

THE KARNATAKA IRRIGATION ACT, 1965.

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STATEMENTS OF OBJECTS AND REASONS.

Act 16 of 1965.- There are at present different enactments in force in the different areas of the State in regard to the construction, maintenance and regulation of irrigation works and other matters pertaining to irrigation. An Act called the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, which was passed by the Legislature in 1957, consolidated all the provisions in these enactments, in so far as they related to the levy of betterment contribution and water rate. The present Bill seeks to consolidate all the remaining provisions of the Irrigation and other allied Acts in force in the different areas.

The Bill provides among other things for the regulation of water from irrigation works, and gives certain powers to irrigation officers in regard to the survey, investigation, execution and maintenance of irrigation works. It provides as before for the performance of customary obligations in regard to maintenance of irrigation works by the beneficiaries. There is provision for taking over certain notified irrigation works all over the State for maintenance by Government if it is found necessary to do so in the interest of their proper preservation and of the economic utilization of and regulation

of water from such works. This is subject to the payment by the beneficiaries of a cess, the proceeds of which will be put into a fund. A contribution up to 50 per cent of such proceeds is to be made by Government to the fund out of the general revenues. This fund is to be utilised not merely for maintenance but also for providing facilities for proper use of water from the irrigation work and for constructing and maintaining ayacut roads, culverts, etc., in the irrigated area. It is proposed to take over all but very small irrigation works for maintenance over a period of years, so that at the end of that period, the State will have complete control and responsibility for maintenance of all such works, while the responsibility for the others will continue to vest in the beneficiaries or other appropriate agencies.

Provision has also been made in the Bill for the construction by Government Agency of all water courses with a capacity of not below one cusec, leaving the responsibility for construction of water courses having a smaller capacity (called 'field channels') to the ryots. At present the practice in this behalf varies from one area to another, the smallest capacity of water courses to be constructed by Government being 3 cusecs in some areas. The lowering of the limit is intended to provide greater facilities to ryots and to promote the speedy development of irrigation, particularly under major projects. There is also provision to enable Government to construct field channels in the event of failure on the part of the ryots to construct them, subject to recovery of the cost of such construction from the holders of lands benefited from such field channels.

The Bill also provides for certain safeguards for irrigation works and for certain safeguards for irrigation works and for penalties for the contravention of the mandatory provisions of the Bill.

(Published in Karnataka Gazette (Extra ordinary) Part IV -2A dated 18.12.1959 as No. 102 at pages 28-29.)

II

Amending Act 12 of 1969.- According to the Mysore Irrigation Act, 1965, field channels may be constructed either by a persons whose lands would be benefited by the construction or by Government at the instance of such persons. It is now proposed to provide that Government itself shall construct all fields channels at Government cost.

It is further proposed to provide that the procedure relating to acquisition of lands and payment of compensation under the Act shall, as far as may be, in accordance with the provisions of the Land Acquisition Act.

It is also proposed to provide penal water rate for unauthorised cultivation in order to ensure effective compliance of the Act.

It is necessary to amend the Act for the said purposes.

Hence this Bill.

Opportunity is taken to make certain incidental and consequential amendments also.

(Published in Karnataka Gazette (Extra ordinary) Part IV -2A dated 26.8.1968 as No. 767 at pages 6.)

III

Amending Act 24 of 2000.- To achieve better results in water management, it is considered necessary to involve and empower farmers through Water Users Co-operative Societies and their Federations in irrigation water management. Accordingly, it is considered necessary to amend the Karnataka Irrigation Act, 1965,-

(i) to provide for entrustment of control, maintenance and monitoring of irrigation works to Water User Societies;

(ii) to enable, Water Users Societies to provide the means of crossing canals and to construct culverts etc., to prevent obstructions to drainage;

(iii) to empower the Water User Society to construct drainage works wherever necessary;

(iv) to empower the Water User Society to repair the field channel in the event of failure by the user to repair the field channel and recover the costs from the user;

(v) to provide for consulting the Water Users Project Level Federation for regulating water supply from irrigation work;

(vi) to empower water user society to levy water charges when water is temporarily made available as well as when water is used unauthorisedly;

(vii) to empower Water User Society to stop supply of water in the event of violation of cropping pattern and non-payment of water charges and to levy penal water charges in cases of crop violations;

(viii) to exempt levy of maintenance cess in respect of lands situated within the jurisdiction of Water User Societies;

(ix) to provide for compounding of offences;
(x) to provide for compensation of Water Users Apex Level Federation;
(xi) to outline the functions of Water User Society, Water Users Distributary Level Federation, Water Users Project Level federation and Water Users Apex Level Federation.

Further it is also considered necessary to amend the Karnataka Irrigation (Levy of Betterment, Contribution and Water Rates) Act, 1957 to restrict the application of the Act only to the Water Users Co-operative Societies and not to the societies registered under the Karnataka Societies Registration Act, 1960.

Certain consequential amendments are also made.

As the matter was urgent and the Karnataka Legislature Council was not in session, Karnataka Irrigation and Certain Other Laws (Amendment) Ordinance, 2000 was promulgated.

This Bill seeks to replace the said Ordinance.

Hence the Bill

(Obtained from L.A. Bill No. 29 of 2000)

IV

Amending Act 8 of 2002.- It is considered necessary to provide for Water Users Societies to become members of the Water Users Project Level Federation by suitably amending the Karnataka Irrigation Act, 1965.

It is also considered necessary to amend the Karnataka Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 to entrust the work of supplying the water from any irrigation work and levying and collecting the water rates thereby to the Karnataka Neeravari Nigam Limited.

Since the matter was urgent and the Karnataka Legislative Council was not in session, the Karnataka Irrigation and Certain Other Law (Amendment) Ordinance, 2001 (Karnataka Ordinance 6 of 2001) was promulgated to achieve the object.

Hence the Bill.

(L.A. Bill No. 2 of 2002)

V

Amending Act 9 of 2002.- It is considered necessary to amend the Karnataka Irrigation Act, 1965, to provide for,-

- (i) a separate definition of "Water Users Association" and to make a provision for continuing the existing Water Users Societies registered prior to the commencement of this Amendment Act in respect of the minor Irrigation tanks irrigating less than 2000 hectares till a Water Users Association is registered under the Karnataka Societies Registration Act, 1960.
- (ii) Conferring certain powers under Sections 4, 10, 14 and 27 on the Water Users Association.
- (iii) Exempting Water Users Association from the levy of maintenance cess.
- (iv) Defining the functions of the Water Users Association.

It is also considered necessary to amend the Karnataka Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 enable levy of water rate on Water Users Association who in turn may collect water charges from the water users.

Since the matter was urgent and the Karnataka Legislative Council was not in session, the Karnataka Irrigation and Certain Other Law (Amendment) Ordinance, 2002 (Karnataka Ordinance 1 of 2002) was promulgated to achieve the object.

Hence the Bill.

(L.A. Bill No. 7 of 2002)

VI

Amending Act 36 of 2003.- Krishna Bhagya Jala Nigam Limited and the Government of Karnataka have made an investment of Rs. 4143 crores for the construction of Almatti and Narayanpur Dams, Main Canals, Distributories and Rs. 780 crores for the construction of field Irrigation Channels in private lands. This considerable investment is made to provide irrigation facilities to the lands owned by farmers of this State in order to improve their economic condition through productive agricultural practice.

In order to ensure that the benefits of Irrigation accrue to the original landholder by preventing sale or lease, to a limited extent of the land by him

in favour of any other person, it is proposed to restrict partially, the transfer of such land for a limited period.

As the matter was urgent and the Karnataka Legislative Council was not in session, the Karnataka Irrigation (Amendment) Ordinance, 2003 was promulgated.

This Bill seeks to replace the said Ordinance.

Hence the Bill.

(L.C. Bill No. 3 of 2003)

[Entry 17 of List-II of the Seventh Schedule to the Constitution of India].

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¹[KARNATAKA]¹ ACT NO. 16 OF 1965

(First published in the ¹[Karnataka]¹ Gazette Extraordinary on the Nineteenth day of August, 1965)

THE ¹[KARNATAKA]¹ IRRIGATION ACT, 1965.

(Received the assent of the President on the Twenty-third day of July, 1965).

(As Amended by Act 12 of 1969, 24 of 2000, 8 of 2002, 9 of 2002 and 36 of 2003)

An Act to make provisions relating to the construction, maintenance and regulation of irrigation works, the supply of water therefrom, obtaining labour in emergencies and certain other matters pertaining to irrigation in the ¹[State of Karnataka]¹.

WHEREAS it is expedient to make provisions relating to the construction, maintenance and regulation of irrigation works, the supply of water therefrom obtaining labour in emergencies and certain other matters pertaining to irrigation in the ¹[State of Karnataka]¹;

BE it enacted by the ¹[Karnataka]¹ State Legislature in the sixteenth Year of the Republic of India as follows:-

1. Adapted by the Karnataka Adaptions of Laws order 1973 w.e.f. 1.11.1973.

CHAPTER I**PRELIMINARY**

1. Short title, extent, commencement and application .-(1) This Act may be called the ¹[Karnataka]¹ Irrigation Act, 1965.

1. Adapted by the Karnataka Adaptions of Laws order 1973 w.e.f. 1.11.1973.

(2) It extends to the whole of the ¹[State of Karnataka]¹.

1. Adapted by the Karnataka Adaptions of Laws order 1973 w.e.f. 1.11.1973.

(3) It shall be come into force on such ¹[date]¹ as the State Government may, by notification, appoint.

1. This Act came into force on 1.1.1966 by notification. Text of notification is at the end of the Act.

2. Definitions.- In this Act, unless the context otherwise requires,-

(a) "Canal Officer" means any officer appointed or invested with powers of a Canal Officer under section 3;

(b) "Chief Engineer" means an officer appointed by the State Government as Chief Engineer for Irrigation and includes any officer appointed to perform the functions of a Chief Engineer under this Act;

¹[(bb) "Command Area Development Authority" means the Command Area Development Authority established under the Karnataka Command Areas Development Act, 1980 (Karnataka Act 6 of 1980)]¹.

1. Inserted by Act 24 of 2000 w.e.f. 14.6.2000.

(c) "Deputy Commissioner" includes any officer not below the rank of an Assistant Commissioner, appointed by the State Government to exercise all or any of the powers of a Deputy Commissioner under this Act;

(d) "drainage work" includes,-

(i) channels, either natural or artificial, for the discharge of waste or surplus water, and all works connected with or auxiliary to such channels;

(ii) escape channels from an irrigation work, dams, weirs, embankments, sluices, groynes and other works connected therewith, but does not include works for the removal of sewage;

(iii) any work in connection with a system of reclamation made or improved by Government for the purpose of drainage of the country; and

(iv) all works for the protection of lands from inundation or erosion, constructed or maintained either wholly or in part by the State Government;

(e) "field channel" means any water course, hikkal or pipe having a capacity not exceeding one cubic foot per second, which is supplied with water from an irrigation work, and includes all subsidiary works belonging to such field-channel, except the sluice or outlet through which water is supplied to such channel or pipe;

(f) "flood-embankment" means any embankment constructed or maintained by Government in connection with any system of irrigation or reclamation works for the protection of lands from inundation or which may be declared by the State Government to be maintained in connection with any such system, and includes all groynes, spurs, dams and other protective works connected with such embankments;

(g) "Irrigation Officer" means any officer appointed as an Irrigation Officer or invested with the powers of an Irrigation Officer under section 3;

(h) "irrigation work" includes,-

(i) all reservoirs, tanks, wells, anicuts, bandharas, ponds, spring ponds, canals, field-channels, thalapariges, pipes, channels, aqueducts and

sluices constructed, maintained or controlled wholly or partly by Government for the supply, conveyance or storage of water;

(ii) all works, embankments, structures, supply and escape channels, connected with such reservoirs, tanks, anicuts, bandharas, channels, canals, pipes, sluices, and all roads constructed for facilitating the construction or maintenance of such reservoirs, tanks, anicuts, bandharas, canals, channels pipes and sluices;

(iii) all drainage works and flood embankments;

(iv) any part of a river, stream, lake, natural collection of water or natural drainage channel to which the State Government may apply the provisions of section 5 or of which the water has been applied or used before the commencement of this Act for the purpose of any existing irrigation work;

(v) all lands appropriated by the State Government for the purpose of such reservoirs, tanks, anicuts, bandharas, canals, channels, pipes, sluices and all buildings, machinery, fences, gates and other erections upon such lands;

(i) "land holder" or "holder" means the person in whom a right to hold the land is vested, whether solely on his own account or wholly or partly in trust for another person or for a class of persons or for the public and includes a mortgagee vested with right of possession;

(j) "notification" means a notification published in the official Gazette;

(k) "occupier" means, in respect of any land, any person who has an interest in the land and cultivates the land himself or by his servants, or by hired labour, and includes a tenant;

(l) "owner" includes every person having a joint interest in the ownership of the thing specified; and all rights and obligations which attach to an owner under this Act shall attach jointly and severally to every person having such joint interest in the ownership;

(m) "patel" means such officer as the State Government may declare to be a patel for the purposes of this Act;

(n) "prescribed" means prescribed by rules made under this Act;

(o) "Tahsildar" includes any officer appointed by the State Government to exercise all or any of the powers of a Tahsildar under this Act.

¹[(p) "Water Users' Apex Level Federation" means a Water Users' Apex Society registered under the Karnataka Co-operative Societies Act, 1959

(Karnataka Act 11 of 1959) which shall consist of members as specified in its bye-laws;

1. Inserted by Act 24 of 2000 w.e.f. 14.06.2000.

¹[(pp) "Water Users Association" means "a Water Users Association registered under the Karnataka Societies Registration Act, 1960 (Karnataka Act 17 of 1960),-

(a) members of which consist of not less than sixty percent of the Water Users for cultivation of land; or

(b) majority of members of which consist of Water Users for cultivation of land and holding not less than fifty one percent of land;

under an irrigation work being a tank irrigating less than two thousand hectares but excluding tanks within the command area of a major or medium irrigation project.

Provided that a Water Users Society registered under the Karnataka Co-operative Societies Act, 1959 in respect of such tank prior to the commencement of the Karnataka Irrigation and Certain Other Law (Second Amendment) Act, 2002, may continue till a water Users Association is registered.]¹

1. Inserted by Act 9 of 2002 w.e.f. 25.02.2002.

(q) "Water Users Distributory Level Federation" means a Federation of Water Users Societies at Distributory Level registered under the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) the members of which consist of not less than fifty one percent of the Water Users Societies within an area in relation to a distributory of a major or medium irrigation project, as may be notified by the State Government;

(r) "water Users Project Level Federation" means,-

(i) in the case of a major irrigation project, a Federation of ¹[Water Users Societies or]¹ Water Users Distributory Level Federations at the project level registered under the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) the members of which consist of not less than fifty one percent of ¹[Water Users Societies or]¹ Water Users Distributory Level Federation within an area in relation to the major irrigation project as may be notified by the State Government;

1. Inserted by Act 8 of 2002 w.e.f. 13.11.2001.

(ii) in the case of a medium irrigation project, a federation of Water Users Societies at the project level registered under the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) the members of which consist of not less than fifty one percent of Water Users Societies within an area in relation to the medium irrigation project as may be notified by the State Government;

(iii) in the case of a minor irrigation or lift irrigation works, a federation of Water Users Societies in relation to such minor irrigation or lift irrigation works registered under the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) the members of which consist of not less than fifty one percent of Water Users Societies within such area as may be notified by the State Government;

(s) "Water Users Society" means a Water Users Co-operative Society registered under the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959),-

(a) members of which consist of not less than sixty percent of the Water Users for cultivation of land; or

(b) majority of members of which consist of Water Users for cultivation of land and holding not less than fifty one percent of land,

under an irrigation work within the area of operation of the society ¹[but excluding a tank irrigating less than two thousand hectares and not falling within the command area of a major or medium irrigation project.]¹

1. Inserted by Act 9 of 2002 w.e.f. 25.02.2002.

Explanation.- For the purposes of this clause "area of operation " means an area comprising a contiguous block of land within an irrigation work as may be notified by the Irrigation Officer. ²[from time to time]²¹

1. Clauses (p) to (s) Inserted by Act 24 of 2000 w.e.f. 14.06.2000.

2. Inserted by Act 9 of 2002 w.e.f. 25.02.2002.

3. Appointment of officers.- The State Government, or, subject to such conditions as may be prescribed, any officer of Government empowered in this behalf may, by notification,-

(a) appoint such officers with such designations, and assign to them respectively such powers and duties over such areas or such irrigation works under this Act, as the State Government or such officer may deem fit;

(b) invest any officer of Government in any Department or any other person with such powers and impose upon him such duties over such areas

or such irrigation works under this Act, as the State Government or such officer may deem fit.

CHAPTER II

CONSTRUCTION, CONTROL AND MAINTENANCE OF IRRIGATION WORKS

4. Constructon, control and maintenance of irrigation works only with consent of Government and subject to conditions.- (1) No person shall construct, control or maintain wholly or partly any reservoir, tank, anicut, bandhara, pond, spring pond, canal, field channel, talaparige, channel or aquaduct except with the previous sanction of the State Government or such other authority as may be authorised by the State Government in this behalf and subject to such conditions as the State Government or such authority may impose:

¹[Provided that the State Government may entrust to a Water Users Society ²[or Water Users Association as the case may be]² control, maintenance and monitoring of any irrigation work either wholly or in part and thereupon such Water Users Society ²[or Water Users Association as the case may be]² shall be responsible for the control, maintenance and monitoring of such irrigation work.]¹

1. Inserted by Act 24 of 2000 W.e.f. 14.06.2000.

2. Inserted by Act 9 Of 2002 W.e.f. 25.02.2002.

(2) Where the State Government is of the opinion that in the interests of proper irrigation from any irrigation work constructed or proposed to be constructed it is necessary to control the construction of wells in any area or areas, the State Government may by notification specify such area or areas; and thereupon no person shall within such area or areas construct any well except with the previous sanction of the State Government or other authority authorised by the State Government in this behalf, and subject to such conditions as the State Government or such authority may impose.

5. Notification to issue when water supply is to be applied for purposes of irrigation works.- (1) Whenever it appears expedient to the State Government or any officer generally or specially authorised by it in this behalf, that the water of any river or stream flowing in a natural channel or of any lake or any other natural collection of still water, should be applied or used by the State Government for the purpose of any existing or proposed irrigation work, the State Government or the authorised officer may, by notification, declare that the said water will be so applied or used after a day to be specified in the said notification, not being earlier than three months from the date thereof.

(2) At any time after the day specified under sub-section (1), the Irrigation Officer may enter on any land, remove any obstruction, close any channel and do any other thing necessary for such application or use of the said water, and for such purpose, may take with him or depute or employ such subordinates and other persons as he deems fit.

6. Entry for inquiry.- Whenever it shall be necessary to make any inquiry or examination in connection with a proposed irrigation work or with the maintenance of an existing irrigation work, the Irrigation Officer, or any person acting under the general or special order of such Irrigation Officer may,-

(a) enter upon such land as he may think necessary for the purpose; and

(b) exercise all powers and do all things in respect of such land as he might exercise and do, if the State Government had issued a notification under the provisions of section 4 of the Land Acquisition Act, 1894, to the effect that land in that locality is likely to be needed for a public purpose; and

(c) set up and maintain water-gauges and do all other things necessary for the purpose of such inquiry and examination.

7. Power to inspect and regulate supply.- The Irrigation Officer or any person acting under the general or special order of such Irrigation Officer, may enter upon any land, building or field-channel, for the purpose of inspecting or regulating the use of water supplied or of measuring the land, irrigated thereby or chargeable with a water rate, and of doing all things necessary for the proper regulation, maintenance and management of the irrigation work from which such water is supplied.

8. Power to enter for repairs and to prevent accidents.- In case of any accident or damage being apprehended or occurring to an irrigation work, the Irrigation Officer, or any person or persons acting under the general or special order of such Irrigation Officer, may enter upon any land adjacent to or in the neighbourhood of such irrigation work and may remove trees and other materials and execute all works which may be necessary for the purposes of preventing such accidents or repairing any damage.

9. Notice to occupier.- When an Irrigation Officer or any other person acting under his general or special order in this behalf, proposes, under the provisions of sections 6, 7 or 8, to enter into any building or enclosed court or garden attached to a dwelling house, which is not supplied with water

from an irrigation work not adjacent to a flood-embankment, he shall previously give to the occupier of such building, court or garden such reasonable written notice as the urgency of the case may allow.

10. Means of crossing canals to be provided and obstruction to drainage to be avoided.- Suitable means of crossing canals and channels shall be provided at such places as the State Government ¹[or the Water Users Society ²[or Water Users Association]² in respect of any irrigation work entrusted to it as the case may be]¹ thinks necessary for the reasonable convenience of the inhabitants of the adjacent land; and suitable bridges, culverts, or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal or channel.

1. Inserted by Act 24 of 2000 W.e.f. 14.06.2000.

2. Inserted by Act 9 Of 2002 W.e.f. 25.02.2002.

11. Government may prohibit obstructions of rivers, etc within certain limits.- Whenever it appears to the State Government that injury to the public health, or public convenience, or to any irrigation work or to any land for which supply from an irrigation work is available, has arisen or may arise from the obstruction of any river, stream or natural drainage channel, the State Government may, by notification, prohibit within limits to be defined in such notification, or may, within such limits, order the removal or other modification of such obstruction; and thereupon so much of the said river, stream or natural drainage channel as is comprised within such limits, shall be deemed to be a drainage work as defined in section 2.

12. Irrigation Officer may issue order to person causing obstruction.- The Irrigation Officer may, after the publication of the notification under section 11, issue an order to any person causing or having control over any such obstruction to remove or modify the same within such period as may be specified in such order.

13. Irrigation Officer may cause obstruction to be removed.- If within the period specified under section 12 such person does not comply with the order, the Irrigation Officer may cause the obstruction to be removed or modified and such person shall be liable to pay the expense of such removal or modification; and if the person to whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable as an arrear of land revenue.

14. Construction of drainage works.- Whenever it ¹[appears to the Water Users Society ³[or Water Users Association]³ in case of any irrigation work entrusted to it and in other cases to the State Government]¹ that any drainage work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water or from erosion by a river is required for any land, ¹[the State Government or as the case may be, Water Users Society]¹ ³[or Water Users Association]³ in its discretion cause a scheme for such work to be drawn up and carried into execution, and the person authorised by the State Government ²[or as the case may be, Water Users Society]² ³[or Water Users Association]³ to draw up and execute such scheme may exercise, in connection therewith, the powers conferred on Irrigation officers by sections 6, 7 and 8 and shall be liable to the obligations, imposed upon Irrigation Officers by sections 9 and 35.

1. Substituted by Act 24 of 2000 w.e.f. 14.6.2000.

2. Inserted by Act 24 of 2000 W.e.f. 14.6.2000.

3. Inserted by Act 9 Of 2002 W.e.f. 25.2.2002.

CHAPTER III

FIELD CHANNELS

15. Determination of the need for field-channels and their alignment in any area.- (1) The Irrigation Officer on being satisfied that the construction of field-channels in any area is necessary in public interest for supply of water from an irrigation work to lands requiring such supply for purposes of cultivation, shall declare by notification that such field-channels may be constructed after a date to be specified in the notification, not being earlier than thirty days from the date of publication thereof. A copy of such notification shall be sent to the Tahsildar of the area for the publication in the villages concerned.

(2) After the date specified in the notification under sub-section (1), the Irrigation Officer shall determine the suitable alignment for the field-channels and shall mark out the land, which in his opinion, it is necessary to occupy for the construction thereof. He shall forthwith publish a notification by affixture on the notice board in his office that so much of such land as is situated within such village or villages has been so marked out and shall send a copy of such notification to the Tahsildar for publication in every village through which the field-channel is taken and on such lands. He shall

also send a copy of such notification to the Deputy Commissioner of every district in which such land is situated.

16. Deputy Commissioner to acquire land.- (1) On receipt of a copy of notification under section 15, ¹[the Deputy Commissioner shall issue notices to the owner of such land and other persons interested in it to show cause why such land should not be acquired and after giving them a reasonable opportunity of being heard, if satisfied]¹ that such land is required for a field-channel, proceed to acquire and take possession of such land under the provisions of the Land Acquisition Act, 1894, as if a declaration had been issued by State Government for the acquisition thereof under section 6 of that Act and as if the State Government had thereupon directed the Deputy Commissioner to take order for the acquisition of such land under section 7 of the said Act and as if the State Government had issued orders for immediate possession being taken under section 17 of the said Act.

1. Substituted by Act 12 of 1969 W.e.f. 19.6.1969.

(2) Notwithstanding anything contained in the Land Acquisition Act, 1894, the acquisition of any land for the purpose of constructing a field-channel under section 15 shall be deemed to be for a public purpose ¹[x x x]¹.

1. Omitted by Act 12 of 1969 W.e.f. 19.6.1969.

¹[Explanation I x x x

Explanation II x x x]¹

1. Omitted by Act 12 of 1969 W.e.f. 19.6.1969.

17. Such acquired land to remain as property of Government.- On possession of the land being taken, the Irrigation Officer shall fix the boundary marks in the prescribed manner, and thereupon ownership of such land shall vest in the State Government.

¹[**18 x x x**

19 x x x]¹

1. Omitted by Act 12 of 1969 W.e.f. 19.6.1969.

20. Obligations of ¹[user of]¹ the field-channel.- (1) Every ¹[user of]¹ the field-channel shall be bound,-

1. Substituted by Act 12 of 1969 W.e.f. 19.6.1969.

(a) to maintain such field-channel in a fit state of repair for the conveyance of water;

¹[(b) x x x]¹

1. Omitted by Act 12 of 1969 W.e.f. 19.6.1969.

(2) Every user of a field-channel ¹[x x x]¹ shall, subject to the provisions of Chapter IV, be entitled to have a supply of water by such field-channel on such terms as may be prescribed.

1. Omitted by Act 12 of 1969 W.e.f. 19.6.1969.

¹[21 x x x

22 x x x

23 x x x]¹

1. Omitted by Act 12 of 1969 W.e.f. 19.6.1969.

24. If user fails to execute work or to repair field-channel Irrigation Officer may execute the same.- (1) If any user of field channel fails to fulfil any obligation imposed upon him by clause (a) of sub-section (1) of section 20, the Irrigation Officer may require him, by notice, to execute the necessary repair within a period to be specified in such notice, of not less than seven days, and , in the event of failure may execute the same, and except as hereinafter provided in this section, all expenses incurred in the execution of such repair shall be a sum due by such user to the State Government recoverable as an arrear of land revenue.

¹[Provided that in respect of an irrigation work entrusted to a Water Users Society such expenses shall be deemed to be dues by such user to a co-operative society and shall also be recoverable in accordance with the provisions of the Karnaataka Co-operative Societies Act, 1959.]¹

1. Inserted by Act 24 of 2000 w.e.f. 14.6.2000.

¹[(2) x x x]¹

1. Omitted by Act 12 of 1969 W.e.f. 19.6.1969.

¹[25 x x x]¹

1. Omitted by Act 12 of 1969 W.e.f. 19.6.1969.

¹[26. Construction of field channel in lands acquired.- After any land has been acquired under section 16 and has vested in the State Government under section 17, the Irrigation Officer shall construct the field channels necessary in the area.]¹

1. Substituted by Act 12 of 1969 W.e.f. 19.6.1969.

CHAPTER IV**REGULATION OF IRRIGATION**

27. Regulation of water supply from irrigation works.- An Irrigation Officer duly empowered by the State Government by a notification in respect of any irrigation work or class of irrigation works may, after such inquiry as he deems fit, and after consultation with a committee appointed by the State Government consisting of such number of official and non-official members as may be prescribed, regulate in respect of any irrigation work for each year or for a specified term of years at a time, as circumstances may require,-

- (i) the time for letting out water for irrigation;
- (ii) the period of supply;
- (iii) the quantity of supply; and
- (iv) the areas to be supplied at different times.

Explanation.- A land shall be deemed to have been supplied with water if water is made available for irrigation of such land:

¹[Provided that where an irrigation work is entrusted to a Water Users Society, the Irrigation Officer, instead of consulting the committee so appointed by the State government, shall,-

(i) in case of a Water Users Society whose area of operation extends to one or more minor irrigation of lift irrigation works, consult such Water Users Society; and

(ii) in other cases, consult the Water Users Project Level Federation.]¹

²[Provided further that when an irrigation work is entrusted to a Waters Users Association the irrigation officer instead of consulting the committee so appointed by the State Government shall consult Water Users Association.]²

1. Inserted by Act 24 of 2000 w.e.f. 14.6.2000.

2. Inserted by Act 9 of 2002 W.e.f. 25.2.2002.

¹**[27A. Restriction on alienation of certain lands:-** (1) Notwithstanding anything contained in any other law for the time being in force, after commencement of construction of any irrigation work to irrigated any land, from any irrigation project, being a major or medium irrigation project, no owner of such land shall, for such period not exceeding ten years and from a date to be specified in this behalf, by a notification by the Chief Engineer

in charge of the irrigation work, transfer the land specified in the notification by way of sale, mortgage, lease, gift, exchange or otherwise without prior permission of the Irrigation Officer.

(2) The Irrigation Officer may give permission under sub-section (1) having regard to the guidelines issued by the State Government from time to time.]¹

1. Inserted by Act 36 of 2003 w.e.f. 6.6.2003.

28. Application for permission to use water from an irrigation work.- (1) Any person desiring to have a supply of water from an irrigation work for irrigating a land ¹[x x x]¹ not included in any area to which supply of water is regulated under section 27, shall make a written application to that effect to the Irrigation Officer. Subject to any general or special order made by the State Government determining the extent of lands for which water can be made available from such irrigation work, such officer may, if in his opinion such supply can be made without detriment to the supply of water to lands ¹[x x x]¹ included in any area to which supply of water is regulated under section 27, order the supply of water and for such period not exceeding six years subject to such conditions as may be specified in such order.

1. Omitted by Act 12 of 1969 w.e.f. 19.6.1969.

(2) If after a period of six successive years of supply of water made to any land referred to in sub-section (1), the holder of such land applies for the supply of water being made permanent, such application, with the opinion of the Irrigation Officer, shall be forwarded to the Deputy Commissioner of the district. The Deputy Commissioner of the district shall then take steps in accordance with law ¹[x x x]¹ to include the land in the area to which supply of water is regulated by section 27.

1. Omitted by Act 12 of 1969 w.e.f. 19.6.1969.

(3) The water rate ²[or water charges, as the case may be]² leviable for the use of water for temporary cultivation under sub-sections (1) and (2) shall be twice the water rate ²[or water charges, as the case may be]² ¹[xxx]¹.

1. Omitted by Act 12 of 1969 w.e.f. 19.6.1969.

2. Inserted by Act 24 of 2000 W.e.f. 14.6.2000.

(4) With the sanction of, and subject to such conditions, payments, and restrictions, as may be imposed by the State Government or such officer as may be authorised by the State Government in this behalf, the Irrigation

Officer, may, without detriment to the supply of water to lands ¹[x x x]¹ included in any area to which supply of water is regulated under section 27, give permission for water to be taken from an irrigation work, for purposes other than those of agriculture.

1. Omitted by Act 12 of 1969 w.e.f. 19.6.1969.

(5) If any person uses water from an irrigation work without obtaining the permission required under this section, he shall in addition to any penalty he incurs under this Act for such unauthorised use of water be liable to pay water rate ¹[or as the case may be, water charges]¹ at such rate as may be determined by the prescribed officer not being less than ten times and not exceeding thirty times the rate ¹[or the water charges, as the case may be]¹ he would otherwise have been required to pay, had he applied for and obtained the permission.

1. Inserted by Act 24 of 2000 W.e.f. 14.6.2000.

29. Stoppage of water supply.- The supply of water to any field-channel or to any person who is entitled to such supply shall not be stopped, except,-

(a) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by the competent authority;

(b) whenever and so long as any field-channel by which such supply is received is not maintained in such repair as to prevent the wasteful escape of water thereof;

(c) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water;

(d) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water;

(e) within the periods fixed from time to time by the Irrigation Officer of which due notice shall be given;

(f) whenever there is diminution in the supply of water in the irrigation work due to any natural or seasonal causes and so long as it is necessary to do so;

¹[(g) whenever and so long as water is used for sowing, planting or growing crops in contravention of notification issued under sub-section (2) of section 32;

(h) whenever and so long as stoppage of supply of water is necessitated due to any cause beyond the control of Irrigation Officer;

(i) whenever and so long as a person does not pay the arrears of water rate or as the case may be water charges.]¹

1. Inserted by Act 24 of 2000 w.e.f. 14.6.2000.

30. Supply of water for irrigation of one or more crops.- When water from an irrigation work is supplied for the irrigation of one or more crops only, the right to use such water shall be deemed to continue only until such crop or crops shall come into maturity, and to apply only to such crop or crops.

31. Regulation of cultivation on '[x x x]' lands.- (1) Subject to the provisions of section 32, and subject to such directions as may be issued from time to time, the Irrigation Officer may in any year, having regard to the quantity of water available in any irrigation work under his control determine, by order published in the prescribed manner and within the time prescribed, the areas or lands '[x x x]' in the irrigable area of such irrigation works, to be cultivated with paddy, sugarcane, or any perennial crop or intermittent irrigated dry crops or with dry or semi-dry crops and regulate the supply of water for irrigation accordingly.

1. Omitted by Act 12 of 1969 w.e.f. 19.6.1969.

(2) If, in accordance with a decision of the Irrigation Officer under sub-section (1), any land entitled to supply of water under the irrigation work is not supplied with water, the holder of such land shall be liable to pay only the dry assessment of such land.

(3) From the order of the Irrigation Officer under this section, an appeal shall lie within fifteen days from the date of publication of the said order, to the Deputy Commissioner of the district.

32. Power to prescribe the kind of crop to be grown under the irrigation area and the period of sowing such crop.- (1) Whenever the State Government is satisfied that for the better cultivation of lands and due preservation of the water-resources of an irrigation work, it is expedient and desirable in public interests to regulate the kind of crop that should be grown on lands under such irrigation work and the period of sowing such kinds of crop, it may, by notification, make a declaration to that effect.

(2) On the making of a declaration under sub-section (1), the Irrigation Officer, after consultation with the committee appointed under section 27 and with the approval of the Deputy Commissioner, may specify by notification published in such manner as may be prescribed, the kinds of

crop that shall be grown on any land under such irrigation work and the period of sowing and planting such crops.

(3) On the publication of a notification under sub-section (2), no person shall grow or allow any crop other than the crops specified in such notification to be grown on any land under such irrigation work and no person shall sow or plant or allow the sowing or planting of crop at any time other than during the period specified in such notification.

¹[(4) In all cases in which the person who has sown or grown any unauthorised crop or allowed any land to be grown or sown with such unauthorised crop cannot be found the holder of land, in addition to such other person concerned, shall,-

(a) be liable for contravening the provisions of this section; and

(b) also be liable to pay such water rate, ²[or water charges as the case may be]² as may be determined by the Irrigation Officer, not being less than the five times and not exceeding ten times the water rate ²[or water charges as the case may be]² which he would otherwise have been required to pay:

Provided that if no water is utilised either directly or indirectly from the irrigation work for growing any crop, the provisions of sub-sections (3) and (4) shall not be applicable.]¹

1. Substituted by Act 12 of 1969 w.e.f. 19.6.1969

2. Inserted by Act 24 of 2000 w.e.f. 14.6.2000.

CHAPTER V

AWARD OF COMPENSATION

33. Compensation for damage caused consequent on the exercise of powers conferred by this Act.- Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained:

Provided that no compensation shall be so awarded in respect of any damage arising from,-

(a) deterioration of climate or soil; or

(b) stoppage of navigation or of the means of floating timber or of watering cattle; or

(c) stoppage or diminution of supply of water in consequence of the exercise of the power conferred by section 5, if no use has been made of

such supply within the five years next before the date of the issue of the notification under section 5; or

(d) failure or stoppage of any water in a channel or irrigation work where such failure or stoppage is due to,-

- (i) any cause beyond the control of the authority incharge of the irrigation work;
- (ii) the execution of any repairs, alterations or additions to the channel or irrigation work;
- (iii) any measures considered necessary by the Irrigation Officer, regulating the proper flow of water in the channel or for maintaining the established course of irrigation; or
- (iv) circumstances mentioned under clauses (a) to (f) of section 29:

Provided further that any person who suffers loss from any stoppage or diminution of water supply to his land due to any causes named in clause (d) of the preceding proviso shall be entitled to such remission of the water rate payable by him as may be authorised by the State Government.

34. Limitation of claims.- No claim for compensation under this Act for any damage shall be entertained after the expiration of one year from the time when the damage complained of commenced, provided that the Deputy Commissioner on sufficient cause shown to his satisfaction by the claimant for not making the claim within such period, may condone the delay, and entertain the claim.

35. Compensation for damage caused by entry on land, etc.- (1) In every case of entry upon any land or building or the utilisation of materials under sections 5, 6, 7 and 8, the Irrigation Officer or the person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building or other property and the value of the materials taken or utilised and, within one month from the date of such entry, compensation shall be tendered by the Irrigation Officer to the land-holder or owner of the property, as the case may be.

(2) If such tender is not accepted within a week of such tender, the Irrigation Officer shall forthwith refer the matter to the Deputy Commissioner for the purpose of determining the amount of compensation.

36. Claims to be preferred to the Deputy Commissioner.- (1) All claims for compensation under this Act other than claims of the nature

provided for in section 35 shall be made to the Deputy Commissioner of the district in which such claim or part of it arises.

(2) The Deputy Commissioner shall enquire into all such claims and determine the amount of compensation, if any, which should be awarded. In determining such amount, the Deputy Commissioner shall, ¹[x x x]¹ be guided by the provisions of sections 23 and 24 of the Land Acquisition Act, 1894 ¹[x x x]¹:

1. Omitted by Act 12 of 1969 w.e.f. 19.6.1969.

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

Provided further that no order determining the amount of compensation shall be made by the Deputy Commissioner under this section without the previous approval of the State Government or such officer as the State Government may appoint in this behalf.

37. Appeal.- Any person aggrieved by the order of the Deputy Commissioner under section 35 or section 36 may, within ninety days from the date of communication of the order, prefer an appeal to the ¹[Karnataka Revenue Appellate Tribunal]¹.

1. Adapted by the Karnataka Adaptions of Laws order 1973 w.e.f. 1.11.1973.

38. Compensation when due and interest payable.- All sums of money payable for compensation awarded under this Chapter shall become due three months after the final award is made, and simple interest at the rate of four per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

¹[39. x x x]¹

1. Omitted by Act 12 of 1969 w.e.f. 19.6.1969.

CHAPTER VI

OF OBTAINING LABOUR IN EMERGENCIES

40. Requisition of labour for urgent works or repairs etc.- (1) Whenever it appears to an Irrigation Officer or in his absence to the Tahsildar that,-

- (a) (i) unless some work or repair is immediately executed an irrigation work would sustain such serious damage as to cause sudden and extensive public injury, or
- (ii) unless some clearance of an irrigation work which is necessary in order to maintain the established course of irrigation or drainage is immediately executed serious public loss would occur, and
- (b) persons necessary for the proper execution of such work, repair or clearance cannot be obtained in the ordinary manner in time to prevent such injury or loss,

it shall be lawful for such officer to either himself call upon or to require the patel of the village or villages in the vicinity to call upon all or any of the able bodied persons who reside or hold land in or near the locality where such work, repair or clearance has to be executed to assist in the execution of the same as such officer or other person authorised by him in this behalf may direct.

(2) In calling upon the able bodied persons to assist the execution of any work under sub-section (1), no discrimination shall be made on grounds of religion, race, caste or class or of any of them.

(3) Every person so requisitioned shall be deemed to be a public servant within the meaning of the Indian Penal Code.

(4) An order made under sub-section (1), shall be immediately reported to the Deputy Commissioner and the Canal Officer.

41. Payment to persons requisitioned.- All persons complying with the requisition under section 40 shall, as soon as may be reasonably practicable, and in any case within fifteen days from the date of such compliance, be paid by the Canal Officer or the Tahsildar, as the case may be, for the work done by them at fifty per cent in excess of the rate payable for the time being prescribed by the competent authority of the Public Works Department to persons attending to similar work:

Provided that for work done at night, payment shall be made at double such rates.

42. Appeals against order under section 41.- Any person who does not accept the amount tendered in payment under section 41 may appeal, within thirty days from the date of such tender, to the Deputy Commissioner whose decision shall be final.

CHAPTER VII**MAINTENANCE OF IRRIGATION WORKS**

43. Power to take over irrigation works for maintenance by Government.- If the State Government considers that in the interest of the proper irrigation of lands under any irrigation work maintained by any person or body of persons, the work of maintenance in a fit state of repair of such irrigation work should be undertaken by the State Government, and the cost of such maintenance or any part thereof recovered from the holders of lands benefited by such irrigation work, the State Government may, by notification, make a declaration to that effect, and thereafter the State Government shall take over and maintain in a fit state of repair such irrigation work:

Provided that no artificial reservoir owned by any land holder which is actually used for the purpose of irrigation by such land holder shall be notified under this section except,-

(i) on the request of land holder; or

(ii) if in the opinion of the State Government such notification is necessary in the public interest:

Provided further that where a notification is issued in accordance with clause (ii) of the preceding proviso, the land holder concerned shall be paid such compensation for his rights as may be awarded by the Deputy Commissioner of the district after such enquiry as may be prescribed.

44. Levy of maintenance cess.- (1) The State Government shall levy a maintenance cess at rupees four per acre per annum on all lands in the area benefited by any irrigation work maintained by the State Government, the Tungabhadra Board or a ¹[Zilla Panchayat or a Taluk Panchayat]¹ or other authority:

1. Substituted by Act 24 of 2000 w.e.f. 14.6.2000.

Provided that where water is not made available for the use of any land benefited by an irrigation work for a period of not less than two consecutive years, the maintenance cess shall not be payable in respect of such land during the said period:

Provided further that where the maintenance cess has been paid for any year in respect of which such cess is not payable under the preceding proviso the amount so paid shall be refunded or adjusted towards the liability to pay the cess in respect of any later year in which water is made available for the use of such land:

¹[Provided also that no maintenance cess shall be levied and collected under this sub-section in respect of any land in the area benefited by any irrigation work maintained by a Water Users Society ²[or a Water Users Association]².]¹

1. Inserted by Act 24 of 2000 w.e.f. 14.6.2000.

2. Inserted by Act 9 of 2002 w.e.f. 25.2.2002.

(2) On and from the date of levy of the maintenance cess under sub-section (1), the irrigation cess, if any, levied as a separate charge on the lands liable to pay maintenance cess shall cease to be levied.

(3) The maintenance cess shall be a tax on the land in respect of which it is payable, and the provisions of the ¹[Karnataka]¹ Land Revenue Act, 1964 (¹[Karnataka]¹ Act 12 of 1964) and the rules thereunder shall apply to the payment and recovery of the maintenance cess as they apply to the payment and recovery of the land revenue due upon the land in respect of which the maintenance cess is payable.

1. Adapted by the Karnataka Adaptions of Laws order 1973 w.e.f. 1.11.1973.

45. Payment to Tungabhadra Board, etc.- Where under any law for the time being in force the duty of maintenance of any irrigation work devolves on the Tungabhadra Board, a ¹[Zilla Panchayat or a Taluk Panchayat]¹ or other authority, an amount equal to the amount collected as maintenance cess on lands benefited by such irrigation work during every year shall be paid to the Tungabhadra Board, the ¹[Zilla Panchayat or a Taluk Panchayat]¹ or other authority concerned, in such manner as may be prescribed.

1. Substituted by Act 24 of 2000 w.e.f. 14.6.2000.

CHAPTER VIII

SAFEGUARD OF IRRIGATION WORKS

46. Limitation in respect of irrigation works.- Except as may be prescribed, no person other than the Irrigation Officer shall,-

- (a) interfere with or divert the course of a natural stream; or
- (b) construct any earthen or masonry bund or weir on any channel or stream, flowing above or below any field channel.

47. Interference with the functioning of cross drainage works.- No person, except with the written permission of the Irrigation Officer, shall obstruct the proper functioning of the various cross drainage works, such as

culverts, aqueducts, super-passages, syphons, weirs and allied works constructed for the safety of the canals or channels.

48. Obligations of owners in respect of works affecting safety of canals.- (1) Every owner whose tank, well, pond, spring pond, talaparige or other reservoir is situated above any irrigation work, shall maintain the bunds and surplussing arrangements of such tank, well, pond, spring pond, talaparige or reservoir in a safe and efficient condition.

(2) If, in the opinion of the Irrigation Officer, such bunds or surplussing arrangements of the works referred to in sub-section (1) are not in a fit condition and are likely to endanger the irrigation works below, then the owner concerned shall be served with a notice to bring such bunds or surplussing arrangements to a reasonably fit condition, in such manner and within such time as may be specified in the notice.

(3) If the said owner fails to comply within the time specified or does repairs which in the opinion of the Irrigation Officer are unsatisfactory, the Irrigation Officer may carry out the necessary repairs and the cost thereof shall be recovered from the said owner as an arrear of land revenue.

(4) From any order of the Irrigation officer under this section an appeal shall lie within one month from the date of communication of the order, to the Deputy Commissioner, whose decision thereon shall be final.

49. Mining or quarrying near irrigation works.- No person shall conduct mining or quarrying operations requiring the use of explosives within a distance of one kilometer from the boundaries of an irrigation work without the written permission of the Irrigation Officer.

50. Excavation of wells near irrigation works.- Save as provided in sub-section (2) of section 4, no new well shall be excavated within such distance as may be specified by the State Government from time to time, from the boundaries of an irrigation work, without the written permission of the Irrigation Officer.

51. Operation of sluice gates, etc.- No person other than the Irrigation Officer or other person duly empowered by the Irrigation Officer in this behalf, shall have the right to operate a sluice gate, regulator or flood gate of a reservoir, canal or channel.

52. Fishing and plying of boats, etc.- No person shall have the right to fish or ply any vessel in a reservoir or tank or across or along a canal or channel maintained or controlled by the Government without the permission

in writing of the State Government or of such officer as may be empowered in this behalf by the State Government, and except under such terms and conditions and subject to payment of such fees as may be prescribed:

Provided that no permission for fishing in any tank with an achkat of not more than five hundred acres shall be granted by any officer empowered under this section except with the concurrence of the Irrigation Officer.

53. Letting out of water from canal prohibited.- No person other than the Irrigation Officer or any officer duly empowered in this behalf shall let out water from a canal or channel by cutting the bund, constructing a sluice or outlet or any other similar contrivance.

54. Depositing produce of mines in or near channels prohibited.- No person shall deposit any produce of mines in or near any channel or other work, whether natural or artificial, through which rain or other water flows into any irrigation work.

CHAPTER IX

PENALTIES AND PROCEDURE

55. Offences under the Act.- Whoever voluntarily and without proper authority,-

- (i) damages, alters, enlarges or obstructs any irrigation work ;
- (ii) interferes with, increases, or diminishes the supply of water in, or the flow of water from, through, over, or under any irrigation work or by any means raises or lowers the level of the water in any irrigation work;
- (iii) opens, shuts or obstructs or attempts to open, shut or obstruct any sluice or outlet or any other similar contrivance in any irrigation work;
- (iv) corrupts or fouls the water of any irrigation work so as to render it less fit for the purpose for which it is ordinarily used;
- (v) destroys, defaces or moves any land-mark or level-mark or water-guage fixed by the authority of a public servant;
- (vi) destroys, tampers with, or removes any apparatus, or part of any apparatus, for controlling, regulating or measuring the flow of water in any irrigation work;
- (vii) causes any animal or vehicle to pass on or across any of the works, banks, canals or channels of an irrigation work contrary to rules made under section 71 after he has been required to desist therefrom;

- (viii) causes or permits any animal to graze or be tethered upon the bank of any irrigation work;
- (ix) removes or injures any tree, bush, grass or other vegetation intended for the protection of any irrigation work;
- (x) puts up a dam across or otherwise obstructs the free course of water the right to which vests in the Government;
- (xi) being responsible for the maintenance of the field channel or using the field channel, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorised distribution of the water therefrom or uses such water in an unauthorised manner;

¹[(xii) x x x]¹

1. Omitted by Act 12 of 1969 w.e.f. 19.6.1969

- (xiii) contravenes any provisions of this Act;
- (xiv) contravenes any rule made under section 71, the contravention whereof is declared in the rules made under that section to be an offence punishable under this section,

shall, on conviction, be punished for offences under clauses (vi), (x), (xi) ¹[x x x]¹ with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both and for offences under any other clause with imprisonment for a term which may extend to two months, or with fine which may extend to five hundred rupees or with both:

1. Omitted by Act 12 of 1969 w.e.f. 19.6.1969.

Provided that for a second or subsequent offence under clauses (vii) and (viii) such fine shall not be less than fifty rupees and under the other clauses such fine shall not be less than two hundred and fifty rupees:

Provided further that in the case of a continuing offence a daily fine not exceeding fifty rupees during the period of the continuance of the offence shall also be imposed.

56. Persons convicted under section 55 liable to repair the damage, etc.- When any person is convicted of an offence under section 55, the Magistrate may order that the said person shall remove the obstruction or repair the damage or replace or repair the land mark, level mark, water-gauge or apparatus in respect of which the conviction has taken place within a period to be fixed in such order. If such person neglects or refuses to

obey such order within the period so fixed, the Irrigation Officer may carry out the work in accordance with such order and the cost thereof shall be recoverable from such person as an arrear of land revenue.

57. Abetment.- Whoever abets any offence punishable under this Act, or attempts to commit any such offence shall be punished with the punishment provided in this Act for such offence.

58. Punishment for vexatious exercise of power.- (1) If any officer or other person duly empowered to take action under this Act, exercises without reasonable cause for the purpose of vexation or with malicious intention any power under this Act, he shall, on conviction, be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) No prosecution under sub-section (1) shall be entertained except on a complaint by an officer authorised by the State Government in that behalf.

59. Punishment under other laws not barred.- Nothing contained in this Act shall prevent any person from being prosecuted under any other law for the time being in force for any act or omission made punishable by this Act.

60. Offences under this Act to be cognizable.- All offences under this Act except offences under clauses (vii) and (viii) of section 55, shall be cognizable.

1[60A. Compounding of offences.- (1) Subject to such restrictions and conditions and in such manner as may be prescribed, Irrigation Officer may either before or after initiation of any proceeding for an offence punishable under this Act or the rules made thereunder accept a sum of money not exceeding five thousand rupees by way of composition of an offence which such person has committed or is suspected to have committed.

(2) On payment of such money, such person if in custody, shall be discharged, property, if any, seized shall be released and no further proceeding shall be taken against such person or property.]¹

1. Inserted by Act 24 of 2000 w.e.f. 14.6.2000.

61. Power to remove obstruction or damage to work.- Any person in charge of or employed upon any irrigation work, may remove from the land or buildings belonging thereto, or may take into custody without a warrant, and without unnecessary delay make over to a police officer or in the

absence of a police officer take or cause to be taken in custody to the nearest police station, any person who within his view-

- (a) wilfully damages, alters, enlarges or obstructs any irrigation work;
- (b) without proper authority interferes with the supply or flow of water, in or from any irrigation work so as to endanger, damage or render less useful such irrigation work.

62. Payment of fine as reward to informant.- Whenever any person is fined for an offence under this Act, the court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms a part, may direct that the whole or any part of such fine may be paid by way of reward to any person who gave information leading to the detection of such offence or to the conviction of the offender.

If the fine is ordered to be paid as a reward by a court whose decision is subject to appeal or revision, the amount ordered to be so paid, shall not be paid until the period prescribed for presentation of the appeal has elapsed, or if an appeal is preferred till after decision of the appeal.

¹[CHAPTER IXA

1. Inserted by Act 24 of 2000 w.e.f. 14.6.2000.

FUNCTIONS OF ¹[WATER USERS SOCIETY AND WATER USERS ASSOCIATION ETC.,]¹

1. Substituted by Act 9 of 2002 w.e.f. 25.2.2002.

62A. Functions of Water Users Society.- Water Users Society shall perform the following functions, namely:-

- (1) to develop irrigation infrastructure by availing institutional finance;
- (2) to procure water in bulk on volumetric basis from the Irrigation Department or Krishna Jala Bhagya Nigama or Karnataka Neeravari Nigam and distribute it to the land holders in accordance with the principles laid down by the General Body for equitable distribution of water;
- (3) to operate and maintain canals situated within its jurisdiction;
- (4) to levy and collect water charges and service charges from the land holders;
- (5) to educate and train land holders in the efficient and economical use of water and adoption of new technology as well as to implement necessary programmes;

- (6) to prepare water budget and financial budget for each irrigation season;
- (7) to resolve disputes that may arise among land holders;
- (8) to mobilise financial resources for undertaking activities and efficient management of the society;
- (9) to implement or execute on farm development works;
- (10) to assist the Irrigation Department and Command Area Development Authority in implementing irrigation and drainage works;
- (11) to levy water charges and service charges on non-members at rates approved by the General Body of the Society;
- (12) to send annually to the prescribed authority on or before the prescribed date, an audit statement of all receipts and expenditure for the year ending;
- (13) to send a statement of the assets and liabilities of the society on or before such date and to such authority as may be prescribed;
- (14) the General Body of the Society shall prepare guidelines and decide the procedures for its day to day functioning, in conformity with the bye-laws of the society and conditions of the agreement to be entered into with the Executive Engineer concerned;
- (15) the Society shall furnish such information as may be prescribed to the prescribed authority;
- (16) to encourage avenue plantation in its area of operation;
- (17) to do such other acts as may be prescribed.

62AA. Functions of Water Users Association:- Water Users Association shall perform the following functions, namely:-

- (1) to develop irrigation infrastructure by availing institutional finance;
- (2) to procure water in bulk on volumetric basis from the Irrigation Department or Krishna Jala Bhagya Nigam or Karnataka Neeravari Nigam and distribute it to the land holders in accordance with the principles laid down at the General meeting for equitable distribution of water;
- (3) to operate and maintain canals within its jurisdiction;
- (4) to collect water charges and service charges from the landholders;
- (5) to educate and train landholders in the efficient and economical use of water and adoption of new technology as well as to implement necessary programmes;

(6) to prepare water budget and financial budget for each irrigation season;

(7) to resolve disputes that may arise among landholders;

(8) to mobilize financial resources for undertaking activities and efficient management of the Waters Users Association;

(9) to implementsd or execute on farm development works;

(10) to assist the Irrigation Department in irrigation and drainage works;

(11) to collect water charges and service charges from non-members at rates approved in the General meeting of the Water Users Association;

(12) to send annualty to the prescribed authority on or before the prescribed date, an audit statement of all receipts and expenditure for the year ending;

(13) to send a statement of the assets and liabilities of the Water Users Association on or before such date and to such authority as may be prescribed.

(14) to get approval in the General meeting of the Water Users Association to the guidelines and procedures for the day to day functioning of the Association in conformity with rules and regulations of the Water Users Association and also the conditions of the agreement to be entered into with the Executive Engineer concerned;

(15) to furnish such information as may be prescribed to the prescribed authority;

(16) to encourage avenue plantation in its area of operation;

(17) to do such other acts as may be prescribed.]¹

1. Inserted by Act 9 of 2002 w.e.f. 25.2.2002.

62B. Functions of Water Users Distributary Level Federation.- The Water Users Distributary Level Federation shall perform the following functions, namely:-

(1) to prepare an operational plan based on its entitlement, area, soil and cropping pattern at the beginning of each irrigation season consistent with the operational plan prepared by the project level federation;

(2) to identify the critical maintenance work that are to be carried out and prioritise these works;

(3) to monitor the maintenance work being executed and ensure that they conform to prescribed standards;

(4) to monitor and regulate the use of water among various societies in its area of operation;

(5) to abide by the decisions of the Water Users Project Level Federation;

(6) to undertake periodical social audit;

(7) to promote economy in the use of water;

(8) to encourage avenue plantation in its area of operation;

(9) to prepare water budgets and crop plans.

62C. Functions of Water Users Project Level Federation.- The Water Users Project Level Federation shall perform the following functions, namely:-

(1) to prepare an operational plan based on its entitlement, area, soil and cropping pattern at the beginning of each irrigation season;

(2) to identify the critical maintenance works that are to be carried out and prioritise these works;

(3) to monitor that maintenance work being executed and ensure that they conform to prescribed standards;

(4) to prepare water budgets and crop plans;

(5) to undertake periodical social audit;

(6) to promote economy in the use of water;

(7) to encourage avenue plantation in its area of operation.

62D. Water Users Apex Level Federation.- (1) The committee of management of the Water Users Apex Level Federation shall consist of the following members, namely:-

(a) the Minister-in-charge of major and medium irrigation, Government of Karnataka who shall be the Chair person;

(b) the Minister-in-charge of minor irrigation, Government of Karnataka who shall be the Co-chairperson;

(c) the Secretary to Government, Irrigation Department, Government of Karnataka;

(d) one expert in the field of participatory irrigation management nominated by the State Government;

(e) Chief Executive / Managing Director of the Water Users Apex Level Federation;

(f) Chair persons of all the Command Area Development Authorities;

(g) such number of persons representing different projects of minor irrigation and lift irrigation works in the State and elected in such manner as may be specified in the bye-laws of the Water Users Apex Level Federation.

(2) Vice-Chair person shall be elected from amongst the member of the Water Users Apex Level Federation.

(3) The Water Users Apex Level Federation shall make recommendation to the State Government on the policies to be adopted and the guidelines to be formulated regarding construction, maintenance and regulation of irrigation work and supply of water therefrom.

(4) The Water Users Apex Level Federation may give directions to the Water Users Project Level Federation, Water Users Distributary Level Federation and the Water Users Society to carry out the purposes of this Act.

62E. Effect of other laws.- Save as otherwise provided in this Act, the provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law.

62F. Power to exempt certain projects.- The State Government having regard to the size and nature of any irrigation project or works, may, by notification, exempt such project or works from the application of the provisions relating to Water Users Distributary Level Federation or Water Users Project Level Federation.]¹

1. Chapter IXA Inserted by Act 24 of 2000 w.e.f. 14.6.2000.

CHAPTER X

MISCELLANEOUS

63. Recovery of cost of repairing damage when the offender is unascertainable.- When the person causing any damage, alteration, enlargement or obstruction to any irrigation work without proper authority cannot, after such enquiry as the Deputy Commissioner may deem sufficient, be ascertained or identified, the Deputy Commissioner may, on a requisition from the Irrigation Officer, after giving not less than one month's notice to the holders and occupiers of all lands benefited thereby, and after hearing their representations, if any, recover from them, as an arrear of land revenue, in such proportion as he thinks fit, the cost of repairing such damage, or of removing such alteration, or obstruction.

64. Liability when person using water unauthorisedly cannot be found.- (1) If water supplied through a field channel is used in any unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be found after such enquiry as the Irrigation Officer may deem sufficient, the Irrigation Officer after giving not less than one month's notice to the holders and occupiers of all lands benefited thereby and after hearing their representations, if any, make an order for the recovery of such charges as may be prescribed for such use from such holders and occupiers in such proportion as he may find just.

(2) All charges for the unauthorised use of water determined under subsection (1) shall be recoverable as an arrear of land revenue.

65. Appeals against orders under the Act.- Any person aggrieved by an order of an Irrigation Officer under section 12 or 24 may within thirty days from the date of communication of the order, prefer an appeal to the Deputy Commissioner of the district.

66. Power of revision.- The Divisional Commissioner may call for and examine the records of the proceedings under this Act of a Deputy Commissioner or an Irrigation Officer or any officer subordinate to the Deputy Commissioner or the Irrigation Officer for the purpose of satisfying himself as to the correctness, legality or propriety of any decision or order passed and the regularity of the proceedings of such officer.

When on examination of the records of any case, the Divisional Commissioner considers that any order or decision of such officer should be revised, such order or decision may be revised or altered and the Divisional Commissioner may pass such other orders as he may deem just.

67. Power to summon and examine witnesses.- Any officer empowered under this Act to conduct any enquiry, may exercise all such powers connected with the summoning and examining of witnesses and the production of documents as are conferred on a civil court, by the Code of Civil Procedure, 1908, and every such enquiry shall be deemed to be a judicial proceeding for purposes of sections 193 and 224 of the Indian Penal Code.

68. Service of notices.- Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned. Whenever it may be practicable, the service of the notice shall be made on the person therein named. When such person cannot be

found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the service of the notice may be made by sending a copy of such notice by registered post to such person at his usual place of residence.

69. Bar of certain proceedings, etc.- (1) No suit, prosecution or other proceeding shall lie against any officer or servant of the State Government, for any act done or purporting to be done under this Act, without the previous sanction of the State Government .

(2) No officer or servant of the State Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of the functions imposed by or under this Act.

(3) No suit shall be instituted against the State Government in respect of any act done unless the suit is instituted within six months from the date of the act complained of.

(4) In the case of an intended suit against any officer or servant of the State Government under sub-section (1), the person intending to sue shall be bound to give the officer or servant, as the case may be, one month's notice at least of the intended suit with sufficient description of the cause of action, failing which such suit shall be dismissed.

(5) Save as otherwise expressly provided in this Act, no civil court shall entertain any suit instituted in respect of any matter to which this Act applies.

70. Offences by companies.- (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or

that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals, and

(b) "director" in relation to a firm means a partner in the firm.

71. Power to make rules.- (1) The State Government may, after previous publication, by notification, make rules for the purpose of carrying out the provisions of this Act, and such rules may be general for all irrigation works or may be special for one or more irrigation works, as may be specified in such rules.

(2) Without prejudice to the generality of the foregoing power, such rules may be made in respect of the following matters:-

(a) the proceedings of any officer who under any provision of this Act is required or empowered to take action in any matter;

(b) the amount of and charges to be made under this Act;

(c) the economic use of water supplied from any irrigation work;

(d) the manner in which and the officer by whom complaints, as to the inadequacy of means of crossing shall be investigated under section 10;

(e) regulating the period of opening and closing of channels distributaries and sub-distributaries of irrigation works.

(3) All rules made under this Act shall, subject to any modification made under sub-section (4), have effect as if enacted in this Act.

(4) Every rule made under this Act, shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions immediately following, both Houses agree in making any modification in the rules or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

72. Repeal and Savings.- (1) The Mysore Irrigation Act, 1932 (Mysore Act 1 of 1932), the Hyderabad Irrigation Act, 1357F (Hyderabad Act 24 of 1357F), the Bombay Irrigation Act, 1879 (Bombay Act 7 of 1879), the Madras Irrigation Tanks (Improvement) Act, 1949 (Madras Act XIX of 1949), and the Madras Irrigation Works (Repairs, Improvement and Construction) Act, 1943 (Madras Act XVIII of 1943), are hereby repealed:

Provided that the provisions of section 6 of the [Karnataka] General Clauses Act, 1899 ([Karnataka] Act 3 of 1899), shall be applicable in respect of the said repeal and sections 8 and 24 of the said Act shall be applicable as if the said enactments had been repealed and re-enacted by this Act.

1. Adapted by the Karnataka Adaptions of Laws order 1973 w.e.f. 1.11.1973.

(2) The Mysore Tank Panchayat Act, 1911 (Mysore Act 1 of 1911), is hereby repealed:

Provided that the provisions of section 6 of the [Karnataka] General Clauses Act, 1899 ([Karnataka] Act 3 of 1899), shall be applicable in respect of the repeal of the said enactment:

Provided further that the properties, rights and liabilities of a Tank Panchayat constituted under the repealed enactment shall vest in the Village Panchayat constituted under the [Karnataka] Village Panchayats and Local Boards Act, 1959, and having jurisdiction over the area, and the moneys at the credit of the tank fund under the control of such Tank Panchayat shall stand transferred to the Panchayat Fund of the said village Panchayat.

1. Adapted by the Karnataka Adaptions of Laws order 1973 w.e.f. 1.11.1973.

NOTIFICATION

Bangalore, dated 31.12.1965 [No.PWD 81 LBW 65]

S.O. 3747.- In exercise of the powers conferred by sub-section (3) of Section I of the Mysore Irrigation Act, 1965 (Mysore Act 16 of 1965) the Government of Mysore hereby appoints the first day of January 1966 as the date on which the said Act shall come into force.

By order and in the name of the Governor of Karnataka,
M. CHANNAPPA,
Deputy Secretary.

(Published in the Karnataka Gazette Part IV. Section 2c(ii) dated 6.1.1966 at page 75.)

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