

Kerala Command Areas Development Act, 1986

37 of 1986

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Kerala Command Areas Development Act, 1986

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An act to provide for the development of areas benefited by irrigation projects in the State of Kerala . WHEREAS it is expedient to make provision for comprehensive and systematic development of the areas in which lands benefited by irrigation projects are situated and for matters incidental thereto; BE it enacted in the Thirty-seventh Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Kerala command Areas Development Act, 1986.
- (2) It extends to the whole of the State of Kerala .
- (3) It shall be deemed to have come into force on the 11th day of January, 1985.

2. Definitions :-

In this Act unless the context otherwise requires,-

- (1) "Authority" means a Command Areas Development Authority constituted under section 3;
- (2) "command area", in relation to one or more irrigation project or projects means such area as may be notified by the Government, comprising, among other lands, lands benefited by such irrigation project or projects;
- (3) "community irrigation project" means any irrigation project irrigating an extent of ordinarily not less than 5 hectares and not more than 50 hectares executed by the Government or the Authority with the participation of farmers and managed by a registered association of beneficiary farmers.
- (4) "comprehensive development", in relation to a command area includes,-

- (a) bringing the land records up-to-date for land survey and mapping with aerial photographs;
 - (b) conservation of land and water;
 - (c) construction of field channels with related structures;
 - (d) construction of field drains with related structures;
 - (e) land shaping, including grading, levelling, bunding and the like.
 - (f) realignment of field boundaries and rectangularisation of plots under a pipe-outlet or under an adjacent pipe-outlet for efficient farm management;
 - (g) lining of field channels with suitable material to prevent seepage of water;
 - (h) construction and upgrading of ayacut roads with related structures;
 - (i) grouping of small holdings in a continuous area nearer the outlet and larger ones farther away;
 - (j) other ancillary measures to avoid wastage of water and prevent water-logging, salinity, alkalinity and the like;
 - (k) conjunctive use of surface and ground water for multiple cropping and proper utilisation of available water resources;
 - (l) allround development on the farm in the areas pertaining to agriculture, horticulture, sericulture, farm forestry, animal husbandry, fisheries, communication, agro-based industry and co-operation;
- (5) "Credit agency" means a banking company as defined in the Banking Regulation Act, 1949 (Central Act 10 of 1949) or a bank constituted or established under any law for the time being in force or a co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969);
- (6) "distribution system" includes,-
- (a) all main canals, branch canals, distributories, sub-distributories and channels between head works and field channels constructed for the supply and distribution of water for irrigation;
 - (b) all works, structures and appliances connected with the distribution of water for irrigation;
 - (c) all field channels and farm channels and related structures under a pipe-outlet;
- (7) "drainage system" includes,-
- (a) channels either natural or artificial for the discharge of waste or surplus water and all works connected therewith or ancillary thereto;
 - (b) all connecting drains and main drains to drain off surplus water;
 - (c) all field drains and related structures under a pipe-outlet;

- (8) "farm channel" means a small channel formed within a holding to spread the water evenly to ensure effective water use;
- (9) "field channel" means regulated water-course having a capacity to irrigate lands not ordinarily exceeding forty hectares constructed by the Government and maintained by the beneficiaries or by any other agency on their behalf to receive supply of water from a pipe-outlet;
- (10) "field drain" means a channel excavated and maintained by the landholder or by any other agency on his behalf to discharge waste or surplus water from the landholding under a pipe-outlet;
- (11) "ineligible person" means a person not eligible for ordinary land development loans and belonging to any of the following categories, namely:-
- (i) minors without guardians;
 - (ii) framers occupying Government lands which have not been assigned to them or Government lands assigned but which shall revert to Government in case the assignee mortgages the same;
 - (iii) farmers occupying lands alienated by women prior to the coming into force of the Hindu Succession Act, 1956 (Central Act 30 of 1956);
 - (iv) persons holding lands exceeding the ceiling area under the Kerala Land Reforms Act 1963 (1 of 1964);
 - (v) landholders unable to get loan from any credit agency because of overdues which are to be cleared before obtaining any loan for further capital investment; and
 - (vi) farmers who are unwilling to apply for land development loan;
- (12) "irrigation project" means a major, medium, minor or community irrigation project;
- (13) "irrigation system" includes distribution system and drainage system;
- (14) "irrigation system under a pipe-outlet" includes the field channels, field drains and farm channels with all the related structures thereto;
- (15) "land holder" means a person in actual possession of the land whether as an owner or as a tenant or sub-tenant or as a mortgagee in possession or as a licensee or otherwise and includes a person who is likely to be benefited by any development work under this Act and the expression "land-holding" shall be construed as land held by a landholder;
- (16) "major irrigation project" means an irrigation project capable of irrigating an area of ten thousand hectares or more;
- (17) "medium irrigation project" means an irrigation project

capable of irrigating an area below ten thousand hectares and above two thousand hectares;

(18) "member" means member of an Authority;

(19) "minor irrigation project" means any irrigation project other than a major or a medium irrigation project;

(20) "pipe-outlet" means an opening or contrivance constructed by the State Government in an irrigation system through which water is delivered at the periphery of a block of land the extent of which ordinarily does not exceed forty hectares;

(21) "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in the Constitution of India.

CHAPTER 2

ESTABLISHMENT AND CONSTITUTION OF AUTHORITIES

3. Constitution Of Authority :-

(1) As soon as may be after the commencement of this Act, the Government may, by notification in the Gazette, constitute an Authority for the development of each command area.

(2) The Authority shall be a body corporate by the name "Command Area Development Authority of.." having perpetual succession and common seal with power, subject to the provisions of this Act to acquire, hold and dispose of property both movable and immovable and to contract and shall by the said name sue and be sued.

4. Composition Of The Authority :-

The Authority shall consist of the following members, namely:-

(a) the Secretary to Government in charge of irrigation who shall be the Chairman;

(b) the Administrator of the Authority (Chief Executive Officer);

(c) the Water Management Specialist who shall be the Secretary;

(d) the Secretary to Government, Finance Department;

(e) two Members of the Legislative Assembly of the command area, to be nominated by the Government;

(f) ten farmers, of who one shall be a member of a Scheduled caste or a Scheduled Tribe in the command area, five from major and medium irrigation Projects and one each from the minor and community irrigation projects in such area, to be nominated by the Government;

(g) one representative of credit agencies, to be nominated by the

Government;

(h) the Director of Agriculture;

(i) the Chief Engineer of each of the concerned irrigation projects or where there is no Chief Engineer for the project, Superintending Engineer in charge of each of the concerned irrigation projects;

(j) the Registrar of Co-operative Societies;

(k) a representative of the Kerala Agricultural University , to be nominated by the Government;

(l) the Collectors of the Revenue Districts in which the command area lies;

(m) the Director of Economics and Statistics;

(n) the Executive Director, Centre for Water Resources Development and Management, Calicut ;

(o) the Director, Ground Water Department;

(p) the Chairperson of the District Planning Committee in the Command Area region.)

5. Disqualification For Membership Of Authority :-

(1) A person shall be disqualified for being nominated as, and for being, a member-

(a) if he has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Government, involves moral turpitude; or

(b) if he is of unsound mind and is so declared by a competent court; or

(c) if he is an undischarged insolvent; or

(d) if he has been removed or dismissed from the service of the Central Government or the Government of Kerala or a Corporation owned or controlled by the Central Government or the Government of Kerala or from the membership of the Authority; or

(e) if he has directly or indirectly, by himself or by his partner, any share or interest in any work done by the order of the Authority or in any contract or employment with or under or by or on behalf of the authority;

(f) if he is employed as a legal practitioner on behalf of the Authority or accepts employment as legal practitioner against the Authority.

(2) A person shall not be disqualified under clause (e) of subsection (1) or be deemed to have any share or interest in any contract or employment within the meaning of the said clause, by reason only of his having a share or interest in any newspaper in

which any advertisement relating to the affairs of the authority is inserted.

6. Terms Of Office And Conditions Of Service :-

(1) Notwithstanding anything contained in section 7, the nominated members shall hold office during the pleasure of the Government and their conditions of service shall be such as may be prescribed by rules.

(2) Subject to the provisions of sub-section (1), the nominated members shall hold office for three years from the date of nomination, but they shall be eligible for re-nomination.

(3) Any nominated member may at any time resign his office by a letter of resignation addressed to the Government:

Provided that the resignation shall not take effect until it is accepted.

7. Removal Of Member :-

(1) The Government may remove a nominated, member, if he,-

(a) becomes subject to any of the disqualifications specified in section 5; or

(b) refuses to act or becomes incapable of acting; or

(c) without obtaining leave of absence from the Authority, absents from three consecutive meetings of the Authority; or

(d) in the opinion of the Government, has so abused his position as to render his continuance as member detrimental to the interest of the Authority.

(2) No order of removal of a nominated member under sub-section (1) shall be made unless such member has been given an opportunity of making representation against his removal.

8. Casual Vacancies :-

(1) Any casual vacancy caused by resignation of a member or by any other reason may be filled by the Government by nomination and the person so nominated shall hold office for the remaining period for which the member in whose place he is nominated would have held office.

(2) No act or proceeding of the Authority shall be invalidated merely by reason of any vacancy in, or any defect in the constitution of, the Authority or any irregularity in the procedure of the Authority not affecting the merits of the case.

9. Meetings Of Authority :-

(1) The Authority shall meet at least once in three months ordinarily at the office of the Authority or at such other place as the Chairman may decide and shall, subject to the provisions of sub-sections (2), (3) and (4), observe such procedure in regard to the transaction of business at its meetings as may be prescribed by regulations.

(2) The Chairman or in his absence any member chosen by the members present from among themselves shall preside at a meeting of the Authority.

(3) If any member, being the representative of the Kerala, Agricultural University, or an officer of the Government (other than the Chairman of the authority), is unable to attend any meeting of the Authority, he may under intimation to the Chairman authorise his immediate subordinate officer in writing to attend the meeting.

(4) All question at a meeting of the Authority shall be decided by a majority of the votes of the members present and voting and, in the case of an equality of votes, the Chairman or, in his absence, the member presiding shall have a second or casting vote.

(5) The quorum for a meeting of the authority shall be five.

(6) The Authority may associate with itself, in such manner and for such purposes as may be prescribed by regulations, any person whose assistance or advice it may desire in the performance of any of its functions under the Act, and the person so associated shall have the right to take part in the meetings of the authority relating to that purpose but shall not be entitled to vote.

CHAPTER 3

FUNCTIONS OF AUTHORITY

10. Functions Of Authority :-

The authority shall have the following functions, namely:-

- (a) formulation and implementation of schemes for the comprehensive development of the command area;
- (b) Evolve equitable water distribution policy for the command area and ensure proper maintenance of the irrigation system;
- (c) prevention of land erosion and water-logging;
- (d) improvement of soil fertility and regulation of cropping pattern;
- (e) ensuring the efficient maintenance of field channels and field drains by the farmers within the command area;
- (f) localisation and delocalisation of lands for various crops;

- (g) ensuring supplies of all inputs and services;
- (h) promotion and setting up of rural growth centres for integrated development of the command area;
- (i) development of marketing, processing and storage facilities and adequate communication system;
- (j) arranging for credit facilities to the farmers and artisans;
- (k) organising agricultural co-operatives and associations;
- (l) construction of field channels and connected drains;
- (m) ensuring the formation of farm channels and drains and also necessary land development works within individual holdings;
- (n) borrowing and lending money necessary for the due discharge of its functions;
- (o) conjunctive use of surface and ground water;
- (p) setting up agricultural demonstration farms and promoting extension activities;
- (q) ensuring that the beneficiaries form users associations and attend to equitable water distribution in each unit referred to in section 40;
- (r) acquisition, possession or disposal of property, both movable and immovable, for the development of the command area; and
- (s) such other functions, not inconsistent with the provisions of the Act, as may be prescribed by rules.

CHAPTER 4

ADMINISTRATOR AND OTHER OFFICERS

11. Administrator And Other Officers :-

(1) The Government shall, by notification in the Gazette, appoint the following officers to assist the Authority in the discharge of its functions under this Act, namely:-

- (a) an officer of the State Government, of or above the grade of Joint Secretary to Government or Additional Director of Agriculture or Additional Registrar of Co-operative Societies or Superintending Engineer in the Public Works Department, as the Administrator of the Authority who shall, subject to the general superintendence and control of the Authority, be the Chief Executive Officer of the Authority and shall exercise and discharge such powers and duties as may be prescribed by rules or delegated to him by the Authority;
- (b) an officer of the Agriculture Department, not below the rank of Joint Director of Agriculture, as the Development Officer (Agriculture);

- (c) an officer of the Public Works Department, not below the rank of a Superintending Engineer, as the Development Officer (Engineering);
 - (d) an officer of the Co-operative Department, not below the rank of Joint Registrar of Co-operative Societies, as the Development Officer (Co-operation);
 - (e) an officer of the Soil Conservation Unit of the Agriculture Department, not below the rank of the Joint Director, as the Development Officer (Soil Conservation);
 - (f) a Chartered Accountant with sufficient experience or an officer from the establishment of the Comptroller and Auditor General of India not below the rank of Deputy Accountant General or an officer of the Finance Department not below the rank of a Deputy Secretary, as the Chief Accounts Officer;
 - (g) an officer of the Department of Economics and Statistics, not below the rank of Deputy Director, as the Evaluation Officer; and
 - (h) an officer not below the rank of a Superintending Engineer of Public Works Department with sufficient experience in irrigation projects as Water Management Specialist.
- (2) The Development Officers, the Chief Accounts Officer and the Evaluation Officer shall be subordinate to the Administrator and shall exercise such powers and discharge such duties as may be assigned to them by the Administrator.
- (3) Subject to such rules as may be prescribed, the Authority may appoint such other officers and employees as it may deem necessary for the efficient discharge of its functions.
- (4) The terms and conditions of service of the officers specified in sub-section (1) and the officers and employees appointed under sub-section (3) shall be such as may be prescribed by rules.

CHAPTER 5

SCHEMES

12. Preparation Of Scheme :-

- (1) Every Authority shall prepare a scheme for the comprehensive development of the command area or any phase thereof in such manner as may be prescribed by rules.
- (2) Any scheme prepared under sub-section (1) shall, set out the following matters, namely:-
- (a) area proposed to be covered under the scheme;
 - (b) the work or works to be executed;
 - (c) the phasing of the scheme, both area-wise and work-wise;

- (d) the sketch plan of the area proposed to be covered under the scheme;
- (e) the reallocation or the realignment, if any, of a pipe-outlet or the existing irrigation system;
- (f) the survey numbers covered;
- (g) field boundaries as existing and as proposed;
- (h) the compensation to be given to or recovered from the land-holders;
- (i) the cost involved in the scheme as well as in each phase thereof;
- (j) the charges or dues to be levied in the beneficiaries; and
- (k) such other matters and particulars as may be prescribed by rules.

(3) The authority may also, from time to time, make and take up any new or additional schemes in the command area.

[(3a) The Authority shall, while framing its schemes, consider the development plans of the concerned Local Self Government Institutions and while implementing the schemes, the concerned local self Government Institutions shall also be allowed to participate as far as possible.]

(4) The scheme shall provide for the payment of compensation to any affected land-holder for the reduction in the extent of his holding consequent on the implementation of the scheme and for recovery of compensation from any other land-holder who is benefited in getting more extent of land under the scheme.

(5) The amount of compensation payable under sub-section (4) shall be determined in accordance with the provisions of the law relating to land acquisition for the time being in force:

Provided that nothing in this sub-section shall preclude the determination of the amount of compensation by agreement with the benefited or affected land-holder and thereupon the amount so determined shall be the amount to be recovered from or to be paid to such benefited or affected land-holder, as the case may be.

13. Publication Of Scheme :-

(1) When a scheme has been prepared under section 12, the Authority shall publish the same in the Gazette along with a notice inviting objections and suggestions, if any, to the scheme from all persons likely to be affected there by before the date specified in the notice.

(2) The notice and the scheme shall also be published in the Village

Officers, Panchayat Offices, Municipal Offices, Taluk Offices, the Offices of the District Collectors of the Districts in which the lands proposed to be included in the scheme are situated and the office of the Authority.

14. Sanction Of Scheme :-

(1) The Authority shall, after considering the objections, if any, received in pursuance of the notice under section 13 and after making such modifications as it deems necessary, sanction the scheme.

(2) The scheme as sanctioned under sub-section (1) shall be published in the Gazette and in the offices mentioned in sub-section (2) of section 13.

15. Consequences Of Sanction Of Scheme :-

Upon the sanction of the scheme or any phase thereof by the Authority under section 14 (hereinafter called as "the approved scheme") the following consequences shall ensure, namely:-

(1) the Authority may require any department of the Government or any statutory or corporate body controlled by the Government, functioning within the area of operation of the approved scheme, to follow such directions in respect of such matters as are specified in the approved scheme;

(2) all development plans relating to land development drawn by any department of the Government or any local or statutory authority or body or any corporation controlled by the Government shall be intimated to the Authority and shall be executed with its approval and subject to such modifications or changes, if any, as the Authority may suggest and also subject to such directions as the Authority may give;

(3) the Authority shall be deemed to be empowered to take all necessary action for the implementation of the approved scheme including levy of cost of works and other charges and to give directions to land-holders with regard to the following matters, namely:-

(a) the formation of farm channels and drains and also necessary land development works within individual holdings;

(b) the crops which are to be raised and the rotation of such crops;

(c) provision for drainage in the farm;

(d) distance of wells, tube-wells, pumps and other sources of irrigation from the distribution system;

- (e) erection and removal of fences over lands;
- (f) submission of returns within such time and in such manner as may be prescribed by regulations, containing a true and accurate statement regarding the following matters, namely:-
 - (i) the area of land cultivated by the land-holder, the classification of such land, his interest therein and encumbrances on such land, if any;
 - (ii) the nature and quantity of agricultural produces raised by him;
 - (g) such other matters as may be prescribed by regulations.

16. Execution Of Scheme :-

(1) Upon the sanction of the scheme, the Authority may execute the scheme through such agency as it deems fit:

Provided that in the case of the works mentioned in sub-clause (a) of clause (3) of section 15 and specified in the scheme, the Authority may require the land-holder to intimate it within one month of the publication of the scheme under section 14 whether he desires to carry out the work according to the approved scheme by himself and, if so, his agreement to complete the work within the time fixed by the Authority, and any land-holder who carries out such works shall also be liable to pay proportionate cost of survey, supervision and any other amount as may be determined by the Authority.

(2) When the land-holder does not desire to carry out or fails to carry out the works referred to in the proviso to sub-section (1), the Authority shall carry out or get carried out such works and-

(a) such works so carried out shall be deemed to have been done with the consent of the land-holder for whose benefit they are intended;

(b) subject to such rules as may be made in this behalf the proportionate cost of work including survey and supervision and any other amount as may be certified by the Authority shall be a charge on the land on which the works have been carried out, and the provisions of sub-section (3) of section 26 shall mutatis mutandis , apply for recovery thereof.

(3) In order to provide for physical planning, the Development Officers referred to in section 11 shall have the power to effect realignment of field boundaries and in the process, to alter the area of the land held by the land-holders in the command area or any other adjoining area.

(4) The realignment and changes in the land holdings made in

pursuance of the powers conferred by sub-section (3) shall, subject to the payment or recovery of compensation, as the case may be, contemplated in sub-section (4) of section 12, have effect notwithstanding anything inconsistent therewith contained in any other enactment and shall be duly mutated in the record of rights.

(5) Whether the holder of any land included in the scheme intimates the Authority under the proviso to sub-section (1) that he does not desire to carry out the work by himself or does not intimate the Authority that he desire to carry our the work by himself within the period specified in the proviso to sub-section (1), such holder shall deposit with the Authority the amount required for the works mentioned in sub-clause (a) of clause (3) of section 15 as determined by the Authority, and the Authority shall carry out the works under the scheme by itself or through an agency decided by the Authority.

CHAPTER 6

ASSOCIATION OF FARMERS AND COMMITTEES

17. Beneficiary Farmers Association :-

(1) Farmers benefited by one or more pipe outlets in a major, medium or minor irrigation project may form an association which may be registered under the Societies Registration Act for the time being in force.

(2) The Authority may, subject to its control, entrust with the Beneficiary Farmers Association referred to in sub-section (1) all or any of the following functions, namely:-

(a) the construction, maintenance, repair and upkeep of the irrigation system under the pipe outlet at the expenses of the land holders;

(b) to carry out, obligations on behalf of land holders, if the land holders fail to do so, and recover expenses thereof from them in such manner as may be prescribed by rules;

(c) to regulate supply of water for irrigation to each land holding by turns or rotation according to the time schedule and in the manner approved by the authority;

(d) to regulate and control water supply for irrigation by volumetric measurement in the manner specified by the authority;

(e) to prevent unauthorised and unlawful use of water;

(f) to supervise the irrigation system with a view to preventing waste of water and damage to the system;

(g) to perform such other functions as may be specified by the

Government from time to time.

(3) The Beneficiary Farmers Association shall be responsible to perform the functions entrusted to it under sub-section (2).

(4) If the Beneficiary Farmers Association fails to carry out any of the sections entrusted to it under this Act, the Authority may, after notice to the association carry out such function and recover the costs thereof from the beneficiaries.

18. Canal Committee :-

(1) The Authority may constitute a Canal Committee for each branch canal of a major, medium or minor irrigation project consisting of the following members, namely:-

- (i) an officer of the Irrigation Department not below the rank of an Assistant Engineer in charge of the canal, who shall be the convener;
- (ii) an officer each from the Agriculture Department and the Co-operative Department;
- (iii) the Presidents of each of the Beneficiary Farmers Associations for the pipe outlets of the canal;
- (iv) one representative of the credit agency;
- (v) such other members not exceeding five.

(2) Subject to the control of the Authority, the Committee shall be responsible to perform the following functions, namely;-

- (a) equitable distribution of water;
- (b) uniform agricultural practices in branch canal ayacut; and
- (c) to co-ordinate the functions of the Beneficiary Farmers Associations.

19. Project Committee :-

(1) The Government may constitute a Project committee for each major, medium or minor irrigation project, consisting of the following members, namely:-

- (i) an officer of the Irrigation Department in charge of the project who shall be the convener;
- (ii) an officer each from the Agriculture Department and Co-operative Department;
- (iii) one representative each of the Canal Committees;
- (iv) Members of the Legislative Assembly and Members of Parliament representing the project area;
- [(iv a) five presidents of village panchayat in the command area region nominated by the Government.]

(v) such other members not exceeding five.

(2) Subject to such directions as may be given by the authority, the Committee shall perform the following functions, namely:-

(a) to co-ordinate the functions of the Canal Committees;

(b) to ensure equitable supply of water to different areas; and

(c) such other functions as may be prescribed by rules.

20. Obligation Of Land Holders In Irrigation Projects Other Than Community Irrigation Projects, Every Land Holder In An Irrigation Project, Other Than Community Irrigation Project, Shall Be Responsible :-

(i) to maintain the irrigation system under the irrigation project in good repair and to pay the proportionate expenses for the constitution, maintenance, repair and up keep of the irrigation system as determined by the Association;

(ii) to use water for irrigation economically and without wastage;

(iii) to take such precautionary and preventive measures as may be necessary so as not to cause damage to the adjacent land holdings.

CHAPTER 7

COMMUNITY IRRIGATION PROJECTS

21. Community Irrigation Projects :-

(1) The Government or the Authority may, for the purposes of this Act, transfer under an agreement possession of a community irrigation project to a Registered Association of Farmers benefited by such project.

(2) Subject to the control of the Government or the Authority Registered Association of Farmers of the community irrigation project referred to in sub-section (1) shall be responsible to perform the following functions, namely:-

(a) the operation, maintenance, repair and up-keep of the project under their control at the expense of the land holders;

(b) to carry out obligations on behalf of the land holders, if the land holders fail to do so, and to recover the costs from them;

(c) to regulate supply of water for irrigation to each land holding by turn or by rotation according to time schedule approved by the association;

(d) to prevent unauthorised and unlawful use of water

(e) to perform such other functions as the Government may specify from time to time;

(3) If the Registered Association of farmers fails to carry out any of

the functions entrusted to it under this Act, Government or the Authority may, after notice to the Association, resume possession of the project, carry out such function and recover the loss, if any, from the Association and its members.

Explanation.-"Registered Association" means an Association registered under the Societies Registration Act for the time being in force.

22. Obligation Of Land Holders In Community Irrigation Project :-

Every land holder in a community irrigation project shall be responsible-

- (i) to maintain the irrigation system under the community irrigation project in good repair and to pay the proportionate expenses for operation and maintenance as determined by the Association;
- (ii) to use water for irrigation economically and without wastage;
- (iii) to take such precautionary and preventive measures as may be necessary so as not to cause damage to the adjacent land holdings.

CHAPTER 8

LOCALISATION OF COMMAND AREAS AND REGULATION ON CROPPING PATTERN

23. Power To Specify Principles Of Localisation :-

(1) The Government may, having regard to the resources of land and water, nature of soil, climate and other technical considerations, by order, specify for each command area, the principles of localisation for the purpose of irrigation.

(2) The Government may, having regard to the advancement in technology of land and water management and other agronomic practices, by order, alter, from time to time, the principles of localisation so specified for any command area.

24. Classification Of Lands For Raising Different Crops According To Availability Of Water :-

(1) Subject to such directions as may be issued from time to time by the Government, the Authority or any officer authorised by the Authority may, in any year, having regard to the quantity of water available in any irrigation system within its jurisdiction, by order, classify, within such time and in such manner as may be prescribed by rules, land included in the irrigation system under a pipe-outlet for the purpose of raising such kind of crops under such pipe-outlet

as may be specified in the order to regulate the supply of water for irrigation.

(2) Whenever the Authority is satisfied that for the better cultivation of land and the optimum utilisation of water resources of an irrigation system under a pipe-outlet or for accelerated land development or for any other reasons it is expedient in public interest so to do, the Authority may, by notification in the Gazette, specify the cropping pattern, the period of sowing, the duration of crop and the kinds of crops that shall not be grown on any land under such irrigation system under a pipe-outlet.

(3) On publication of a notification under sub-section (2) no person shall grow or allow to grow any prohibited crop on any land under the irrigation system under a pipe-outlet and no person shall sow or plant or allow the sowing or planting of any other crop at any time other than during the period, or allow such crop to remain beyond the duration, specified in respect thereof in such notification

25. Stoppage Of Water Supply :-

The supply of water to any land which is entitled to such supply under section 23 or section 24 shall not be stopped except-

- (a) when and so long as it is necessary to stop such supply for the purpose of executing any work ordered by the Authority;
- (b) whenever and so long as any field channel by which such supply is received, is not maintained in such repair as to prevent the wasteful escape of water thereof;
- (c) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of land-holders entitled to water;
- (d) whenever and so long as it may be necessary to do so in order to prevent the wastage or the misuse of water;
- (e) within the periods fixed from time to time by the Authority, of which due notice shall be given; and
- (f) whenever there is diminution in the supply of water in the irrigation work due to any natural or seasonal causes and so long as it is necessary to do so.

CHAPTER 9

CREDIT FACILITIES

26. Credit Facilities For Ineligible Persons For Development Of Lands :-

- (1) For taking up land development and other works mentioned in

sub-clause (a) of clause (3) of section 15 in the lands in the possession of ineligible persons, the Authority may raise loans on their behalf from a credit agency on such terms and conditions as may be mutually agreed upon between the Authority and the credit agency concerned for the purpose of meeting the cost of carrying out such development as may be provided for in the scheme:

Provided that the loans so raised shall be deemed to have been raised with the consent of the ineligible persons concerned.

Explanation.- Subject to such rules as may be made in this behalf, the cost of land development for the purpose of this section includes such cost of survey, supervision and any other amount as may be determined by the Authority.

(2) Notwithstanding anything contained in any law for the time being in force, the loan referred to in sub-section (1) shall be a first charge on the lands in the possession of the ineligible persons concerned.

(3) The amount to be recovered from each ineligible person shall be the entire cost of work carried out in his land and the same shall be re-covered with interest at such rate and in such number of annual instalments as may be fixed by the Authority and if not recovered in the usual course shall be recovered as arrears of public revenue due on land.

(4) The Authority shall be liable to repay the loan borrowed under sub-section (1) from the credit agency in accordance with the terms and conditions of repayment as agreed upon at the time of borrowing.

27. Alterations Of Extent Or Boundaries Of Mortgaged Land Under The Approved Schemes For Land Development :-

Where on the implementation of the scheme for comprehensive land development, the extent or the boundaries of any mortgaged land gets altered such altered land shall alone form the substituted security for the loan.

CHAPTER 10

FINANCE, ACCOUNTS AND AUDIT

28. Funds Of Authority :-

(1) The Authority shall have and maintain a separate fund to be kept in a Government Treasury or a Commercial Bank to which shall be credited,-

(a) all moneys received by the Authority from the Government by

way of grants, loans, advances or otherwise;

(b) grant-in-aid and loans made available by the Central Government for development activities in the command area under the Central Sector Schemes;

(c) any other funds provided for taking up any of the various development activities for specified programmes;

(d) loans raised by the Authority from credit agencies; and

(e) all other funds received by the Authority from any other source.

(2) The fund shall be utilised for the purpose of this Act in such manner as may be prescribed by rules.

29. Budget Of Authority :-

The Authority shall prepare in such form and at such time every year as may be prescribed by rules, a budget for the next financial year showing estimated receipts and expenditure of the Authority in respect of the administration of this Act, and shall forward to the Government or such other authority as may be prescribed by rules, such number of copies thereof as may be so prescribed.

30. Accounts And Audit :-

(1) The Authority shall maintain true and proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be prescribed by rules.

(2) The accounts of the Authority shall be subject to audit annually by such auditor as the Government may prescribe and the accounts as certified by such auditor together with the audit report thereof shall be forwarded annually to the Government.

(3) The Government shall cause the accounts as certified by such auditor together with the audit report thereof received by it under sub-section (2) to be laid, as soon as may be after it is received, before the Legislative Assembly.

31. Annual Report :-

The Authority shall prepare for every year a report of its activities under this Act during that year and submit the report to the Government in such form and on or before such date as may be prescribed by rules, and the Government shall cause the same to be laid before the Legislative Assembly.

32. Penalties :-

(1) Whoever, voluntarily or without proper authority,-

(a) damages, alters, enlarges, or obstructs any irrigation system under a pipe-outlet;

(b) interferes with, increases, or diminishes the water supply in, or the flow of water from, through, over or under any irrigation system under a pipe-outlet;

(c) being responsible for maintenance of the irrigation system under a pipe-outlet, neglects to take proper precautions for the prevention of wastage of the water thereof or interferes with the authorised distribution of water there from or uses water in an unauthorised manner or in such manner as to cause damage to the adjacent land-holding;

(d) corrupts or fouls the water of any irrigation system under a pipe-outlet so as to render it less fit for the purpose for which it is ordinarily used;

(e) destroys, defaces or removes any level marks or watergauge or any other work or sign fixed by the Authority or a public servant;

(f) opens, shuts or obstructs or attempts to open, shut or obstruct, any sluices, outlet or any other similar contrivance in any irrigation system under a pipe-outlet or drainage system;

(g) uses water unlawfully or unauthorisedly or agrees or allow to grow any crop in contravention of any notification under this Act, shall, on conviction, be punished with imprisonment for a term which may extend to two years or with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees, or with both:

Provided that in the case of a continuing offence, a fine not exceeding one hundred rupees per day shall also be imposed during the period of the continuance of the offence.

(2) The Authority shall have the power to remove the obstruction or repair the damage to structure in the irrigation system and the cost thereof shall be recoverable as arrears of public revenue due on land from the persons specified in sub-section (1).

33. Liability When Person Using Water Unauthorisedly Cannot Be Found :-

(1) If water supplied through a field channel is used in any unauthorised manner and if the person by whose act or negligence

such use has occurred cannot be found after such inquiry as the Authority may deem sufficient, the Authority shall, after giving not less than one months notice to the holders and occupiers of all lands benefited thereby and after hearing their representations, if any, make an order for the recovery of such charges as may be prescribed by regulations for such use from such holders and occupiers in such proportion as it may deem fit.

(2) All charges for the unauthorised use of water determined under sub-section (1) shall be recoverable as arrears of public revenue due on land.

34. Abetment Of Offence :-

Whoever abets any offence punishable by or under this Act or attempts to commit any such offence, shall be punished with the penalty provided by this Act for committing such offence.

35. Punishment Under Other Laws Not Barred :-

Nothing in this Act shall prevent any person from being prosecuted and punished under any other law for the time being in force for any act or omission made punishable by or under this Act:

Provided that no person shall be prosecuted and punished for the same offence more than once.

36. Offences Under This Act To Be Cognizable :-

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), all offences under this Act shall be cognizable.

37. Power To Remove And Take Into Custody Person Obstructing :-

Any officer or authority in charge of or employed in respect of any irrigation system under pipe-outlet may remove from the land or any building thereon or take into custody without a warrant and forthwith hand over to a police officer-in-charge of the nearest police station, any person, who in his views,-

(a) wilfully damages, alters, enlarges or obstructs any irrigation system under a pipe-outlet; or

(b) without proper authority interferes with the supply or flow of water in or from any irrigation system under a pipe-outlet so as to endang damage or render less useful such irrigation system under a

pipe-outlet:

Provided that the person so taken into custody shall be produced before the nearest Magistrate within a period of twenty-four hours excluding the time necessary for the journey from the place of arrest to the court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

38. Payment Of Fine As Reward To Informant :-

(1) Whenever any person is sentenced to fine under this Act, the court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms a part, may direct that the whole or part of such fine may be paid by way of reward to any person who gave information leading to the detection of such offence or to the conviction of the offender.

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

39. Composition Of Offence :-

(1) Any officer authorised by the Authority may accept from any person who has committed, or in respect of whom a reasonable belief can be inferred that he has committed an offence punishable under this Act a sum of money not exceeding two hundred rupees by way of composition of such offence.

(2) On payment of such sum of money the said person if in custody shall be released and no further proceedings shall be taken against him in regard to the offence so compounded.

CHAPTER 12

MISCELLANEOUS

40. Formation Of Units :-

All lands comprised in a command area under a pipe-outlet shall normally form a single unit but in exceptional cases the land comprised in the command area under two or more pipe-outlets shall also form a single unit for the purpose of,-

41. Power To Enter, Survey Etc. :-

Any Development Officer or any other officer authorised by the Authority in this behalf, with or without assistance of workmen, may-

(a) enter upon any land in the command area of an irrigation system under a pipe-outlet or lands adjacent thereto and undertake survey or take (*)els thereon for preparing a scheme for systematic land development;

(b) dig and bore into top-soil or sub-soil and collect soil samples for technical investigation;

(c) make and set up suitable land marks and level marks for the said purposes; and

(d) do all other acts necessary for the proper conduct of any inquiry or investigation relating to any existing or proposed scheme for comprehensive land development and allied works:

Provided that if the Development Officer proposes to enter into any enclosed premises, he shall give the occupier of such enclosed premises at least a days notice in writing of his intention to do so, if the occupier denies entry or oral request,

42. Charge Leviable :-

The Authority may levy and collect charges for the maintenance and repairs of irrigation channels or drain channels from the beneficiaries where maintenance of such channels is doe by the authority.

43. Fees For Service :-

The Authority may charge such fees as may be prescribed by rules for rendering any service to any person.

44. Members Of Authority And Members Of Staff Of Authority To Be Public Servants :-

Members of the Authority and the members of the staff of the Authority shall, while acting or purporting to act in pursuance of any of the provision of this Act or the rules or regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

45. Protection Of Action Taken In Good Faith :-

No suit, prosecution or other legal proceedings shall lie against the Government, the Authority or the Chairman or any other member

of the Authority or any officer or servant of the Government or of the Authority for anything which is in good faith done or purported or intended to be done in pursuance of this Act or any rule or regulation made thereunder.

46. Recovery Of Dues As Arrears Of Public Revenue Due On Land :-

If any sum due to be paid by any landholder under this Act has not been paid within the time prescribed for such payment, it shall be recoverable with interest at such rates as may be prescribed by rules in the same manner as arrears of public revenue due on land.

47. Offences By Companies :-

(1) Where an offence punishable under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible, to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect to the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation .-For the purposes of this section,-

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

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

48. Inspection Of Records And Accounts Of The Association :-

The Authority or an officer empowered by it may, at any time, examine the records and accounts of any association referred to in

this Act and may give appropriate directions to such association as may be necessary for the efficient discharge of its functions and the association shall carry out such directions.

49. Bar Of Jurisdiction :-

No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Government or the Authority or any officer is empowered by or under this Act to do or determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

50. Power To Summon And Examine Witnesses :-

Any officer empowered under this Act to conduct any enquiry may summon and examine witnesses and cause the production of documents as may be deemed necessary.

51. Revision :-

(1) The Government may, either suo motu at any time or on application made within such period as may be prescribed by rules by any person interested, call for and examine the records of any decision or order passed or proceeding taken under this Act by any Authority or officer subordinate to it for the purpose of satisfying themselves as to the legality or propriety or regularity of such decision or order or proceeding and if, in any case, it appears to them that any such decision, order or proceeding should be modified, annulled, reversed or remitted for reconsideration, it may pass an order accordingly:

Provided that no order adversely affecting any person shall be passed under this sub-section unless such person has been given an opportunity of making a representation.

(2) The Government may stay the execution of any such decision, order or proceeding pending the exercise of their powers under sub-section (1).

52. Power To Make Rules :-

(1) The Government may, after previous publication, by notification in the Gazette, make rules to carry out all or any of the purposes of this Act.

(2) A rule under this Act may be made with retrospective effect and

when a rule is so made the reason for making the rule with retrospective effect shall be specified in a statement laid before the Legislative Assembly.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Any person contravening any rule made under this Act, for the contravention of which no special penalty is provided in this Act, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees or with both:

Provided that no prosecution under this sub-section shall be instituted without the previous sanction of the Government or an officer of the Government authorised by them in this behalf.

53. Regulations :-

Every Authority may, with the previous approval of the State Government, after previous publication, by notification in the Gazette, make regulation not inconsistent with this Act and the rules made thereunder, for enabling it to discharge its function under this Act.

54. Directions By Government :-

In the discharge of its functions, every Authority shall be guided by such directions and instructions as may be given to it by the Government.

55. Act To Over-Ride Other Laws :-

(1) The provisions of this Act and rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom, usage or contract or decree or order of a court or other authority.

(2) For the removal of doubts it is hereby declared that the provisions of the Kerala Land Development Act, 1964 (17 of 1964) and the rules made thereunder shall apply to the extent such provisions are not inconsistent with the provisions of this Act.

56. Power To Remove Difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order make such provisions not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be issued under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order issued under this section shall be laid before the Legislative Assembly and the provisions of sub-section (2) of section 52, shall apply in respect of an order made under this Act.

57. Repeal And Saving :-

(1) The Kerala command Areas Development Ordinance, 1986 (64 of 1986) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Act.