

Bihar Private Irrigation Works Act, 1922

5 of 1922

[01 November 1922]

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Bihar Private Irrigation Works Act, 1922

5 of 1922

[01 November 1922]

WHEREAS it is expedient to 1[provide for the construction, repair, extension or alteration of certain kinds of irrigation works and to secure their maintenance and] to regulate the supply or distribution of water by means of such works and to facilitate and regulate their construction, extension and alteration. 2[* * * *] It is hereby enacted as follows:- *. This Act has been Repealed by Bihar Irrigation Act 1997 (Bihar Act, XI of 1998) however, is given here for the sake of ready reference and record.-Ed.] 1. Legislative Papers.-For Statement of Objects and Reasons, see the Bihar and Orissa Gazette, Extraordinary, dated the 16th March, 1922, p. 18 for Report of the Select Committee, see *ibid*, 1922. Pt. V. p. 189 and for proceedings in Council, see B. & O. Legislative Council Debates, 1922, Vol IV. p.p. 1767 and 1806, and Vol. V. pp. 224 and 254. 2. repealed by *ibid*.

CHAPTER 1 PRELIMINARY

1. Short Title And Extent :-

(1) This Act may be called the 1[Bihar] Private Irrigation Works Act, 1922.

(2) The Act or any specified portion of it shall extend to such districts or parts of districts as may be specified in this behalf by the [State]2 Government by [notification]3

1. Substituted by Act 10 of 1939.

2. Substituted by A.L.O.

3. The Act has been extended to the districts of Patna, Gaya, Shahabad, Saran, Champaran, Muzaffarpur, Darbhanga, Monghyr, Bhagalpur, Purnea and Palamau, see the B. O. R. O. Vol I, Pt. VII and Notification No. 357-R. R, dated the 5th September, 1939, in Bihar Gazette, 1939. Pt. II, P. 781. It has also been extended to

the districts of Santhal Parganas, Ranchi, Hazaribagh, Manbhum and Singhbhum by the Bihar Private Irrigation Works Regulation, I of 1940.

2. Definition :-

In this Act, unless there is anything repugnant in the subject or context-

1[(1) Irrigation Engineer means any person appointed by the 2[State] Government by notification to be Irrigation Engineer for the purposes of this Act, either generally or in respect of any existing or proposed irrigation works specified in the notification;]

(2) "Irrigation work" means any means or work constructed, altered or maintained artificially for the purpose of securing the supply, removal or storage of water for 1[agricultural purposes] and includes-

- (a) any part of any such means or work;
- (b) any water course, channel or reservoir for the supply, removal or storage of water for 3[agricultural purposes];
- (c) any work, embankment, structure or supply or escape channel connected with any such water-course, channel or reservoir;
- (d) a head-work, dam, weir, outlet, escape and sluice; 4[and]
- (e) a well which is or may be used for 3[agricultural purposes] 4[but does not include any such means or work which has been brought under the control of the Government under the provisions of any other Act for the time being in force;]

(3) "landlord" means a person immediately under whom a tenant holds, and includes the Government and a proprietor but does not include a village headman or a raiyat;

(4) "prescribed" means prescribed by Rules under this Act;

(5) "proprietor" means a person who is solely or jointly in possession of an estate or revenue-free property, or of any portion of an estate or revenue free property, as owner thereof, whether in trust or for his own benefit, and whether or not he is recorded as the proprietor thereof.

5[(5a) "subdivisional officer" means the officer in charge of the sub-division of a district;]

(6) "tenant" means a person who holds land under another person and is, or but for a special contract would be liable to pay rent for that land to that person, but does not include an under-raiyat.

1. Inserted by Section 4 of Bihar Act 10 of 1939.

2. Substituted for "Governor" by Section 2A of Bihar Act 37 of

1950.

3. Substituted by Act 4 of 1960.

4. Inserted by Bihar Act 37 of 1950.

5. Inserted by Act 23 of 1962.

CHAPTER 2 REPAIR AND IMPROVEMENT OF IRRIGATION WORKS

3. Issue Of Notices By Collector For Repairs Of Existing Irrigation Work Or Construction Of New Work :-

Whenever it appears to the Collector 1[* * *]-

(a) that the repair of an existing irrigation work is necessary for the benefit of any village or local area within the district and that the failure to repair such irrigation work adversely affects, or is likely to affect adversely, the lands which are dependent thereon for a supply of water, or

(b) that it is desirable for the purpose of settling or averting disputes or preventing waste of water or injury to land by the wrongful or undue diversion of a stream or channel that any sluice weir, outlet, escape, head work, dam or other work should be constructed in any irrigation work, in order to regulate the supply or distribution of water for 2[agricultural purpose],

he may, if satisfied that the matter is of sufficient importance to justify his intervention,-

(i) cause in the prescribed manner a notice to be served on the landlord of the land in which the irrigation work is situated and public notice to be given at convenient places in every village in which the irrigation work is situated stating that he intends to take action under this Chapter for the repair of the said work or for 3[extending or altering it in any of the ways specified in clause (b)] and specifying the date on which the injury under Section 4 will be held, and

(ii) serve a notice in the prescribed manner on every person known or believed to be under an obligation to maintain the irrigation work in an efficient state, calling on him to show cause on the date specified in the notice why he should not be required to repair the said work or 3[extend or alter it as aforesaid]:

4[Provided that if the Collector is of opinion that any extension or alteration of an existing irrigation work of a nature specified in clause (b) is likely to cost more than two thousand five hundred rupees, he shall before issuing any notice under clause (i) or (ii) request the Irrigation Engineer to prepare a plan and estimate of the cost of such extension or alteration.]

1. Omitted by Act 10 of 1939.
2. Substituted by Act 4 of 1960
3. Substituted by Act 10 of 1939.
4. Inserted by Bihar Act, 10 of 1939.

4. Inquiry By Collector :-

On the date stated in the notices issued under Section 3, or on any other date to which the proceedings may be adjourned, the Collector shall hold an inquiry and shall hear the persons on whom the notices have been served (if they appear) and any other persons affected or likely to be affected by the order who may attend, and may take down in writing any evidence that he may think fit regarding-

- 1[(a) the necessity for repairing, extending or altering the said irrigation work],
- (b) the nature of the works required for such repair, 1[extension or alteration],
- (c) the obligation to maintain the irrigation work in an efficient states and the reasons why the person under such obligation has failed to repair it, and
- 1[(d) the probable cost of the proposed work of repair, extension or alteration.]

1. Substituted by Act 10 of 1939.

5. Power Of Collector To Order Repair Or Construction :-

(1) If after making an inquiry under Section 4 the Collector is satisfied that the state of disrepair of the irrigation work is such 1[as materially affects or is likely to affect materially] the irrigation of the lands which are dependent thereon for a supply of water, or that 2[any extension or alteration of such irrigation work] is necessary for the purpose specified in clause (b) of Section 3, he shall, subject to the provisions of sub-section (1a), issue an order in writing 2[requiring that the proposed work of repair, extension or alteration shall be carried out-

- (a) by one or more of the persons on whom notices under clause (ii) of Section 3 have been served and who agrees or agree to carry out the said work, or
- (b) by any such agency as he thinks proper, if, for reasons to be recorded by him, he considers that there are adequate reasons why any person mentioned in clause (a) should not be entrusted with the carrying out of the said work:

Provided that the Collector shall, if he is satisfied that the cost of carrying out the proposed work of repair, extension or alteration will be prohibitive, pass an order declaring that such work shall not be carried out.

3[(1 a) In the case of any extension or alteration of an existing irrigation work of a nature specified in clause (b) of Section 3, no order authorising any person or agency to carry out the said work shall be issued under sub-section (1):-

(a) if the estimated cost is likely to exceed five hundred rupees but it is not likely to exceed twenty thousand rupees and the person exercising the powers under sub-section (1) is an officer authorised under Section 45, until the previous sanction of the Sub-divisional Officer has been obtained;

(b) if the estimated cost is likely to exceed twenty thousand rupees but is not likely to exceed twenty five thousand rupees and the person exercising the powers under sub-section (1) is an officer authorised under Section 45, until the previous sanction of the Collector has been obtained;

(c) if the estimated cost is likely to exceed seventy five thousand rupees but is not likely to exceed one lac rupees, until the previous sanction of the Commissioner has been obtained; and

(d) if the estimated cost is likely to exceed one lac rupees, until the previous sanction of the State Government has been obtained.]

(2) every order made under sub-section (1) shall specify as closely as may be practicable, the nature of the work to be done, the estimated cost of executing it 2[and the manner in which and time within which it shall be executed].

4[(3) (a) If any person required by the Collector under clause (a) of sub section (1) to carry out any work of repair, extension or alteration fails to do so in the manner and within the time specified in the order or within such further time (if any) as may be allowed by the Collector in writing, the Collector may impose on him such pecuniary penalty as he thinks proper in all the circumstances of the case.

(b) Such penalty shall be recoverable as a public demand]5 payable to the Collector.]

1. Substituted by Act 10 of 1939.

2. Substituted by Act 10 of 1939.

3. Substituted by Act 12 of 1966.

4. Inserted by *ibid*.

5. For the recovery of public demands, see the B. & O. [Public Demands Recovery Act, 1914 (B. & O. Act 4 of 1914).

5A. Proceedings In Emergencies :-

1[Notwithstanding anything to the contrary contained in this Act, whenever the Collector, for reasons to be recorded by him, is of opinion that the delay in the repair of any existing irrigation work which may be occasioned by proceeding commenced by a notice under Section 3 adversely affects or is likely to affect adversely lands which are dependent on such irrigation work for a supply of water, he may forthwith cause the repair of such irrigation work to be begun by any one or more of the persons mentioned in clause (ii) of Section 3 or by such agency as he thinks proper:

Provided that the Collector shall cause public notice to be given at convenient places in every village in which the irrigation work is situated stating that the work mentioned therein has already been begun.

(2) When any such work has been completed, the Collector shall cause notice to be given in the manner aforesaid stating that the work mentioned therein has been completed.

1. Inserted by Act 10 of 1939.

5B. Application For Compensation And Procedure On Receipt Of Such Application :-

(1) Any person who has sustained any loss by anything done by the Collector or by any person acting under the orders of the Collector under sub section (1) of Section 5A may make an application to the prescribed authority for compensation for such loss and/or an order directing the restoration of the land or the irrigation work to its former condition.

(2) No such application shall be entertained unless it is made before the expiry of one year from the date on which the notice under sub-section (2) of Section 5A is given.

(3) If the prescribed authority entertains any application made under sub section (1), it shall make such inquiry as it thinks fit and if it is satisfied that anything done by the Collector under sub-section (1) of Section 5A was not, in all the circumstances of the case, desirable and that the application has, as a result of such act, sustained any loss, it shall assess in the prescribed manner the compensation which, in its opinion the applicant is entitled to receive and shall further pass an order directing the Collector to cause such land or irrigation work so far as any alteration thereof shall appear not to have been desirable in all the circumstances of the case, to be restored at the expenses of the State Government

as early as possible to the State in which such land or irrigation work was when the Collector commenced to act under the provisions of Section 5A.

(4) The amount assessed by the prescribed authority as compensation under sub-section (3) shall be payable by the State Government.

6. Delegation By Collector Of Authority To Repair Or Construct :-

If any person required 1[under clause (a) sub-section (1) of Section 5 or sub-section (1) of Section 5 A] to carry out any work of 1[repair, extension or alteration] fails to do so in the manner and within the period specified or within such further period (if any) as may be allowed by the Collector in writing, the Collector may subject to any Rule under Section 40, by a written order, authorise any 1[agency] to carry out the said work in the manner and within the period specified in the order.

2[* * *]

1. Substituted by Act 10 of 1939.
2. Omitted by *ibid*.

7. Recovery Of Cost Of Work :-

(1) When any work of 1[repair, extension or alteration] has been carried out by any person in pursuance of an order made 1[under clause (a) of sub-section (1) of Section 5 or under Section 5A], he may apply to the Collector for the recovery of the cost of the said work.

(2) On receipt of such application, the Collector shall-

(a) take such steps as he may consider necessary to satisfy himself that the cost has actually been incurred and that the work has been constructed in the manner and within the period specified in the order or within such further period (if any) as he may have allowed or decided to be reasonable; and 1[(b) after considering the claim made by the applicant and any explanation furnished by him and after disallowing any charge which he considers unreasonable and reducing any charge which he considers excessive determine-

(i) the cost of the work payable to the applicant, and

(ii) the cost of any inspection which may have been undertaken for the purpose specified in clause (a), together with such costs as may have been incurred in preparing any plan or estimate under the

proviso to Section 3 and in issuing any notice under any of the provisions of the Chapter.]

(3) 2[* * *]

1. Substituted by Act 10 of 1939.

2. Omitted by *ibid*.

8. Power Of Collector To Apportion Cost :-

1[(1) When the costs mentioned in clause (b) of sub-section (2) of Section 7 have been determined, the Collector shall apportion the same in the manner laid down in Section 10:

Provided that the amount apportioned in respect of the cost determined under sub-clause (ii) of the said clause (b) shall not exceed five per centum of the cost determined under sub-clause (i) of the said clause (b).

(2) When such apportionment has been made, the Collector shall make an award-

(i) specifying the person or persons by whom each sum so apportioned is payable; and

(ii) authorising the applicant to recover as a public demand the sum so apportioned in respect of the cost mentioned in sub-clause (i) of clause (b) of sub-section (2) of Section 7 from the person or persons liable to pay the same with interest at six and a quarter per centum per annum:

Provided that no interest shall be payable if such sum is paid within a period of thirty days after the service of the notice referred to in sub-section (3) upon the person or persons liable to pay such sum.

(3) The Collector shall cause to be served in the prescribed manner on every person to whom any sum has been apportioned, a copy of the award together with a notice specifying the amounts payable to the applicant in respect of the costs determined under sub-clause (i) of clause (b) of sub-section (2) of Section 7 and the amount payable to the Collector in respect of the costs determined under sub-clause (ii) of the said clause (b).

(4) Any sum apportioned as aforesaid in respect of the costs mentioned in sub-clause (ii) of clause (b) of sub-section (2) of Section 7 shall be paid to the Collector by the person or persons liable to pay the same and shall be recoverable as a public demand]2 payable to the Collector.)

1. Substituted by Act 10 of 1939.

2. For recovery of public demands, see the B. & O. Public Demands Recovery Act, 1914 (B. & O. Act 4 of 1914).

9. Account Of Expenses Incurred Under Section 8 :-

(1) When any work of repair, 1[extension or alteration is carried out under 1[clause (b) of sub-section (1) of Section 5, under Section 5A or under Section 6], an account shall be kept of the actual expenses incurred and shall be submitted to the Collector as soon as possible after the work has been completed.

(2) The Collector may revise any account so submitted to him if after making an inquiry he considers it necessary to do so.

1. Substituted by act 10 of 1939.

10. Charging And Apportionment Of Expenses :-

1[When any work of repair, extension or alteration has been carried out by any agency mentioned in clause (b) of sub-section (1) of Section 5, under Section 5A or under Section 6, the Collector shall, after making such inquiry and giving such notice as he thinks fit, apportion the expenses incurred in carrying out any of the said works, including expenses incurred in preparing any plan and estimate of costs under the proviso to Section 3, in supervising such work and in issuing any notice under any of the provisions of this Chapter, amongst the person or persons liable to pay the same in such proportions as may seem to him to be fair and equitable, and in making such apportionment, he shall have regard to the following considerations]-

(a) the obligation under which any person may be to maintain an irrigation work in an efficient state and the reason for the failure of such person so to maintain it,

(b) the benefit which is likely to result from the work of repair or construction, and

(c) any other considerations which in the circumstances of the case he may deem it fair and equitable to take into account:

2[Provided that the amount to be apportioned in respect of the expenses incurred in preparing any such plan and estimate, in supervising such work and in issuing any such notice shall not exceed five per centum of the expenses incurred in such repair, extension or alteration.]

1. Substituted by act 10 of 1939.

2. Inserted by ibid.

11. Collectors Award As To Recovery Of Such Expenses :-

(1) When any 1[* * *] apportionment has been 2[made] under

Section 10, the Collector shall make an order (hereinafter called the award) specifying-

(a) the person or persons by whom each sum so 1[* * * *] apportioned is payable;

(b) the amount payable by each such person;

3[(c) the instalments fixed for the payment of such amounts:

Provided that in fixing such instalments, the Collector shall act in accordance with such general or special order as may be issued by the State Government in this behalf;]

(d) the dates for the payment of such instalments:

4[Provided that the State Government may remit the whole or any part of the amounts payable by any class or classes of persons.]

1[* * * *]

(2) The Collector shall cause to be served in the prescribed manner on every person to whom any sum has been apportioned, a copy of the award together with a notice specifying the amount payable to the applicant in respect of the costs determined under sub-clause (i) of clause (b) of sub-section (2) of Section 7 and the amount payable to the Collector in respect of the costs determined under sub clause (ii) of the said clause (b).]

1. Omitted by Act 10 of 1939.

2. Substituted by *ibid*.

3. Substituted by Act 37 of 1950.

4. Inserted by Act 4 of 1960.

11A. Provisions Of Section 10 And 11 Not To Apply To Certain Cases :-

1[The provisions of Section 10 and 11 shall not apply to cases where such percentage of the expenses of any work as may be fixed by the State Government is contributed by the persons liable to pay the same, either in cash or in materials or by way of labour, or partly in cash, partly in materials and partly by way of labour; but in such cases the State Government shall contribute the balance of the expenses in such instalments as may be prescribed:

Provided that in the event of the stoppage of contributions by the persons liable to make the same, while the work is in progress, the State Government may have the work executed at their own cost and have the cost apportioned and recovered in accordance with the provisions of Section 10 and 11.]

1. Inserted by Act 4 of 1960.

12. Recovery Of Cost As A Public Demand :-

All sums payable under 1[Section11] shall be recoverable as 1[public demands]2 payable to the Collector].

1. Substituted by ibid.

2 . For the recovery of public demands, see the B. & O. Public Demands Recovery Act, 1914 (B. &O. Act 4 of 1914).

CHAPTER 3 Chapter III

13. Maintenance Of Irrigation Works By Government Agency :-

1. Repealed by Act 37 of 1950.

14. Section 14 :-

15. Section 15 :-

16. Section 16 :-

17. Section 17 :-

18. Section 18 :-

CHAPTER4 MAINTENANCE OF CERTAINRRIGATION WORKS BY VILLAGE AGENCY

19. Application Of This Chapter :-

1[The provisions of this Chapter shall apply to all classes of irrigation works except those mentioned in Chapters V and VI.]

1. Substituted by Act 37 of 1950.

20. Issue Of Notice By Collector Of Enquiry Into Conditions Of Irrigation Work :-

1. Omitted by ibid.

21. Power Of Collector To Vest Management In Village Agency :-

(1) If on inquiry 1[the Collector] 2[finds that any irrigation work] is not being properly maintained, and that the person responsible for its maintenance is not likely so to maintain it, he may make an order declaring that the maintenance of the work shall be vested from the date of his order in any of the following village agencies:-
(a) a panchayat of not less than five nor more than nine persons to

be selected by him from those interested in the maintenance of the said work, and to include one person to represent the interests of the landlords of the land which is irrigated therefrom,

(b) a co-operative society whose membership is confined to the village or villages in which the area irrigated is situated,

(c) a village panchayat or similar body constituted under any law for the time being in force and having jurisdiction over the area irrigated from the said work 3[or, if there is more than one village panchyat or similar body having jurisdiction over such area, to the village panchayat or similar body having jurisdiction over the major portion of the area], or

(d) a village headman:

Provided that if the work is vested in any of the agencies specified in clauses (b) and (c), the Collector shall nominate a persons to represent the interests of the landlords of the land which is irrigated from the said work, and such person shall for the purposes of this Chapter be deemed to be a member of such agency:

4[Provided further that in the case of an irrigation work in respect of which the Collector has made an order under Section 5 or 5A no inquiry under this sub section shall be necessary.]

5[(2) The order shall further specify the exact area benefited by the said work and apportion the cost of maintenance amongst the person or persons who may be found to be liable to pay the same having regard to the considerations mentioned in clauses (a) to (c) of Section 10.]

(3) The Collector may from time to time vary or cancel any such order.

1. Substituted by Act 10 of 1939.

2. Substituted by Act 37 of 1950.

3. Inserted by ibid.

4. Inserted by Act 37 of 1950.

5. Substituted by ibid.

22. Powers And Duties Of Village Agency Vested With Management :-

The said village agency shall thereupon-

(1) be responsible for the proper maintenance of the said work and be entitled to do all work incidental thereto;

(2) regulate the supply and distribution of water;

1[(3) collect the cost of maintenance from the person or persons who may be found to be liable to pay the same in accordance with

the order under Section 21;]

(4) keep accounts of all receipts and expenditure in such form as may be prescribed; and

(5) carry out any order that may be passed under Section 26 by the Collector.

1. Substituted by Act 37 of 1950.

23. Limits To Cost Of Maintenance :-

1. Omitted by Act 10 of 1939.

24. Power To Realize Arrears Of Cost By Distraint And Sale, Or As A Public Demand :-

(1) Should any person on whom 1[the whole of the cost or a portion of the cost has been assessed under Section 21] fail to pay the same within one month of demand, the village agency may proceed to realize the amount by the distraint and sale of his movable property in the manner provided and subject to the limitations imposed in the Village Chaukidari Act, 1870 and may call on the local chaukidar or chaukidars for assistance in carrying out the distraint.

(2) Should the amount be not realized by such 2[distraint and sale], the village agency may apply to the Collector to realise the arrears as a public demands]3 and the said officer may if he thinks fit proceed to the realization of the demand.

1. Substituted by Act 37 of 1950.

2. Substituted by *ibid*.

3. For the recovery of public demands, see the B. & O. Public Demands Recovery Act, 1914 (B.&O. Act 4 of 1914).

25. Right To Excavate Earth :-

Where the said work is formed by enclosing embankments the village agency shall have right to excavate the earth to such depth and extent as may be necessary for the efficient maintenance of the work.

26. Powers Of Control Of Collector :-

The Collector shall be entitled at all times to inspect the working and accounts of the said village agency and to pass such orders as he may deem necessary for the efficient performance of its duties under this Chapter.

CHAPTER 5 CONSTRUCTION OF NEW IRRIGATION CHANNELS FROM NOTIFIED RIVERS

27. Sanction Necessary For Construction Of New Irrigation Channels From Notified Rivers :-

The State Government may by notification after previous publication in the prescribed manner, direct that no person shall, unless the previous sanction of the Collector has been obtained, construct any new irrigation channel taking off from any river or stream within the limits specified in such notification. For the purposes of this Section, the re-excavation of an irrigation channel which has fallen into disrepair and has not been used for a period of seven years shall be deemed to be equivalent to the construction of a new irrigation channel.

28. Application For New Sanction :-

Where the previous sanction of the Collector is necessary under Section 27 for the construction of a new irrigation channel any person may apply in writing to the Collector for such sanction.

(2) Every such application must be accompanied by a plan and estimate of the cost of the proposed work, and must show the lands to be irrigated and the sources of the supply of any water which the applicant intends to convey through such channel.

29. Issue Of Notice :-

On receipt of any such application the Collector shall cause a notice to be served in the prescribed manner in every village affected, on such persons as he may think fit, stating that he will on a date to be specified in the notice, proceed to consider any objections which may be raised against the grant of sanction to the application.

30. Enquiry Into And Disposal Of Application :-

(1) On the date specified in the notice, or on any subsequent date to which the inquiry may be adjourned, the Collector shall, after considering the objections raised (if any) and making any further inquiry he may deem necessary, make an order in writing, either disallowing the application or sanctioning it in whole or in part and on such terms and conditions (if any) as to him may seem fit.

(2) The Collector may, before making an order under sub-section (1) cause an inquiry to be made by an officer not below the rank of

Sub-Deputy Collector, and such officer shall submit to the Collector a report, which shall form part of the record of the Collectors proceedings.

CHAPTER 6 ACQUISITION OF LANDS FOR IRRIGATION PURPOSES

31. Application To Collector For Land Acquisition :-

Any person who desires the construction of a new irrigation work, or the extension or alteration of an existing irrigation work, may apply, in writing, to the Collector, stating-

- (i) that he has unsuccessfully endeavoured to acquire, from the owners and occupiers of 1[any land] through which he desires such irrigation work to pass 1[or which may be liable to submersion as a result of the construction of such work or of any extension or alteration of an existing irrigation work], a right to occupy so much of the land as will be 2[needed for or be liable to submersion as a result of the construction of such irrigation work or the extension or alteration of an existing irrigation work];
- (ii) that he desires the Collector, in his behalf and at his cost, to do all things necessary for acquiring such right;
- (iii) that he is able to defray all costs involved in acquiring such right and constructing, extending or altering such irrigation work.

1. Inserted by Act 10 of 1939.

2. Substituted by *ibid*.

32. Preliminary Procedure Of Collector :-

1[If the Collector considers-

- (a) that the construction, extension or alteration of such irrigation work is expedient;
- (b) that the statements in application are true; and
- (c) that the applicant has a substantial interest in the land to be benefitted; he shall call upon the applicant to deposit such sum as the Collector considers necessary to meet the cost of the preliminary proceedings and such sum as the Collector considers likely to become due for the payment of compensation under Section 35; and, upon deposit being made, he shall-
 - (i) cause inquiry to be made as to the most suitable alignment for the said irrigation work;
 - (ii) make out any land which in his opinion, it will be necessary to occupy for the construction, extension or alteration thereof or which may be liable to submersion as a result of such construction,

extension or alteration; and

(iii) forthwith publish a notice in the prescribed manner, in every village through which the irrigation work passes or is proposed to be taken, stating that so much of such land as belongs to such village has been so marked out.]

1. Substituted by Act 12 of 1966.

32A. Acquisition Of Certain Existing Irrigation Work By Collector :-

1[(1) If the Collector considers-

(a) that it is expedient to extend, alter or repair an existing irrigation work, which the owner thereof is under no obligation to maintain but which benefits or is likely to benefit any village or local area within the district; and

(b) that it is desirable in the interest of such village or local area to acquire such irrigation work, he may, subject to the provisions of sub-section (2)-

(i) mark out the land which, in his opinion, it will be necessary to acquire for the purposes of such extension, alteration or repair;

(ii) publish a notice in the prescribed manner in the village in which the irrigation work is situated or, if it is situated in or passes through more than one village, in every village in which it is situated or through which it passes, stating that he proposes to acquire the said irrigation work and the land marked out as aforesaid:

Provided that, if the Collector is of opinion that the cost of the acquisition of such irrigation work and of the extension, alteration or repair thereof (inclusive of the cost, if any, of the acquisition of any land which in his opinion, is necessary for the purpose of carrying out the work or which may be liable to submersion as a result of the execution of such work) is likely to exceed two thousand five hundred rupees, he shall, before taking action under clause (i) and (ii), get a plan and estimate of the cost of such acquisition, extension, alteration or repair prepared by an Irrigation Engineer.

(2) No action under clauses (i) or (ii) of sub-section (1) shall be taken-

(a) if the estimated cost is likely to exceed five hundred rupees but is not likely to exceed twenty thousand rupees and the person exercising the powers under sub-section (1) is an officer authorised under Section 45, until the previous sanction of the Subdivisional Officer has been obtained;

(b) if the estimated cost is likely to exceed twenty thousand rupees

but is not likely to exceed seventy five thousand rupees and the person exercising the powers under sub-section (1) is an officer authorised under Section 45, until the previous sanction of the Collector has been obtained;

(c) if the estimated cost is likely to exceed seventy five thousand rupees but is not likely to exceed one lac rupees, until the previous sanction of the Commissioner has been obtained; and

(d) if the estimated cost is likely to exceed one lac rupees, until the previous sanction of the State Government has been obtained.]

1. Substituted by Act 12 of 1966.

32B. Construction Of Certain Kinds Of New Irrigation Works :-

1[(1) If the Collector considers that it is expedient to construct any new irrigation work, he may, subject to the provisions of sub-section (2)-

(i) cause inquiry to be made as to the most suitable alignment for the said irrigation work;

(ii) mark out the land which, in his opinion, it will be necessary to acquire for the construction thereof or which may be liable to submersion as a result of such construction; and

(iv) forthwith publish a notice in the prescribed manner in every village through which the irrigation work is proposed to be taken, stating that so much of the land as belongs to such village has been so marked out:

Provided that, if the Collector is of opinion that such work is likely to cost more than two thousand and five hundred rupees (inclusive of the cost of acquisition of any land which, in his opinion, will be needed for such construction or which may be liable to submersion as a result of such construction), he shall, before taking action under clauses (ii) and (iii), get a plan and estimate of such acquisition and construction prepared by an Irrigation Engineer.

(2) No action under clause (ii) or (iii) of sub-section(1) shall be taken-

(a) if the estimated cost is likely to exceed five hundred rupees but is not likely to exceed twenty thousand rupees and the person exercising the powers under sub-section (1) is an officer authorised under Section 45, until the previous sanction of the Subdivisional Officer has been obtained;

(b) if the estimated cost is likely to exceed twenty thousand rupees but is not likely to exceed seventy five thousand rupees and the person exercising the powers under sub-section (1) is an officer

authorised under Section 45, until the previous sanction of the Collector has been obtained;

(c) if the estimated cost is likely to exceed seventy five thousand rupees but is not likely to exceed one lac rupees, until the previous sanction of the Commissioner has been obtained; and

(d) if the estimated cost is likely to exceed one lac rupees, until the previous sanction of the State Government has been obtained.]

1. Substituted by Act 12 of 1966.

33. Objection How To Be Dealt With :-

(1) Within thirty days from the publication of any notice under Section 32,1[32A or 32B] any person interested in the land or irrigation work to which the notice refers may apply to the Collector by petition, stating his objection to the construction, extension 2[alteration or repair in respect of which the notice was issued].

(2) The Collector may either reject the petition, or proceed to inquire into the validity of the objection after giving notice 2[to the parties or to the petitioner, as the case may be,] of the place and time at which such inquiry will be held.

The Collector shall record in writing all orders passed by him under this Section, and the grounds thereof; and shall, if necessary, cause boundaries to be demarcated on the ground.

1. Inserted by Act 10 of 1939.

2. Substituted by *ibid*.

34. When Applicant May Be Placed In Occupation Of Land :-

1[If no such objection is made, or where any such objection is made, on the disposal of such objection, the Collector may proceed forthwith to take possession of the irrigation work or of the land referred to in Section 32A or 32C, as the case may be, or if the land has been marked out on an application made under Section 32, to place the application in occupation of such land on such conditions, if any, as he may think just and proper to protect the interest of other persons affected by the application.]

1. Substituted by *ibid*.

35. Payment Of Compensation And Expenses By Applicant Before Occupation :-

2[(1) Except as otherwise provided in sub-section (3), the Collector

shall not take possession of any irrigation work or land referred to in Section 32A or 32B nor shall the applicant be placed in occupation of any land marked out on an application made under Section 32, until the Collector or, as the case may be, the applicant has paid to the persons named by the Collector such amount as the Collector determines to be due as compensation for the irrigation work or land so acquired or occupied, and for any damage caused by the marking out of such land, together with all expenses incidental to such acquisition or occupation.]

(2) In determining the compensation to be paid under sub-section (1), 1[and in making payment thereof] the Collector shall proceed under the provisions of Section 8 to 15,3[18 to 34] and 45 of the Land Acquisition Act, 1894 (1 of 1894) so far as they are applicable; 1[but in the case of a proceeding commenced by an application made under Section 31, he may], if the person to be compensated so desires, award such compensation in the form of a rent-charge payable in respect of the land occupied.

1[(3) In cases of urgency, the Collector may forthwith take possession of any irrigation work or land referred to in Section 32A or 32B, though the compensation mentioned in sub-section (1) has not been paid.

(4) When the Collector takes possession of any irrigation work or land under sub-section(1) or sub-section (3), such irrigation work or land shall vest absolutely in the Government free from all encumbrances].

1. Inserted by Act 10 of 1939.

2. Substituted by *ibid*.

3. Inserted by Act 4 of 1960.

35A. Execution Of Work And Its Maintenance And Recovery Of Cost :-

1[(1) Subject to such special or general orders as may, from time, to time, be issued by the State Government, the Collector shall, in any case in which he takes action under Section 32A or 32B, cause the construction, alteration or repair, as the case may be, of any irrigation work to be carried out in such manner and through such agency, as he considers proper.

(2) Upon the completion of the construction, alteration, extension or repair of the irrigation work, the Collector shall, after making the prescribed inquiry and giving the prescribed notice, apportion the costs incurred therein (including the cost incurred in acquiring any irrigation work or any land under Section 32A or 32B) to such

person or among such persons whether landlords or tenants, in such proportions as may seem to him to be fair and equitable; and in making such apportion the Collector shall have regard to the benefit resulting or likely to result from the irrigation work and any other consideration which, in the circumstances of the case, he may consider it fair and equitable to take into account.

(3) When any apportionment has been made under sub-section (2), the Collector shall make an award containing the particulars specified in clauses(a), (b), (c) and (d) of sub-section (1) of Section 11 and cause a copy of such award, together with a general notice stating that the amounts apportioned are payable to the Collector, to be published in the prescribed manner in the village in which the lands benefitted or likely to benefitted by the irrigation work are situated:

Provided that instead of, or in addition to, causing a general notice to be served, the Collector may cause special notices to be served in the prescribed manner on all or any of the persons to whom any sum has been apportioned:

2[Provided that the State Government may remit the whole or any part of the amounts payable by any class or classes of persons.]

(3A) The provisions of sub-Section (2) and (3) shall not apply to cases where such percentage of the cost of any work as may be fixed by the State Government is contributed by the agency referred to in sub-section (1) either in cash or in materials or by way of labour, or partly in cash, partly in materials and partly by way of labour; but in such cases the State Government shall contribute the balance of the cost in such instalments as may be prescribed:

Provided that in the event of the stoppage of the contributions by the agency referred to in sub-section (1) while the work is in progress the State Government may have the work executed at their own cost and have the cost apportioned and recovered in accordance with the provisions of sub-Section (2) and (3).]

(4) Any sum payable under sub-section (3) shall be recoverable as a public demand]3 payable to the Collector.

(5) Upon the completion of the construction, alteration, extension or repair of the irrigation work, the Collector may make an order that the maintenance of such work shall, as from the date of the order, vest in any of the following village agencies, namely:-

(i) a panchayat of not less than five nor more than nine persons (including one person to represent the interests of the area which is, or is likely to be, irrigated from, the irrigation work) to be

selected by him from those interested in the maintenance of the said work;

(ii) a co-operative society whose membership is confined to the village or villages in which the area irrigated or likely to be irrigated is situated;

(iii) a village panchayat or similar body constituted under any law for the time being in force and having jurisdiction over the area irrigated or likely to be irrigated from the said work or, if there is more than one village panchayat or similar body having jurisdiction over such area, to the village panchayat or similar body having jurisdiction over the major portion of the area; or

(iv) a village headman:

Provided that if the maintenance of the work is vested in any of the agencies specified in clauses (ii) and (iii), the Collector shall nominate a person to represent the landlords of the area which is, or is likely to be, irrigated from the said work and such person shall, for the purposes of this Chapter, be deemed to be a member of such agency.

(6) The order shall further specify the area benefitted or likely to be benefitted by the said work and the principles on which the cost of maintenance shall be levied and, where the degree of benefit varies throughout the area, shall state the proportion of the cost of maintenance to be borne by each portion of the said area.

(7) The Collector may from time to time vary or cancel any such order.

1. Inserted by Act 10 of 1939.

2. Inserted by Act 4 of 1960.

3. For the recovery of public demands, see the B. & O. Public Demands Recovery Act, 1914 (B. SO. Act 4 of 1914).

35B. Application Of Section 22 And 24 To 26 :-

When the Collector has made an order under sub-section (5) of Section 35A in respect of any irrigation work, the provisions of Section 22, 24, 25 and 26 shall apply as far may be, as if such order were an order under Section 21.]

36. Conditions Binding On Applicant Placed In Occupation :-

(1) 1[When, in any proceeding commenced by an application made under Section 31, the applicant] is placed in occupation of land as

aforesaid, for the purposes of any irrigation work such land shall be subject to the provisions of this Act, and the following conditions shall be binding on him and his representatives in interest, namely:-

(a) that all works necessary for the passage, across such irrigation work of water courses existing previous to its construction, exclusion, alteration, and of the drainage intercepted by it, and for affording proper communication across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and shall be maintained by him or his representatives in interest to the satisfaction of the Collector;

(b) that the land of which the applicant has been placed in occupation for the purposes of any irrigation work shall be used only for the purpose of that irrigation work;

(c) that the proposed construction, extension or alteration of the irrigation work shall be completed to the satisfaction of the Collector within one year after the applicant is placed in occupation of the land, or within such further period as may be allowed, in writing by the Collector;

(d) that the proposed irrigation work shall, after completion be maintained in a state of efficiency;

(e) any conditions in regard to the supply and distribution of water and the charges if any, to be made therefor, which the Collector may deem it fair and equitable to impose in the interest of persons whose land will be, or is capable of being, irrigated from the said work; and

(f) in the case in which land is occupied on the condition of payment of a rent-charge that-

(i) the applicant or his representative in interest shall, so long as he occupies such land or irrigation work, pay rent for the same at such rate and on such days as were determined by the Collector when the applicant was placed in occupation;

(ii) if the right to occupy the land cease, owing to breach of any of the conditions contained in clauses (a), (b), (c) and (d), or in sub clause (i) of this clause or imposed under clause (e), the liability to pay the said rent-charge shall continue until the applicant or his representative in interest has restored the land to its original condition or until he has paid compensation for any injury done to the said land, of such amount and to such persons as the Collector may determine;

(iii) the Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent

due, or assess the amount of such compensation; and if, any such rent or compensation be not paid by the applicant or his representative in interest the amount, with interest thereon at the rate of six and a quarter per centum per annum from the date on which it became due, shall be recoverable as a public demand]² and shall be paid when recovered, to the person to whom it is due.

(2) If any of the conditions contained in or imposed under sub-section (1) are not complied with;

Or if any irrigation, work constructed, extended or altered under this Act is disused for five years continuously, the right of the applicant or of his. representatives in interest to occupy such land or irrigation work shall cease absolutely.

(3) (a) When the right of the applicant or his representative in interest to occupy such land ceases absolutely in accordance with the terms of the preceding sub-section, the person who owned the land at the date of the acquisition or his representative in interest may, within one year of the date on which the right of the applicant to occupy the land ceases absolutely, claim in the court of the Collector the return of the land on payment of the compensation paid to him or the total amount of the rent-charge paid to him by way of such compensation, after deduction there from of the amount paid under Section 23 (2) of the Land Acquisition Act, 1894 (1 of 1894) and any other sum which may be awarded by the Collector for depreciation in the value of the land subsequent to acquisition.

(b) The Collector may on such claim being made order the return of the land to the claimant after payment by him of the amount mentioned in clause (a) of this sub-section, or he may (if he thinks fit) take action under 3[Chapter VIA] for the maintenance of the irrigation work.

(c) An order of the Collector under clause (b) for the return of the land to the claimant shall operate to revest the land in the claimant subject to all the right of other persons existing at the time of acquisition.

1. Substituted by Act 10 of 1939.

2. For the recovery of public demands, see the B. & O. Public Demands Recovery Act, 1914 (B. SO. Act 4 of 1914).

3. Substituted by Act 37 of 1950.

36A. Power Of Collector To Takeover And Maintain Irrigation Work :-

(1) When the maintenance of an irrigation work has not been

vested in a village agency under the provisions of Section 21, or of sub-section (5) of Section 35A, or where the Collector is satisfied that the village agency in whom the maintenance of any irrigation work has been vested under the said provisions is not likely to maintain it in an efficient state, he may issue an order in writing that the work shall be taken over and maintained by the State Government:

Provided that-

(a) if the annual cost of maintenance, as estimated, exceeds two thousand and five hundred rupees, but does not exceed ten thousand rupees, the previous sanction of the prescribed authority shall be obtained; and

(b) if the annual cost of maintenance, as estimated, exceeds ten thousand rupees, the previous sanction of the State Government shall be obtained.

(2) The order shall further specify the exact area benefitted by the said work and apportion the cost of maintenance amongst the person or persons who may be found to be liable to pay the same having regard to the consideration mentioned in clauses (a) to (c) of Section 10.

(3) The Collector may authorise any person or agency to take over and maintain the irrigation work on behalf of the State Government.

1. Inserted by *ibid*.

36B. Accounts Of Expenses Incurred :-

(1) The person or agency who take over an irrigation work under Section 36A shall keep accounts of the actual expense incurred in the maintenance thereof and shall submit such accounts to the Collector at such intervals as may, from time to time, be fixed by the Collector.

(2) The Collector may revise any accounts so submitted to him, if after making inquiry he considers it necessary to do so.

36C. Recovery Of Expenses By Collector :-

The Collector shall inform the person liable under sub-section (2) of Section 36A of the amount due from each and shall intimate the date by which such sums are to be paid. Every such sum not paid by the date fixed shall be recoverable as a public demand payable to the Collector.

36D. Compensation For Consequential Damage :-

1[(1) Whenever any land other than land acquired under the Land Acquisition Act, 1894, (1 of 1894), or any right of fishery, right of drainage, right to the use of water or other right to property, is injuriously affected by any act done or any work executed under this Act, the person in whom such land or right is vested may prefer claim by petition to the Collector for compensation:

Provided that no person shall be entitled to claim compensation-

(a) for any damage sustained by him which, if caused by a private person, would not render such person liable to a suit; or

(b) for any damage caused by-

(i) any stoppage or diminution of percolation or of floods,

(ii) any deterioration of climate or soil, or

(iii) any stoppage of navigation or of the means of rafting timber or watering cattle.

(2) No claim for compensation shall be entertained unless it is made within six months of the date when the act was done or the work executed by reason of which the land or right in respect of which compensation is claimed was injuriously affected.

1. Renumbered by Act 37 of 1950.

36E. Determination Of Compensation :-

1[(1) The Collector shall consider all claims made under sub-section (1) of 2[Section 36D] and shall determine the amount of compensation if any, which should be paid and the person to whom such amount should be paid.

(2) In determining the amount of compensation to be paid under sub-section (1) the Collector shall take into consideration the following matters and no other matter:-

(a) the market value of the land or right injuriously affected at the time when the act was done or the work executed;

(b) the damage sustained by the claimant by reason of such act or work injuriously affecting the land or right;

(c) the consequent diminution of the market value of the land or right injuriously affected when the act was done or the work executed; and

(d) whether the claimant has derived or is likely to derive any benefit from the act or work in respect of which the compensation is claimed or from any work connected therewith in which case the estimated value of such benefit, if any, shall be set off against the

compensation which would otherwise be paid to such person.

(3) In addition to the market value of the land or right as above provided, the Collector shall in every case award a sum of fifteen per centum on such market value.

1. Renumbered by Act 37 of 1950.

2. Substituted by *ibid*.

36F. Apportionment And Recovery Of Compensation :-

1[Any amount awarded to any person as compensation under this Chapter shall be-

(a) apportioned in such manner as the Collector may determine among the persons benefitted by the acquisition of the land or the doing of the act or the execution of the work in respect of which the compensation is claimed.

(b) recoverable from the persons among whom it is apportioned under clause (a) as a public demand]2 payable to the Collector.

(c) Payable to the person to whom it is awarded.

1. Renumbered by Act 37 of 1950.

2. As to the recovery of public demands, see the B. & O. Public Demands Recovery Act, 1914 (B. & O. Act. 4 of 1914).

CHAPTER 7 SUPPLEMENTAL PROVISIONS

37. Appointment Of Irrigation Committee :-

(1) The State Government may appoint an irrigation Committee for any district 1[or part of a district] and may from time to time, appoint and accept the resignation of the members of such Committee and direct that any person shall cease to be a member thereof.

(2) The State Government may, from time to time, direct that any such Committee shall be consulted by the Collector in the discharge of any function or the performance of any duty imposed on him by this Act and by notification may from time to time, direct that any such function or duty shall be performed or discharged by such Committee.

(3) The business of every Committee shall be conducted under such Rules as the State Government may, from time to time, make in that behalf.

(4) Whenever, the Collector differs from the Irrigation Committee in any matter on which he is required by this Act, or by the Rules

thereunder to consult the said Committee, he shall submit the question to the 2[prescribed authority] for decision, with copies of any remarks which may have been recorded by the Committee or any members thereof.

1. Inserted by Act 4 of 1960.

2. Substituted by Act 10 of 1939.

38. Record Of System Of Rotation :-

(1) In cases where the system of rotation (Prabandi) for any irrigation work is not clearly entered in the record-of-rights or determined by a decree of a civil court which is binding on all the parties concerned, and in cases where the execution of works of repair or maintenance under the foregoing Section necessitates some revision of the existing or recorded system, the Collector may, after such inquiry as he considers necessary, draw up a new or revised system of rotation and may modify the same from time to time, if necessary.

(2) Where the Collector has prepared such a system no person shall use the water supplied by the irrigation work concerned except in accordance with such system.

1[(3) In the case of an irrigation work constructed or acquired under Section 32A or 32B, the Collector shall, after such inquiry as he considers necessary, draw up a system of rotation and may, if necessary, modify the same from time to time.]

1. Inserted by Act 10 of 1939.

39. Power Of Entry :-

Any person duly authorised to prepare a specification and estimate, or to execute any work, under this Act, in respect of or upon any land, may, himself or by his agents and workmen, enter into or upon such land, and carry out such work thereupon as may be required.

40. Power To Make Rules :-

(1) The State Government may, after previous publication]1 make Rules for carrying out the purposes and objects of this Act.

(2) In particular, and without prejudice to the generality of subsection (1), Rules]2 may be made-

(a) prescribing the procedure to be followed by any officer who is required or empowered by or under this Act to take action or hold

inquiry in any matter or to give, serve or publish any notice;

1[(a1) prescribing the manner in which a copy of any award shall be served under sub-section (3) of Section 8 or sub-section (2) of Section 11;]

(b) prescribing the cases in which, the officers to whom and the conditions subject to which, a Collector may delegate any of his powers or duties under this Act;

3[* * *]

(b2) prescribing the manner in which, and the authority by whom, compensation shall be assessed under Section 5B;

(c) prescribing the procedure to be followed by the Collector in giving authority for the carrying out of a work of repair or construction under Section 6 and the conditions, if any, under which such authority may be given;

4[* * *]

5[(d) prescribing the manner of preparing the accounts referred to in Section 9 6[and 36B] and the procedure for publication thereof and for hearing of objections thereto;

(e) for the recovery of the expenses referred in Section [11,7]7 [24,35A and 36C];

6[(f) prescribing the manner in which notices under Section 32A and 32B shall be served or published, as the case may be;

5[(g)] prescribing the inquiry to be made and the notice to be given under sub-section (2) of Section 35A;

5[(g1)] prescribing the manner in which notices under sub-section (3) of Section 35A shall be served or published, as the case may be;

6[g2)] prescribing the authority referred to in clause (a) of the proviso to sub section (1) of Section 36A;]

5[(g3)] prescribing the authority to whom any question referred to in sub section (4) of Section 37 shall be submitted for decision;

(h) for the recovery of any sum advanced by the Collector to any person or agency for the carrying out under any of the provisions of this Act, of any work of repair or construction and prescribing the rate of interest to be charged on any sum so advanced;

7[(i) prescribing the authority to whom an appeal shall lie under sub section (1) of Section 46 ; and

7[(j) prescribing the procedure for the hearing and disposal of appeals.]

(3) All Rules made under this Section shall be published in the Official Gazette.

1. Inserted by Act 10 of 1939.

2. For Rules regarding service of notice, see the B. O. R.O., Vol. I,, Pt. VII.
3. Omitted by Act 23 of 1962.
4. Repealed by Bihar Act 37 of 1950.
5. Re-Lettered by Bihar Act, 37 of 1950.
6. Inserted by *ibid*.
7. Inserted by Bihar Act, 4 of 1960.

41. Power To Summon And Examine Witnesses :-

Any officer empowered by or under this Act to conduct any inquiry may exercise all such powers connected with securing the attendance of, and examining, witnesses and the production of documents as are conferred on Civil Courts by the Code of Civil Procedure, 1908, and every inquiry in which the evidence of witness is recorded formally shall be deemed to be a judicial proceeding.

42. Penalties :-

Whoever without proper authority and voluntarily does any of the following acts-

- (a) interferes with the distribution of water from an irrigation work as entered in the record-of-rights or determined under Section 38 or in any other lawful manner;
- (b) destroys or moves any level mark or water gauge fixed by the authority of a public servant;
- (c) makes any dam, weir or other obstruction in any irrigation work;
- (d) obstructs the construction of any work ordered by the Collector under the provisions of this Act; or
- (e) constructs an irrigation channel in contravention of the provisions of Section 27 or of any order of the Collector under Section 30;

shall in case the offence does not amount to mischief within the meaning of the Indian Penal Code (45 of 1860) be punishable with fine which may extend to one thousand rupees, or where the offence is a continuing one to a further fine which may extend to fifty rupees for every day on which the offence continues after the date of the first conviction.

43. Compensation To Persons Injured By Offence :-

Whenever any person is fined for an offence against this Act, the Magistrate may direct that whole or any part of the fine shall be paid by way of compensation to any person injured by such offence.

43A. Claim For Compensation To Include Whole Loss :-

Every claim for compensation for any loss resulting from any act done or purporting to be done under any of the provisions of this Act shall include the whole of the claim for compensation in respect of every loss which the person making the claim has sustained or is likely to sustain as a result of such act, and where any person omits to claim compensation or intentionally relinquishes any claim to compensation in respect of any such loss he shall not afterwards be entitled to claim any compensation in respect thereof.

44. Order To Discontinue Improper Use Of Water, Or The Removal Of Obstructions Or Work On Conviction :-

Whenever any person is convicted of an offence referred to in clause (a), clause (c), clause (d) or clause (e) of Section 42, the Magistrate may, by written order, require him, within a reasonable time to be fixed in the order, to discontinue the improper use of the water, remove the obstruction or work or close the channel, as the case may be; and, on the failure of such person, to comply with such order within the time fixed therein, the Collector may himself cause the work specified in the order to be carried out, and may recover the cost from the offender as a public demand]¹.

1. For the recovery of public demands, see the B. & O. Public Demands Recovery Act, 1914 (B. & O. Act 4 of 1914).

45. Power Of State Government To Delegate Powers Or Duties Of Collector :-

1[Subject to the provisions of sub-section (1a) of Section 5, sub-section (2) of Section 32A and sub-section (2) of Section 32B, the State Government may] by general or special order]² confer and impose on any Deputy Collector or other Revenue Officer all or any of the powers or duties of the Collector under this Act.

1. Substituted by Act 23 of 1962.

2. For an order under this Section see B.O.R.O. Vol. I Pt. VII.

46. Appeal And Revision :-

1[(1) An appeal shall lie from any original order (except an order declaring that any repair of any existing irrigation work shall not be carried out on the ground that the cost will be prohibitive and an order under Section 5A) or award of the Collector or of any officer on whom any of the powers and duties of the Collector have been conferred or imposed under this Act or from any order of the Collector reversing the order of an officer subordinate to him, to the prescribed authority, and subject to the result of such appeal or revision under sub-section (4) the order or award, as the case may be, shall be final.

(2) Appeal under this Section shall be heard and disposed of in accordance with the prescribed procedure.

(3) An appeal under this Section shall be preferred within thirty days of the date of the order appealed against:

Provided that an appeal may be admitted after the said period if the appellate authority is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(4) The Board of Revenue may on its own motion or on application, and after giving the parties interested reasonable opportunities of being heard, modify, alter or reverse any order passed in appeal from which no further appeal lies:

Provided that the power of revision shall not be exercised except on the ground of illegality or material irregularity.

(5) When appeal is presented under sub-section (1) or when the Board of Revenue calls for the records of a case under sub-section (4), the proceedings shall not be stayed pending the appeal or revision unless the appellate or revising authority so directs.]

1. Substituted by Act 4 of 1960.

47. Institution Of Suits To Contest Collectors Order Under Section 5 Or Section 30 :-

(1) Any person aggrieved by a order of the Collector under Section 5 or Section 30 may, within three months from the date on which the first overt act is taken in pursuance of such order, institute a suit in the civil court which would have jurisdiction to entertain a suit for the possession of any land affected by the order. 1[(2) Such suit may be instituted on the ground that-

(i) the order interferes with the lawful exercise of a right to which the person aggrieved is entitled or infringes a right superior to the right the exercise of which is allowed by the order; and

(ii) such person is not entitled to claim under any of the provisions of this Act compensation for any loss which he has sustained or may sustain as a result of such interference or infringement; and on no other ground.]

1. Substituted by Act 10 of 1939.

48. Bar Of Jurisdiction Of Civil Courts :-

1[Except as provided in Section 47, no suit or other legal proceedings shall lie in any Court in respect of any order or proceeding under this Act.]

1. Substituted by Act 4 of 1960.

49. Bar To Proceedings For Act Done In Good Faith :-

No suit or other proceedings shall lie against any person in respect of anything in good faith done or purporting to be done under or in pursuance of any provision of this Act.