficient free and unclaimed movable property to satisfy the total amount due from him.

When seizure of land not to be made.

81. Any property which is exempt from seizure and sale under the provisions of the Civil Procedure Code shall be exempt from seizure and sale under section 78.

Property exempt from seizure and sale.

82. No land seized under section 78 shall be sold until the crop or produce thereof, and the movables thereon, if any, have been

Movables to be sold first.

sold, and unless they have failed to realize an amount sufficient to cover the total amount due.

Sale of immovable property.

83. In all cases the sale of immovable property under section 78 shall be conducted on the spot, unless the Government Agent otherwise directs.

Upset price.

84. For the purposes of a sale under section 78, the Government Agent may fix an upset price; and where an upset price is so fixed the property, which is the subject of the sale, shall not be sold to any person other than the State at any price below the upset price.

Keeping a person in charge of property seized.

85. The person making a seizure under section 78 may, if authorized thereto by general or special instructions issued by the Government Agent, appoint a suitable person to have the custody or possession of the property so seized pending the sale.

Costs of seizure and sale.

86. It shall be lawful for the Government Agent, or any person authorized by writing under his hand, to demand, take, and receive from any defaulter referred to in section 78, or from the owner or any joint owner of any property lawfully seized under that section, or to retain out of the proceeds of the sale of the property, sums of money calculated at the following rates for the following purposes:—

- (a) for the cost of proceeding to seize the property, a charge not exceeding fifty cents for every ten rupees or part thereof due;
- (b) for the expenses of any person having the custody or possession of the property, a charge not exceeding one rupee for each continuous period not exceeding twenty-four hours;
- (c) for the expenses of sale, a charge not exceeding twenty-five cents for every ten rupees or part thereof of the net proceeds of the sale.

Steps to be taken after sale.

87. (1) Where any property seized under section 78 is sold, the Government Agent at whose instance such seizure was

made shall, after deducting the amount due from the defaulter and also the costs payable under section 86 pay the surplus, if any, arising from such sale to the owner or joint owners of the property sold, or in case the Government Agent is in doubt as to whom the money is to be paid, into the District Court having jurisdiction over the area in which the property was situated at the time of the sale.

(2) Where any land is sold under section 78, the Government Agent shall sign a certificate of sale in such form as may be prescribed, and such certificate shall be sufficient to vest the land sold in the purchaser, and in any case where the land so sold is land under any irrigation work, such land shall vest in the purchaser free from all incumbrances whatsoever, any custom or written law to the contrary notwithstanding.

(3) Every certificate of sale under subsection (2) shall be liable to the stamp duty fixed for conveyance of immovable property, and to any registration or other charges authorized by law, and such duty and charges shall be paid by the purchaser.

88. (1) The Government Agent or any person authorized by him in writing, may bid for and purchase, on behalf of the State, any land sold under section 78.

Power to purchase on behalf of the State.

(2) Notwithstanding any custom or written law to the contrary, where any land is purchased under subsection (1) on behalf of the State, such land shall vest in the State free from all incumbrances whatsoever, and notwithstanding anything in subsection (3) of section 87, the certificate of sale issued in respect of that land shall not be liable to any stamp duty or any registration or other charges.

89. (1) Where within five years from the date of purchase of any land on behalf of the State under section 88 and before such land is resold, the defaulter or any person authorized by him, or if the defaulter be dead, any heir of the defaulter or any person authorized by any such heir, pays to the Government the amount due from the defaulter in respect of such land together with the value of the improvements made to the land after it was purchased by the State,

Cancellation of sale.

the Government Agent shall, by endorsement on a certified copy of the certificate referred to in subsection (2) of that section, cancel the sale of such land to the State, and upon the registration of such endorsement under the Registration of Documents Ordinance, such land shall revert in the defaulter or, as the case may be, vest in such heir, as though such sale has never been made.

(2) Where any portion of any land purchased on behalf of the State under section 88 has been resold, the provisions of subsection (1) of this section shall apply, with the necessary modifications, to the portion of such land remaining unsold, and in any such case, the amount due from the defaulter shall be reduced by such amount as the Government Agent may determine in the circumstances of each case.

(3) In this section "amount due from the defaulter" means the amount in default of payment of which the land was sold under section 78, and includes the costs payable under section 86 and the surplus, if any, which has been paid under section 87 (1), together with interest on such amount, costs and surplus at such rate not exceeding six *per centum* per annum as the Government Agent may determine.

Resale by State.

90. (1) Where any land has been purchased on behalf of the State under section 88, and the sale has not been cancelled under section 89, it shall be lawful for the Government Agent, at any time to resell such land, and on such resale to transfer to the purchaser, by endorsement on a certified copy of the certificate referred to in subsection (2) of section 88 all the right, title, and interest which would have been acquired by the purchaser if he had purchased the land at the original sale, and upon the registration of such endorsement under the Registration of Documents Ordinance, such right, title and interest shall vest in the purchaser accordingly.

(2) Every endorsement under subsection (1) shall be liable to the same stamp duty and charges as a certificate to a purchaser at the original sale, and such duty and charges shall be paid by the purchaser in whose favour the endorsement is made.

91. (1) Where, after the sale of any land under the provisions of this Part, any person other than the purchaser or the heir or servant or agent of the purchaser of that land at such sale remains in occupation or possession of that land or any part thereof, a Magistrate having local jurisdiction over the area in which that land is situated shall, on the application of the Government Agent, by order direct the Fiscal or a police officer to eject such person from that land and to deliver possession thereof to the Government Agent or to his representative, or to the purchaser or his heir or servant or agent, as the case may be.

Summary ejection of persons in unlawful possession of land sold under this Part.

(2) The Fiscal or a police officer charged with the execution of an order of ejection made by a Magistrate under this section shall comply with the directions of the Magistrate and shall make due return in the prescribed form furnishing the prescribed particulars relating to the execution of the order.

(3) In the execution of an order of ejection, the Fiscal or a police officer or any other officer authorized by or accompanying the Fiscal or police officer may use such force as may be necessary to eject any person or persons in possession or occupation of the land or any part thereof and to deliver possession of the land to the Government Agent or his representative, or to the purchaser or his heir or servant or agent, as the case may be.

92. Where any immovable property of any defaulter which is to be sold under the provisions of this Part is subject to a mortgage, it shall be lawful for the mortgagee, after making payment of the amount due from the defaulter together with the costs, if any, payable under section 86, to add the aggregate amount so paid by him to the mortgage debt; and the amount so added shall be deemed to be secured in the same manner, and to bear the same interest and to be recoverable on the same conditions, as the mortgage debt, anything in any written law other than this Ordinance to the contrary notwithstanding.

Rights of mortgagees.

PART VIII

OFFENCES

Causing obstruction or damage to irrigation works or waste of water, or encroaching upon irrigation works. [§38, 48 of 1968.]

[§38, 48 of 1968.]

93. Every person who—
- (a) wilfully and mischievously blocks up, obstructs or encroaches upon or causes to be in any way blocked up, obstructed or encroached upon any channel or watercourse comprised in any irrigation work ; or
 - (b) wilfully and mischievously cuts the bund, bank, or any part of any irrigation work ; or
 - (c) wilfully and mischievously causes waste of water conserved by any irrigation work ; or
 - (d) wilfully and wrongfully draws off or converts to his own use any such water,

shall be guilty of an offence, and shall, on conviction after summary trial before a Magistrate*, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a period not exceeding one year or to both such fine and imprisonment.

[§ 38, 48 of 1968.]

Default, negligence or malicious acts of Cultivation Committee agents. [§ 39, 48 of 1968.]

94. Every Cultivation Committee† agent who—
- (a) fails or neglects to perform the duties devolving upon him, or
 - (b) in excess of the authority conferred upon him by this Ordinance or by any rule or regulation made or deemed to have been made thereunder, acts in bad faith or without probable cause or wantonly and maliciously,

[§ 39, 48 of 1968.]

shall be guilty of an offence triable by the Primary Court having jurisdiction over the

place where the offence was committed, and the institution of any proceedings therefor shall not be deemed to affect in any way his civil liability to the person injured by his act or omission.

95. Every person who without lawful cause resists, molests or obstructs any Cultivation Committee† or Cultivation Committee† agent in the lawful discharge of any duty imposed by this Ordinance or by any rule or regulation made thereunder shall be guilty of an offence triable by the Primary Court having jurisdiction over the place where the offence was committed.

Resisting Cultivation Committees or Cultivation Committee agents in the execution of their duty. [§ 40, 48 of 1968.]

96. Every person who commits a breach of any rule or regulation made or deemed to have been made under this Ordinance or a breach of any established custom relating to irrigation or drainage or flood protection or salt water exclusion or cultivation shall be guilty of an offence triable by the Magistrate's Court or the Primary Court having jurisdiction over the place where the offence was committed.

Breaches of rules or regulations or of established customs. [§41, 48 of 1968.]

TRIAL OF OFFENCES

†98. In addition to the powers vested in a Primary Court by the Judicature Act, a Primary Court in the exercise of any jurisdiction conferred on such court by this Ordinance shall have the following powers :—

Additional powers of Primary Court.

(1) Where—

- (a) the complainant in any trial under this Ordinance has sustained damage by reason of the act or omission complained of, or
- (b) such act or omission is of such a nature as to call for prompt action to prevent damage, and any expenditure incurred for that purpose by the Cultivation Committee† or Cultivation Committee† agent

[§ 43, 48 of 1968.]

* Primary Court has exclusive jurisdiction under section 33 of Judicature Act read with Gazette Extraordinary No. 43/4 of 1979.07.02.

† Cultivation Committees established under the repealed Paddy Lands Act, No. 1 of 1958, continued to function until Cultivation Committees were constituted under the Agricultural Lands Law, No. 42 of 1973. Cultivation Committees ceased to exist upon the repeal of the Agricultural Lands Law by the Agrarian Services Act (No. 58 of 1979), and under that Act the assets and liabilities of Cultivation Committees were transferred to the Agrarian Services Committees established under that Act.

‡ Section 97 is repealed by Act No. 48 of 1968.

under section 23 or section 24, or by any officer acting in pursuance of a regulation made under Part VI has not been recovered under section 25, it shall be competent to the Primary Court either to direct that the damage suffered or the expenditure incurred shall be made good out of any fine it may impose on the offender, or to adjudge him to pay, in addition to any such fine, the amount of such damage or the amount of such expenditure, and such amount shall be recoverable in the manner provided in Part VII :

Provided that except with the consent of both parties no such order shall be made in any case in which the amount of the damage claimed or the expenditure incurred exceeds one thousand five hundred rupees.

- (2) Where a person is convicted of a breach of any regulation made under section 64 for the protection of any irrigation work or the conservation of water supplied therefrom it shall be competent to the Primary Court, in addition to any punishment it may impose, to order such person to pay a penalty not exceeding double the value of the damage caused as a result of such breach.
- (3) Where any proprietor is adjudged to pay any fine or penalty for an offence under this Ordinance and default is made in the payment of the fine or penalty, it shall be competent to the Primary Court instead of sentencing the defaulter to detention or imprisonment, to order the amount of the fine or

penalty to be recovered in the manner provided in Part VII of this Ordinance.

*110. (1) All fines and penalties imposed under this Part by any Primary Court shall, notwithstanding anything to the contrary in the Primary Courts' Procedure Act, be transmitted to the Commissioner. Appropriation of fines and penalties. [§45, 48 of 1968.]

(2) All moneys transmitted to the Commissioner under subsection (1) shall be credited by the Commissioner to the Agrarian Services Fund established under the provisions of the Agrarian Services Act, and shall form part of that Fund and be utilized in accordance with the provisions of that Act.

PART IX

GENERAL

†113. Land required for the purposes of this Ordinance shall be deemed to be land required for a public purpose within the meaning of the Land Acquisition Act. Acquisition of land.

114. The Government Agent may, by writing under his hand, appoint officers whose duty it shall be, subject to the general or specific directions of the Government Agent, to assist the Government Agent in exercising and carrying out the powers and duties conferred or imposed upon him by this Ordinance or by any rule or regulation made or deemed to have been made thereunder. Appointment of officers by Government Agent.

115. If from any plan or survey purporting to have been made under the authority of the Surveyor-General or of the Director of Irrigation it appears that any channel, watercourse, or tank has been encroached upon, such plan or survey shall, in the absence of satisfactory proof to the contrary, be deemed to be conclusive proof of the facts exhibited therein. Plan or survey of channels, watercourses, and tanks to be conclusive.

116. In the case of any State land sold or leased subject to a condition that it should be subject to an irrigation rate variable in any manner specified in the condition, such land shall be, and shall be deemed to have been, subject to an irrigation rate in accordance with that Validation of variable irrigation rates in respect of certain lands.

* Sections 99 to 109 (both inclusive) are repealed by Act No. 48 of 1968.

† Sections 111 and 112 are omitted, as they relate to sections 97 and 99 to 109, which have been repealed by Act No. 48 of 1968.

condition, notwithstanding that at the time of the sale or lease of such land no provision existed for the imposition of variable irrigation rates under any previous Irrigation Ordinance then in force, and all contributions included in any specification and collected in accordance with such condition shall be deemed to have been validly included and collected.

Regulations.

117. (1) The Minister may make regulations for all matters for which regulations are required or authorized to be made under this Ordinance, all matters required or authorized by this Ordinance to be prescribed, and all other matters incidental to or connected with such matters.

(2) No regulation made by the Minister under this Ordinance shall have effect until it has been approved by Parliament and notification of such approval is published in the Gazette. Every regulation shall, upon notification of such approval in the Gazette, be as valid and effectual as if it were herein enacted.

Interpretation.

118. (1) In this Ordinance, unless the context otherwise requires—

[§47, 48 of 1968.]

“allottee” means an owner of a holding or a permit-holder under the Land Development Ordinance, where the holding, or the land in respect of which the permit is granted, is land benefited or to be benefited by any irrigation work ;

“appointed date” means the 1st day of November, 1946 ;

[§47, 48 of 1968.]

“Commissioner” means the Commissioner of Agrarian Services and includes, subject to the control of the Commissioner of Agrarian Services, a Deputy Commissioner or an Assistant Commissioner of Agrarian Services ;

“construction” with reference to any irrigation work includes any improvement or extension of any irrigation work, or the repair or restoration of any abandoned irrigation work, or (subject to the definition of “maintenance” hereinafter contained) any operation for the protection of any irrigation work, or the irrigable area thereunder, or of any part of such work or area ;

“contribution” includes all rates, subscriptions, charges and assessments made under this Ordinance or under any previous Irrigation Ordinance ;

“cost of maintenance”, with reference to any irrigation work in any year, includes such reasonable contribution in respect of establishment charges, cost of tools, plant and transport thereof, as may be approved by the Minister with the concurrence of the Minister in charge of the subject of Finance ;

“Cultivation Committee”* means a Cultivation Committee constituted in accordance with the provisions of the Paddy Lands Act, No. 1 of 1958 ;

“Cultivation Committee* agent” means a Cultivation Committee agent appointed by virtue of rules made under section 12 ;

“Director of Irrigation” includes— [§16, Law 37 of 1973.]

(a) the Director, a Deputy Director and an Assistant Director of Works, having authority in the area concerned ;

* Cultivation Committees established under the repealed Paddy Lands Act, No. 1 of 1958, continued to function until Cultivation Committees were constituted under the Agricultural Lands Law, No. 42 of 1973. Cultivation Committees ceased to exist upon the repeal of the Agricultural Lands Law by the Agrarian Services Act (No. 58 of 1979), and under that Act the assets and liabilities of Cultivation Committees were transferred to the Agrarian Services Committees established under that Act.

(b) the Superintending Engineer having authority in the area concerned ; and

(c) the Executive Engineer having authority in the area concerned.

“expenses of construction” includes the expenses of survey and investigation and such reasonable contribution in respect of establishment charges, the cost of tools, plant and transport thereof, as may be approved by the Minister with the concurrence of the Minister in charge of the subject of Finance ;

[§47, 48 of 1968.]

“Government Agent” means the Government Agent having authority in the area concerned, and includes an Assistant Government Agent and an Additional Assistant Government Agent ;

“irrigable area” means the area benefited by any irrigation work but does not include any *manawari* lands situated within that area ;

*“irrigation division” means a division declared to be an irrigation division under section 23 ;

[§47, 48 of 1968.]

“irrigation scheme” means a scheme prepared in accordance with the provisions of Part V of this Ordinance ;

“irrigation work” includes—

(a) any tank, bund, anicut, *ela*, channel, distributory, field channel or watercourse comprised in or incidental or ancillary to the irrigation work ;

(b) any structure, road, bridge, sluice, gate or other engineering work comprised in, or incidental or ancillary to the construction or maintenance of the irrigation work ;

(c) any structure, bund, sluice or other engineering work erected for the purpose of draining any cultivated area or of preventing or regulating the flow of salt water into or out of any such area or of protecting such area from floods ;

“maintenance” with reference to any irrigation work (whether constructed under this Ordinance or under any previous Irrigation Ordinance) includes any operation for the protection of any existing irrigation work or the irrigable area thereunder or of any part of such work or area, which the authority responsible for the maintenance of the work may declare to be a minor operation ;

“major irrigation work” means an irrigation work constructed and maintained by or under the authority of the Director of Irrigation out of moneys provided by Parliament ;

*“*manawari* division” means a division declared to be a *manawari* division under section 23 ;

“*manawari* land” means any land which is cultivated or to be cultivated with paddy, and which is not supplied with water by any irrigation work, but is dependent for its water supply either upon rain water or on water baled from any well, or from any river, canal, lagoon, lake or other inland water ;

“minor irrigation work” means an irrigation work other than a major irrigation work ;

“owner cultivator” means an owner cultivator as defined in the Paddy Lands Act, No. 1 of 1958†, whose paddy land is benefited or to be benefited by any irrigation work or who is the owner cultivator of *manawari* land ;

[§47, 48 of 1968.]

* These are references to the irrigation division and *manawari* division as defined in section 23 prior to the amendment of that section by Act No. 48 of 1968.

† Repealed by Law No. 42 of 1973 which in turn was repealed by Act No. 58 of 1979.

[§47, 48 of
1968.]

“paddy land” means paddy land as defined in the Paddy Lands Act, No. 1 of 1958* ;

“prescribed” means prescribed by this Ordinance or by any regulation made thereunder ;

“previous Irrigation Ordinance” includes the Irrigation Ordinance, No. 45 of 1917,† Ordinance No. 23 of 1889 and any Ordinance thereby repealed and Ordinances No. 6 of 1892, No. 10 of 1901, No. 16 of 1906, No. 20 of 1908 and No. 11 of 1915 ;

[§47, 48 of
1968.]

“proprietor” means the owner including the owner cultivator—

(a) of any land benefited or to be benefited by any irrigation work, or

(b) of any *manawari* land ;

“proprietors within the division”—

(a) when used with reference to an irrigation division, means the proprietors within the irrigable area in that division, and

(b) when used with reference to a *manawari* division, means the proprietors of *manawari* lands within that division ;

“proprietor within any irrigable area or tract” means the proprietor of any land within that area or tract ;

“regulation” means a regulation made by the Minister under this Ordinance ;

[§47, 48 of
1968.]

“tenant cultivator” means a tenant cultivator as defined in the Paddy Lands Act, No. 1 of 1958,* where the paddy land of which he is the tenant cultivator is land benefited or to be benefited by an irrigation work or is *manawari* land ;

“tract” means any portion of any irrigable area defined as a tract by or in pursuance of any scheme under this Ordinance ;

“village area” means a village area constituted or deemed to be constituted under the Village Councils Ordinance ;

“watercourse”, “channel”, “*ela*”, or “tank” includes the banks and bunds of the watercourse, channel, *ela* or tank, as the case may be, and any reservation of State land defined as belonging thereto by or under the authority of the Director of Irrigation, either by demarcation on the ground or in any map or plan.

(2) Every expression defined in subsection (1) shall when used in any scheme or resolution under this Ordinance, have the meaning assigned to it by that subsection unless the context otherwise requires.

(3) Where a part of a land belonging to a proprietor is cultivated by a tenant cultivator, the part of the land cultivated by the tenant cultivator and the part of the land not so cultivated shall, for the purposes of this Ordinance, be deemed to be two separate lands. [§47, 48 of 1968.]

119. On and after the appointed date— Savings.

(1) every rule, made under any previous Irrigation Ordinance by the proprietors within any irrigation district, or in place of such proprietors by the Government Agent in the exercise of the powers vested in him by any previous Irrigation Ordinance, and in force or deemed to be in force at the appointed date, shall, so far as it is not inconsistent with the provisions of this Ordinance, continue in force in each of the irrigable areas or tracts within that district and shall be deemed for all purposes to be a rule made by the Cultivation

* Repealed by Law No. 42 of 1973 which in turn was repealed by Act No. 58 of 1979.

† Repealed by Ordinance No. 32 of 1946.

[§47, 48 of 1968.]

Committee* within each such irrigable area or tract under this Ordinance ;

(2) every rule, made under any previous Irrigation Ordinance by the proprietors within any irrigable area or tract, and in force or deemed to be in force at the appointed date, shall, so far as it is not inconsistent with the provisions of this Ordinance, continue in force in such irrigable area or tract and shall be deemed for all purposes to be a rule made under this Ordinance ;

(3) every rule relating to the protection of irrigation works or the conservation of water, made by the Governor under section 60 of the Irrigation Ordinance, No. 45 of 1917,† or under any other previous Irrigation Ordinance, and in force at the appointed date shall, so far as it is not inconsistent with the provisions of this Ordinance, continue in force and shall be deemed for all purposes to be a regulation made under section 64 of this Ordinance ;

‡(5) every by-law, made or deemed to have been made under section 49 (2) (xxii)§ of the Village Communities Ordinance by the Village Committee of any village area, and in force at the appointed date, shall, so far as it is not inconsistent with the provisions of this Ordinance, continue in force and shall be deemed for all purposes to be a rule made by the Cultivation Committee* concerned ;

(6) (a) where any rule or resolution not inconsistent with the provisions of

this Ordinance has been made or passed under Chapter III of the Irrigation Ordinance, No. 45 of 1917,† before the appointed date but has not been brought into force before that date, such rule or resolution shall be deemed to be made or passed under this Ordinance and may be brought into force in accordance with the provisions of this Ordinance ;

(b) for the purposes of paragraph (a), any rule or resolution made by a majority of the proprietors within any irrigation district shall be deemed to be a rule or resolution, as the case may be, made by the Cultivation Committee* or passed by a majority of the allottees, tenant cultivators and proprietors under this Ordinance within each irrigable area or tract within that district ;

(7) every resolution passed by a majority of proprietors under any previous Irrigation Ordinance, and in effect at the appointed date, shall continue in force and be deemed to be a resolution passed under this Ordinance ;

** (9) all rates, subscriptions, contributions, charges and assessments established, levied, or made under any previous Irrigation Ordinance or any rules thereunder, and in force at the appointed date, shall be deemed to be established, levied or made, as the case may be, under this Ordinance ;

(10) every committee (other than a district advisory committee) constituted or established under any previous Irrigation Ordinance and

[§47, 48 of 1968.]

[§47, 48 of 1968.]

* Cultivation Committees established under the repealed Paddy Lands Act, No. 1 of 1958, continued to function until Cultivation Committees were constituted under the Agricultural Lands Law, No. 42 of 1973. Cultivation Committees ceased to exist upon the repeal of the Agricultural Lands Law by the Agrarian Services Act (No. 58 of 1979), and under that Act the assets and liabilities of Cultivation Committees were transferred to the Agrarian Services Committees established under that Act.

† Repealed by Ordinance No. 32 of 1946.

‡ Paragraph (4) is repealed by Act No. 48 of 1968.

§ This is a reference to the paragraph (xxii) of section 49 (2) of the Village Communities Ordinance (Cap. 198 in the 1938 Edition), which is repealed by section 119 (1) of Ordinance No. 32 of 1946.

** Paragraph (8) is repealed by Act No. 48 of 1968.

- in existence at the appointed date shall be deemed for all purposes to be a committee constituted or established under this Ordinance ;
- (11) any specification, plan, estimate or report prepared or made under or in pursuance of any of the provisions of any previous Irrigation Ordinance or deemed to have been prepared or made under or for the purposes of any such Ordinance
- shall be deemed to have been duly prepared or made under and for the purposes of this Ordinance ;
- (12) every scheme prepared and sanctioned or deemed to have been sanctioned under any previous Irrigation Ordinance and in effect at the appointed date shall continue in force and shall be deemed for all purposes to be a scheme duly confirmed, ratified and in effect under this Ordinance.

[Section 56
(2).]

SCHEDULE

1. The Jaffna Peninsula Lagoon Scheme in the Northern Province.
2. The Pahuru Oya Flood Protection Scheme in the Western Province.