

Bihar Public Irrigation And Drainage Works Act, 1947

10 of 1947

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Bihar Public Irrigation And Drainage Works Act, 1947

10 of 1947

An Act to provide for the construction, improvement and maintenance by the Provincial Government of irrigation, drainage and other works intended to improve the condition of lands.

WHEREAS it is expedient to provide for the construction, improvement and maintenance by the Provincial Government of irrigation, drainage and other works intended to improve the condition of lands. It is hereby enacted as follows:- * This Act has been Repealed by Bihar Irrigation Act 1997 (Bihar Act, XI of 1998) however, is given here for the sake of ready reference and record.- Ed.]

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Bihar Public Irrigation and Drainage Works Act, 1947.

(2) It extends to the whole of the Province of Bihar.

(3) It shall come into force in any local area on such date as the [Provincial]¹ Government may, by Notification in the Official Gazette, appoint in this behalf.

1. Substituted by A.L.O. as State.

2. Definitions :-

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

1[(a) "assured irrigable command area" means an area declared to be an assured irrigable command area under Section 25A;]

1[(a1) "probable irrigable command area" means an area declared to be a probable irrigable command area under Section 25-A;

1(a2) "Chief Engineer" means the Chief Engineer of the Public Works Department of the [Provincial]² Government, and includes any person appointed by the Governor, by Notification, to be Chief Engineer for the purposes of this Act either generally or in respect of any proposed work or sanctioned work specified in such Notification;

3[(a3) "Collector" means the Collector or the Deputy Commissioner of a district and includes an Additional Collector, a District Development Officer and any officer specially appointed by the State Government to perform all or any of the functions of a Collector under this Act;]

(b) "drainage work" means any work intended to remove water from any land;

(c) "Executive Engineer" means the officer appointed by the Governor to be Executive Engineer in any area, and includes any

person appointed by the Governor, by Notification to be Executive Engineer for the purposes of this Act either generally or in respect of any proposed work or sanctioned work specified in such Notification;

(d) "person having an interest" means.-

(1) in relation to any land for which rent is paid in kind, the landlord and the tenant of such land;

(2) in relation to any land, other than land referred to in sub-clause (3), for which rent is paid in cash or for which no rent is paid; the person in immediate possession of such land or, if such person is an underraiyat; having no right of occupancy in the land, the raiyat of such land; and

(3) in relation to any land the rent of which is remitted under any law for the time being in force on the ground that it has become unfit for cultivation and which subsequently becomes fit for cultivation as the result of any action taken under this Act, the landlord and the tenant of such land;

Explanation.-In this clause "landlord" does not include a village headman or a raiyat; and "tenant" does not include an under-raiyat.

(e) "prescribed" means prescribed by Rules made by the [Provincial] Government under this Act;

(f) "proposed work" means any work specified in Section 3 in respect of which a direction that it shall be executed has not been issued under sub-section (1) of Section 5;

4[(g) "public irrigation work" means any work of irrigation or any system of such work, natural or artificial, the construction, maintenance or improvement of which is financed wholly or partly by the State Government and includes-

(i) all canals, channels, tanks, reservoirs, ponds, spring ponds, lakes and other natural collection of water or parts thereof, all embankments, barrages, weir, dams, guide banks, and all other works which are constructed, improved or maintained by the State Government for the purposes of irrigation; and

(ii) all lands used for the purposes of the work mentioned in sub clause (i) and all buildings, machinery, fences, gates and other erection connected therewith on such lands;

5[(h) "Revenue Officer" means any officer whom the Collector or the Deputy Commissioner of a district may, by notification, appoint to discharge all or any of the functions of the Revenue Officer under this Act; and]

(i) "sanctioned work" means a proposed work in respect of which a

direction that it shall be executed has been issued under sub-section (1) of Section 5 [6[or under Section 5-A.]

7[(j) "Command area" means an area declared to be the command areas of a public irrigation work by the State Government by Notification published in the Official Gazette.]

1. inserted by Act 16 of 1982 and existing clauses (a) & (a1) renumbered as (a2) & (a3) respectively.

2. Substituted by A.L.O. as State.

3. inserted by Act 28 of 1962.

4. Substituted by Act 13 of 1966.

5. Substituted by Act 11 of 1955.

6. inserted by Act 10 of 1965.

7. inserted by Act 13 of 1966.

CHAPTER 2 INITIATION OF PROCEEDING~~S~~ AND PREPARATION OF SCHEME

3. Initiation Of Proceedings And Hearing Of Objections :-

(1) Whenever the [Provincial]¹ Government shall decide, whether on a report of an officer of Government or on an application by any person, that it is necessary that any of the following works, namely:-

(i) any public irrigation work,

(ii) any drainage work for the improvement or reclamation of agricultural lands,

(iii) any drainage work for the improvement of public health in any locality, or

(iv) any work for the prevention or control of flood,

should be constructed, improved, repaired or maintained, the [Provincial]¹ Government shall publish in the prescribed manner a description of the proposed work indicating the situation of the proposed work, the areas of land likely to be benefitted or adversely affected by the proposed work, and any other particulars that may be prescribed, together with a notice specifying-

(a) a period which shall not be less than forty-five days from the date of such publication, during which any person whose interests are likely to be affected by the proposed work, may present in writing to the prescribed authority any objection to the proposed work; and

(b) a date, which shall not be less than fifteen days after the expiration of the period mentioned in clause (a), on which the prescribed authority shall hear any objection received during the

period mentioned in clause (a) relating to the proposed work.

(2) Every petition of objection under clause (a) of sub-section (1) shall be accompanied by the prescribed fee, and any such petition not accompanied by the prescribed fee shall be summarily rejected.

(3) The prescribed authority shall, on the day appointed for the hearing of objection or on any Subsequent day to which the hearing may be adjourned, hold such enquiry as it thinks fit.

1. Substituted by A.L.O. as State.

4. Forwarding Of Report By Collector To The Provincial Government :-

Forwarding of report by Collector to the [Provincial]¹ Government
After holding the inquiry referred to in sub-section (3) of Section 3, the prescribed authority shall forward a report on the objections raised to the Collector and the Collector shall, after considering the said report and objections, if any, forward the same together with his own recommendations to the [Provincial]¹ Government.

1. Substituted by A.L.O. as State.

5. Consideration Of The Report Of The Prescribed Authority And The Recommendations Of The Collector By Provincial Government And Orders Of Provincial Government Thereon :-

(1) The [Provincial]¹ Government may, after considering the report of the prescribed authority and the recommendations of the Collector submitted under Section 4, by notification, direct that the proposed works shall not be executed or that it shall be executed with such modification, if any, as the [Provincial]¹ Government may specify.

(2) If the [Provincial]¹ Governemnt directs that the proposed work shall not be executed, no further action shall be taken in respect of such work.

(3) If the [Provincial]¹ Government directs that the proposed work shall be executed with or without any modification, it shall cause a detailed plan and estimate of such work to be prepared.

1. Substituted by A.L.O. as State.

5A. Power Of State Government To Direct Execution Of Work In Case Of Urgency :-

1[Notwithstanding anything contained in Section 3, 4 and 5, the State Government may, in cases of urgency, at any time, after the

publication of the description of the proposed work under sub-section (1) of Section 3 with or without notice, direct that the proposed work shall be executed with such modifications, if any, as the State Government may specify and it shall thereupon cause a detailed plan and estimate of costs of such work to be prepared.]

1. inserted. by Act 10 of 1965.

6. Particulars To Be Contained In And Documents Accompanying Detailed Plan And Estimate :-

The detailed plan and estimate prepared under sub-section (3) of Section 51[or Section 5A] shall be accompanied by such documents as may be prescribed and shall contain the following particulars, namely:-

- (a) the area likely to be benefited by the work;
- (b) the estimated cost of the work, including-
 - (i) the estimated cost of the construction of the work,
 - (ii) the estimated cost of the acquisition of land and payment of compensation, and
 - (iii) the estimated cost of preparing a register, if any, under Chapter VII and a register under Chapter VIII; and
- (c) such other particulars as may be prescribed.

1. inserted by Act 10 of 1965.

7. Orders Of Provincial Government Modifying Sanctioned Work :-

At any time after the publication of a Notification under sub-section (1) of Section 5 directing the execution of a proposed work, the [Provincial]¹ Government may, by Notification, direct that such work shall be executed with such modification or further modification as may be specified in the notification:

Provided that when the [Provincial]¹ Government proposed to make any modification which in its opinion will adversely affect the interest of any person, it shall publish in the prescribed manner particulars of such modification together with a notice appointing a day, not less than forty-five days after the date of such publication, as the day on which objections, if any, to such modification shall be heard, and the provisions of sub-Section (2) and (3) of Section 3 and Section 4 shall apply to such objection as if it were an objection of a proposed work notified under sub-section (1) of Section 3 and the [Provincial]¹ Government shall consider the

report of the prescribed authority and the recommendations of the Collector on the objection.

1. Substituted by A.L.O. as State.

CHAPTER 3 POWERS OF OFFICERS PREPARING PLANS OR EXECUTING WORKS

8. Powers Of Officers And Compensation For Damage Caused By The Exercise Of Such Powers :-

(1) For the purpose of investigating any proposed work, or for the purpose of preparing plans and estimates or for the purpose of executing any work, the Collector or the Executive Engineer or the Chief Engineer, or any person authorised in this behalf by the Executive Engineer or the Chief Engineer or the [Provincial]¹ Government may-

(a) enter upon, survey and take levels of any land;

(b) dig or bore into the sub-soil of any land;

(c) do all other acts necessary to ascertain whether the land is suitable for any of the purposes of the proposed work or the sanctioned work;

(d) set out the boundaries of the lands likely to be benefited by the proposed work or the sanctioned work and the intended line of the work;

(e) mark such boundaries, levels and lines by placing marks or cutting trenches; and

(f) if the survey cannot otherwise be made, cut down and clear away any standing crop, tree, fence or jungle or any part thereof:

Provided that no person shall, except with the consent of the occupier thereof, enter any building or upon any enclosed court or garden attached to a dwelling house, without previously giving such occupier at least thirty six hours notice in writing of his intention to do so.

(2) When any damage or loss is caused to any person by the exercise of any of the powers conferred by sub-section (1), such person shall, on an application to the Collector, be entitled to receive from the [Provincial]¹ Government such compensation as the Collector may by an order determine.

(3) Payment of the compensation shall be made by the Collector in accordance with the order made by him under sub-section (2).

(4) Any person aggrieved by an order passed by the Collector under sub-section (2) may, within sixty days of the date of such order, appeal to the prescribed authority.

1. Substituted by A.L.O. as State.

CHAPTER 4 ACQUISITION OF LAND

9. Acquisition Of Land :-

Any land or interest in land, which, in the opinion of the [Provincial]¹ Government, it is necessary to acquire for any sanctioned work, shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1894 (1 of 1894).

1. Substituted by A.L.O. for State.

10. Power Of Collector To Take Immediate Possession Of Land :-

(1) Notwithstanding anything to the contrary contained in this Act or in the Land Acquisition Act, 1894 (I of 1894), or in any other law or anything having the force of law, at any time after the application of a notification under sub-section (1) of Section 4 of the Land Acquisition Act, 1894, (I of 1894) relating to any land needed for any sanctioned work the Collector may, with the previous approval of the [Provincial]¹ Government take possession of such land, and such land shall thereupon vest absolutely in the Government free from all incumbrances:

Provided that, before or at the time of taking possession of any land under this Section, the Collector shall offer to the persons interested compensation for the standing crops and tree (if any) of such land and for any damage sustained by them which is caused by such sudden dispossession and not excepted in Section 24 of the Land Acquisition Act, 1894 (1 of 1894), and, if such offer is not accepted the value of such crops and tree and the amount of such other damage shall be allowed in awarding compensation for the land under the provisions of the said Act.

(2) When the Collector takes action under sub-section (1), the requirements of Section 5A of the Land Acquisition Act, 1894 (I of 1894), shall be dispensed with.

1. Substituted by A.L.O. for State.

11. Modification Of The Land Acquisition Act, 1894 :-

For the purposes of the acquisition of any land referred to in Section 8 or 9, the Land Acquisition Act, 1894, shall have effect subject to the modification that the market value of the land shall

be deemed to be the market value on the date on which the notice referred to in sub-section (1), of Section 3, in respect of the work for which such land is needed, is published under the said sub-section 1[or in case any order has been issued under Section 5A, the date on which the description of the proposed work is published under the said sub-section.]

1. inserted by Section 5 of Bihar Act 3 of 1951.

CHAPTER 5 EXPENDITURE ON PROPOSED WORKS AND SANCTIONED WORKS

12. Expenditure In Connection With Proposed Work To Be Borne By Provincial Government :-

Expenditure in connection with proposed work to be borne by [Provincial]¹ Government

(1) All expenses incurred in connection with a proposed work shall be borne initially by the [Provincial]¹ Government.

(2) For the purposes of sub-section (1), the following shall be deemed to be expenses incurred in connection with a proposed work, namely:-

(a) the cost of preparing under the orders of the [Provincial]¹ Government a rough plan and estimate of cost, if any, of the proposed work; and

(b) the cost of any action taken in accordance with the provisions of sub-section (1) of Section 8 before the issue of an order under sub-section (1) of Section 5²[or Section 5A] directing that the proposed work shall be executed and all sums paid to any person as compensation under sub-section (2) of Section 8.

1. Substituted by A.L.O. for State.

2. inserted. by Section 6 of Bihar Act 3 of 1951.

13. Expenditure In Connection With Sanctioned Work :-

(1) All expenses in connection with a sanctioned work shall be borne in the first instance by the [Provincial]² Government and shall be recoverable in whole or to such extent as may be determined by the [Provincial]² Government from the persons having an interest in the lands and benefitted by the said works.

(2) (a) The expenses mentioned in sub-section (1) shall be recoverable in accordance with the provisions of Chapters VIII and IX:

Provided that if benefits begin to accrue to any lands from any

portion of a sanctioned work before the whole of such work is completed, the persons having an interest in such lands and having benefitted by such work shall be liable to pay, from the date on which such benefits begin to accrue, the expenses incurred in connection with the said portion and recoverable under sub-section (1).

(b) If any doubt arises as to the amount of the expenses incurred in connection with any portion of a sanctioned work or the date on which benefits began to accrue to any lands from any portion of such work, the decision of the [Provincial]² Government in the matter shall be final.

(3) For the purposes of this Section and of Chapter VII, VIII and IX, the following shall be deemed to be expenses incurred in connection with a sanctioned work, namely:-

(a) all the expenses specified in clauses (a) and (b) of sub-section (2) of Section 12 incurred in respect of the said work before the issue of an order under sub-section (1) of Section 51 [or Section 5A] directing that the said work shall be executed;

(b) the cost of preparing a detailed plan and estimate of the said work under sub-section (3) of Section 5 1[or Section 5A;]

(c) all sums paid as compensation under the proviso to sub-section (1) of Section 10;

(d) all sums paid as compensation under Chapter VI of this Act;

(e) all sums awarded as compensation for any land acquired under the Land Acquisition Act, 1894 (I of 1894), for the purposes of the said work;

(f) the expenses incurred by the [Provincial]² Government in the construction of the said work;

(g) the cost of making surveys and preparing registers under Chapters VII and VIII; and

(h) the interest calculated at the rate and in the manner specified in Section 23 on the amount as the expenses mentioned in clauses (a) to (g).

1. inserted. by Section 6 of Bihar Act 3 of 1951.

2. Substituted by A.L.O. as State.

14. Power Of Provincial Government To Make Modifications In The Estimated Cost Of Work :-

Power of [Provincial]¹ Government to make modifications in the estimated cost of work

At any time before the publication of a draft of the

register under Section 20, the [Provincial]¹ Government may make such modifications in the estimated cost of the sanctioned work as may appear to be necessary and the estimated cost of the work as so modified shall be deemed to be the expenses of the work to be recovered from the persons liable to pay the same under the provisions of Chapters VIII and IX.

1. Substituted by A.L.O. as State.

CHAPTER 6 COMPENSATION

15. Compensation For Consequential Damage :-

(1) Whenever any land other than the land acquired under the Land Acquisition Act, 1894 (1 of 1894) or otherwise for the purposes of this Act, or any right of fishery, right of drainage, right to the use of water or other right of 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 a claim by a petition to the Revenue Officer 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,

(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 three years after 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.

16. Determination Of Compensation :-

(1) The Revenue Officer shall consider all claims made under sub-section (1) of Section 15 and shall make to the Collector his recommendation as to the amount of compensation, if any, which should be paid and the person to whom such amount should be paid.

(2) In making his recommendation under sub-section (1), the Revenue Officer 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.

17. Award By Collector And Subsequent Proceedings :-

(1) The Collector shall after considering the recommendation made by the Revenue Officer under Section 16, make an award determining the compensation, if any, to be paid and the person to whom it shall be paid.

(2) 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 of such market value.

(3) Any person who has not accepted an award made by the Collector under sub-section (1) may proceed under Section 18 of the Land Acquisition Act, 1894 (I of 1894), and thereupon the provisions of Section 19 to 34 of the said Act shall, so far as may be, apply.

(4) Payment of the amount awarded as compensation under this Section shall be made by the Collector in accordance with the award.

CHAPTER 7 PREPARATION OF PRELIMINARY REGISTER AND ESTIMATE OF RATES

18. Order For Preliminary Survey And Preparation Of Preliminary Register :-

(1) At any time after the publication of a notification under sub-section (1) of Section 5 1[or Section 5A] directing that a proposed work shall be executed and before the publication of a notification under sub-section (1) of Section 19, the [Provincial]² Government may, in any case in which it considers necessary, by notification, direct that a survey shall be made and register prepared by the Revenue Officer in the prescribed manner in respect of such lands

as are likely to be benefited by any sanctioned work.

(2) The register shall contain the prescribed particulars together with an estimate as to the rates at which the expenses likely to be incurred in connection with the said work or such portion thereof as may be determined by the [Provincial]² Government to be recoverable under sub-section (1) of Section 13, may be recovered from the persons having an interest in the lands mentioned in such register and likely to be benefited by such work together with a statement showing approximately the amount payable by each person.

(3) The Revenue Officer shall publish in the prescribed manner and for the prescribed period, the draft of the register prepared under sub-section (1) and shall receive during the period of publication any objection which may be made to any entry therein or to any omission therefrom and shall consider all such objections, if any.

(4) When such objections have been considered, the Revenue Officer shall forward the said draft together with his own opinion to the Collector, and the Collector shall, after considering the opinion of the Revenue Officer, forward them with his own recommendations to the prescribed authority for orders and the prescribed authority shall, after passing such orders as he may think fit, publish the register in the prescribed manner.

(5) The prescribed authority may, for sufficient reasons to be recorded in writing, make any alteration in the entries in such register, including any entry of the amount estimated to be payable by any person, after giving such notice to the person or persons likely to be affected by the alteration as may be prescribed manner.

(6) Where a register has been prepared under this Chapter, it shall have effect until such time as a register has been prepared and finally published under Chapter VIII and shall be used for the purpose referred to in the second proviso to sub-section (1) of Section 23 and for such other purposes as the [Provincial]¹ Government may, by general or special order, direct.

1. Inserted by Act 3 of 1951.

2. Substituted by A.L.O. as State.

CHAPTER 8 PREPARATION OF REGISTER AND ASSESSMENT OF RATES

19. Order For Survey And Preparation Of Register :-

When the construction of any sanctioned work has been completed, the [Provincial]¹ Government may, by notification, direct that after

making a survey, if necessary, a register shall be prepared by the Revenue Officer in respect of the lands which may appear to the [Provincial]¹ Government to be benefited by the said work.

(2) Every such survey shall be made and register prepared in the prescribed manner, and the register shall contain, in addition to the prescribed particulars, a statement of the recommendations of the Revenue Officer as to the rates at which the expenses incurred in connection with the work or such portion thereof, as may be determined by the [Provincial]¹ Government under sub-section (1) of Section 13 to be recoverable, may be recovered from the persons having an interest in the lands mentioned in such register and benefited by the said work, together with a statement showing the amount payable by each such person.

1. Substituted by A.L.O. as State.

20. Preliminary Publication Of Register :-

(1) The Revenue Officer shall publish in the prescribed manner and for the prescribed period the draft of the register prepared under sub-section (2) of Section 19 and shall receive during the period of publication any objection which may be made to any entry there in or to any omission there from and shall consider all such objections, if any.

(2) When such objections have been considered, the Revenue Officer shall forward the said draft together with his own recommendations to the Collector, and the Collector shall, after considering the said recommendations, forward them with his own opinion to the prescribed authority for orders.

(3) Any person aggrieved by an order of the Revenue Officer passed on any objection made under sub-section (1) may, within thirty days of the date of such order, appeal to the prescribed authority and the decision of the prescribed authority on any such appeal shall be final.

21. Final Publication Of Register And Statement Of Amounts To Be Recovered From Landlords And Tenants :-

When all appeals under sub-section (3) of Section 20 have been disposed of and when the prescribed authority mentioned in sub-section (2) of the said Section has passed order on the rates at which the expenses incurred in connection with the work or such portion thereof as may be determined by the [Provincial]¹ Government under sub-section (1) of Section 13 to be recoverable

shall be recovered from the persons liable to pay such expenses, the Revenue Officer shall, in the prescribed manner, finally publish the register, and the publication shall be conclusive evidence that the register has been duly made under this Chapter.

1. Substituted by A.L.O. as State.

22. Alteration Of Amounts Entered In Finally Published Statement :-

(1) If it appears to the [Provincial]¹ Government at any time after the final publication of the register under Section 21 that any alteration in the entries in such register, including any entry of the amount payable by any person is necessary for any reason which the [Provincial]¹ Government deems sufficient, the [Provincial]¹ Government may, by notification, declare its intention to alter the said entries in the manner specified in such notification.

(2) The Collector shall publish such notification in the prescribed manner and for the prescribed period, shall receive during the period of such publication any objections which may be made to the alterations proposed in the notification and shall consider such objections, if any, in the prescribed manner.

(3) When such objections have been considered, the Collector shall forward a report on such objections, together with his own recommendations, to the [Provincial]¹ Government, and the [Provincial]¹ Government may, after considering the said report and recommendations, by notification, order that the entries in the register finally published under Section 21 shall be altered in the manner specified in the order, and the register shall thereupon be deemed to have been amended accordingly.

1. Substituted by A.L.O. as State.

CHAPTER 9 RECOVERY OF THE COST OF SANCTIONED WORK

23. Recovery Of Cost Of Sanctioned Work And Interest On Such Cost :-

(1) The [Provincial]¹ Government may, at any time, order that the amount representing the expenses incurred in connection with a sanctioned work together with the interest on such amount at the rate of four per centum per annum or such other rate not exceeding five per centum per annum as may be prescribed by the [Provincial]¹ Government, calculated in the manner specified in sub-section (2) from the date of the completion of the work shall,

save where the provisions of Section 25 are applied, be recovered from the persons having an interest in the lands and benefitted by the said work to the extent entered against the name of such persons in a register finally published under Chapter VIII, in such number of instalments, not exceeding ten, as the Collector thinks fit:

Provided that the [Provincial]¹ Government may in any case increase the number of instalments to such limit as it may consider proper:

Provided further that in cases referred to in the proviso to sub-section (2) of Section 13 the expenses shall be recovered on the basis of the entries in a register prepared under Chapter VII and for this purpose the amount entered in the register as estimated to be payable by any person shall, subject to such re-adjustments as the [Provincial]¹ Government may by general or special order direct, be deemed to be an amount recoverable from such person under this Chapter as expenses incurred in connection with a sanctioned work.

(2) The interest due from any person on each date of payment shall be calculated on the whole amount entered against such person in a register, or, where any portion of such amount has already been paid, on the whole of such amount less the portion so paid.

1. Substituted by A.L.O. as State.

24. Recovery Of Cost Of Maintenance :-

[Provincial]¹ Government may at any time order that the cost already incurred in maintaining a sanctioned work and the amount calculated to be sufficient to cover the future cost of maintenance shall, save where the provisions of Section 25 are applied, be recovered from the persons having an interest in the lands benefitted by the said work and entered in a register finally published under Chapter VIII, in such manner and in such instalments as the [Provincial]¹ Government may, notification, direct;

Provided that the amount to be recovered under this Section from a person entered in a register finally published under Chapter VIII shall bear the same proportion to the total amount calculated to be sufficient to cover the cost of maintenance as the amount entered against such persons name in the register finally published under Chapter VIII bears to the total expenses incurred in connection

with a sanctioned work.

1. Substituted by A.L.O. as State.

25. Recovery Of Interest And Cost Of Maintenance By A Cess :-

(1) instead of recovering cost as provided in Section 23 and 24 the [Provincial]¹ Government may direct that a cess be levied, as provided in this Section, for the recovery of interest at the rate of four per centum per annum or such other rate, not exceeding five per centum per annum, as the [Provincial]¹ Government may prescribe on the expenditure incurred in connection with any sanctioned work, and of the annual cost of maintenance.

(2) The cess in respect of any work shall be charged on the lands entered in the register prepared under Chapter VIII with reference to the said work at such rate or rates as may be determined by the [Provincial]¹ Government.

(3) Such cess shall be payable annually, or at such intervals of less than one year, as the [Provincial]¹ Government may, by general or special order, direct.

Explanation.-In this Section "expenditure incurred in connection with the sanctioned work" includes the items specified in clauses (a) to (g) of sub-section (3) of Section 13 but does not include the item specified in the clause (h) thereof.

1. Substituted by A.L.O. as State.

25A. Declaration Of Assured Irrigable Command Area Or Probable Irrigable Command Area Of A Public Irrigation Work :-

1[(1) The concerned Collector or officer authorised by the State Government, may for the purpose of this Act, by notification, declare any area to be assured irrigable command area which shall comprise of such lands the irrigation of which is assured by direct or indirect flow from a public irrigation work during such period of the year as may be specified in the notification, which, in the opinion of the concerned Collector or officer authorised by the State Government, be sufficient for maturity of the crops during the said period and any area to be 2probable irrigable command area which shall comprise of such lands the irrigation of which is unassured and is subject to availability of water during the said period.

(2) A public notice shall be affixed for the recovery of rent in such area in all the offices of the Gram Panchayats, police station, offices of the Anchal Adhikari and in all Gram Cutcheries of the State Governemnt and the Substance of the notice shall be announced by

beat of the drum in all the villages falling in the notified area and this Substance shall be published in two consecutive number of the newspapers circulating in the area.]

3[Provided that the State Government may, if it considers necessary, make water supply in a particular Canal Irrigation Project Area for certain period by notification, in relaxation of the provisions under this Section in the following manners:

(i) A person desiring supply of water to his fields through the notified canal shall apply to the Canal Officer to this effect in writing in the prescribed form;

(ii) several persons working jointly may also make application in this behalf;

(iii) the Canal Officer if he grants application so received, he shall give his permission in writing on application;

(iv) if the Canal Officer receives application from at least seventy-five per cent farmers of paddy fields of a local area, he may take such action as if application for supply of water from all the farmers of paddy fields of the said area have been received by him and may order supply of water to all the paddy fields of that area and every farmer of paddy fields of that area, who has even not made application for supply of water shall be liable to pay water rate:

Provided that the Canal Officer shall not for this purpose in computing percentage includes such paddy field which is too high to receive or too low to require irrigation. Farmers of such excluded lands shall not be liable to pay water rates".

1. Substituted by A.L.O. as State.

2. inserted. by Act 13 of 1966, and Substituted by Act 16 of 1982.

3. inserted. by Bihar Irrigation Laws (AmDated) Act 10 of 1988 published in Bihar Gazette (Ex. Ord.) dated 23.2.1988.

25B. Levy Of The Water Charge In Lieu Of Recovery Of Costs Or Levy Of Cess :-

1[Instead of recovering the cost of a sanctioned work together with the interest thereon as provided in Section 23 or recovering the cost already incurred in maintaining a sanctioned work and the amount calculated to be sufficient to cover the future cost of maintenance as provided in Section 24 or levying a cess provided in Section 23, the State Government may realise water rates for the supply of water made from a public irrigation work to land lying within assured irrigable command area from the occupiers thereof and the provisions of Section 75 to 79 of the Bengal Irrigation Act,

1876 (Bengal Act III of 1876) shall apply mutatis mutandis.]

1. inserted. by Act 13 of 1966, and Substituted by Act, 16 of 1982.

26. Payment Of Dues And Recovery Of Arrears :-

(1) All sums due from any person under this Act shall be paid by such person to the prescribed authority, in the prescribed manner and on the prescribed date.

(2) Any sum due under this Act shall, if it is not paid on or before the prescribed date, be recoverable from the person from whom it is due or from his successors-in-interest as a public demand payable to the Collector.

CHAPTER 10 MISCELLANEOUS

27. Works To Be Constructed And Maintained By Provincial Government :-

Works to be constructed and maintained by [Provincial]¹ Government

Every sanctioned work and every modification of any sanctioned work shall be constructed and maintained by the [Provincial]¹ Government.

1. Substituted by A.L.O. as State.

28. Provincial Government Or Its Officers Not Liable For Loss Or Damage :-

[Provincial]¹ Government or its officers not liable for loss or damage

No suit shall lie against the [Provincial]¹ Government or any servant of the Government serving in connection with the affairs of the Province in respect of-

(a) any loss caused by the failure or stoppage of water in any irrigation work or the failure or partial failure of any drainage or other work mentioned in sub-section (1) of Section 3 owing to any cause whatsoever, or

(b) any loss or damage caused by the overflow of water from any such work resulting directly or indirectly from any such work.

1. Substituted by A.L.O. as State.

29. Bar Of Suits In Civil Court In Respect Of Orders And Proceedings :-

No suit shall lie in any Civil Court to vary or set aside any order passed or proceeding taken under this Act or under any Rule made under this Act.

30. No Suits In Respect Of Acts Done In Good Faith :-

No suit or proceeding shall lie against any person in respect of anything in good faith done or purported to be done under this Act or under any Rule made under this Act.

31. Claim For Compensation To Include Claim For Every Loss :-

Every claim for compensation for any loss resulting from any act done or purported 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.

32. Power To Make Rules :-

(1) The [Provincial]¹ Government may, after previous publication, make Rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, the [Provincial]¹ Government may make Rules-

(a) to prescribe-

(i) the authority to whom objections referred to in clause (a) of sub-section (1) of Section 3 shall be presented and who shall enquire into such objections under sub-section (3) of that Section and make a report on the objections to the Provincial Government under Section 4; and

(ii) the manner of publication and the particulars that may be prescribed under the said sub-section;

(b) to prescribe the fee to be paid on an objection made under clause (a) of sub-section (1) of Section 3 or under Section 7;

(c) to prescribe the documents and the particulars referred to in Section 6;

(d) to prescribe the manner in which the particulars of any modification of a sanctioned work shall be published under Section

7;

(e) to prescribe the authority to whom appeals under sub-section (4) of Section 8 shall lie;

(f) to prescribe the manner in which a survey shall be made and a register prepared under sub-Section (1) and (2) of Section 18 or sub-section(2) of Section 19 and the particulars which such register shall contain;

(g) to prescribe the manner in which and the period for which a draft register shall be published under sub-section (3) of Section 18 or sub-section (1) of Section 20;

(h) to prescribe the authority to whom the Collector shall forward his recommendations under sub-section (4) of Section 18 or sub-section (2) of Section 20;

(i) to prescribe the manner in which the register shall be published under sub-section (4) of Section 18;

(j) to prescribe the authority to whom appeals under sub-section(3) of Section 20 shall lie;

(k) to prescribe the manner in which a register shall be finally published under Section 21;

(l) to prescribe the manner in which a notification issued under sub-section (1) of Section 22 shall be published and the period for which it shall be published under sub-section (2) of the said Section;

(m) to prescribe the manner in which objections made under sub-section (2) of Section 22 shall be considered;

(n) to prescribe the rate of interest, if any, under sub-section (1) of Section 23;

(o) to prescribe the rate of interest under sub-section (1) of Section 25;

(p) to prescribe the authority to whom, the manner in which and the date on which sums due from any person shall be paid under sub-section (1) of Section 26;

(q) to regulate the supply of water from any public irrigation work; and

(r) to regulate the grant of remission of cess when the supply of water from any public irrigation work is Insufficient for the lands entered in a register with reference to such work.

1. Substituted by A.L.O. as State.

33. Powers To Be Cumulative :-

The powers conferred by the Act are in addition to, and not in

derogation of, any powers which would be exercisable by the [Provincial]¹ Government or any officer of the Government apart from this Act.

1. Substituted by A.L.O. as State.

34. Repeal Of Bihar Act Ii Of 1939 :-

The Bihar Public Irrigation Work Act, 1939 (Bihar Act II of 1939), is hereby repealed.