

Irrigation Laws (Amendment) Act, 1964

47 of 1965

[01 December 1965]

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PREAMBLE

An Act further to amend the laws relating to irrigation in force in the State of Maharashtra.

WHEREAS it is found that the full irrigation potential available by the various projects and works undertaken by the Government, is not being taken advantage of by cultivators in the State;

AND WHEREAS it is found that sometimes a few cultivators, who do not want water and will not allow water-courses to pass through their lands, hold up or make ineffective or prevent the irrigation of other fields for which cultivators require water, and in this manner are preventing the irrigation of large areas and tracts;

AND WHEREAS this has resulted in the progress of agriculture

being retarded, to the detriment of the general economic situation in the State, and resulting in particulars in the shortage of foods, and other agricultural products;

AND WHEREAS it is now necessary in the interest of the general public, to provide that in those areas where cultivators are not taking advantage of the irrigation potential provided or available, or who are prevented from so taking advantage as aforesaid, schemes should be framed for the compulsory construction of water-courses in those areas, so as to provide for the proper irrigation of the whole of the areas, and also provide that persons through whose lands water-courses are so constructed maintain them and keep them in good repair;

AND WHEREAS for the aforesaid purposes, and matters connected therewith, it is necessary further to amend the laws relating to irrigation in force in the State; It is hereby enacted in the Fifteenth Year of the Republic of India as follows :-

NOTES

Object.-It was noticed that cultivators did not take full advantage of irrigation potential available by the various projects. Sometimes, cultivators who did not want water themselves, prevented the irrigation of other fields by refusing to allow water-courses to pass through fields. It was considered that in the interests of the general public in areas where cultivators do not take advantage of the irrigation projects or were prevented from taking advantage thereof, schemes should be framed for the compulsory construction of watercourses and for their maintenance in those areas, so as to provide for the proper irrigation of those areas, to obviate the shortage of agricultural production especially for food, in the State. This Act is designed to amend the laws relating to irrigation in force in the State for securing these intentions. - vide Statement of Objects and Reasons.

The Irrigation Laws (Amendment) Act, 1964 (Mah. XLVII of 1965); provides for the acquisition of land for purposes of compulsory construction of watercourses, and provides for compensation which was somewhat less than the market value awarded under the Land Acquisition Act, 1894. Doubts had arisen that the provision for the payment of compensation made in that Act might come within the ambit of the proviso to clause (1), Article 31A of the Constitution of India. It was, therefore, considered advisable to provide for compensation at market value. The Act is intended to secure this object.- vide Statement of Objects and Reasons.- Mah. 38 of 1966.

1 . For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1964 Part V, Extra, pp, 276-77.

1. Short Title And Commencement :-

(1) This Act may be called the Irrigation Laws (Amendment) Act, 1964.

(2) It shall come into force on such date¹ as the State Government may, by notification in the Official Gazette appoint in this behalf.

1 . 15th day of August, 1967 [vide G. N., I. & P.D., No. BIA. 1166/17463-I(5), dated 5th June, 1967]

2. Amendment Of Section 24 Of Bom. Vii Of 1879 :-

(a) Section 24 of the Bombay Irrigation Act, 1879 (hereinafter referred to as the Bombay Irrigation Act, shall be renumbered as sub-section (1) of that section, and after sub-section (1) so renumbered, the following new sub-section shall be inserted, namely :

"(2) No water-course shall be altered except with the permission in writing of the Canal Officer especially empowered in this behalf."

(b) In the marginal note, after the word "purpose" the words "and prohibition against alteration of water-course" shall be added.

3. Insertion Of New Sections 25Aa To 25Ah In Bom. Vii Of 1879 :-

After section 25 of the Bombay Irrigation Act, the following new heading and sections shall be inserted, namely:-

"Schemes for Compulsory Construction of Water-courses.

25AA. Scheme for compulsory construction of water-courses.- (1) Where a Canal Officer especially authorised in this behalf by the State Government (hereinafter referred to as the "authorised Canal Officer") is of opinion that although water for irrigation is available in any area, but nevertheless lands capable of being irrigated therefrom are not being irrigated, or are being prevented from being irrigated for any reason, and he is further of opinion that in the interest of the general public it is necessary so to do, he may prepare a draft irrigation scheme providing for the construction of water-courses for the supply of irrigation water to the best advantage in such area :

Provided that, no scheme shall be prepared unless not less than

fifty-one per cent, of the holders of land in the area consent in writing to the preparation of such a scheme.

(2) The draft scheme shall contain the following particulars, that is to say,-

- (i) the area to which the scheme applies;
- (ii) the proposed water-courses, and the most suitable alignment thereof;
- (iii) the approximate area which is likely to be needed for the construction of the water-course, the land which it is necessary to occupy for the construction of the water-course and the plan indicating the land;
- (iv) the lands, if any, to be acquired for the purposes of the water-course and the nature of any right or interest therein, which is to be extinguished and the approximate cost of such acquisition;
- (v) the survey numbers and acreage of each of the lands to be benefitted by the water-course; and the names of the holders thereof;
- (vi) the canal from which water is to be carried to the water-course;
- (vii) the period within which each holder of land in the area mentioned in item (v) may construct either jointly or severally a water-course for carrying water from the canal to his land;
- (viii) the approximate cost of construction of the watercourse;
- (ix) the extent of the liability of each holder of land for the construction of the water-course;
- (x) such other particulars as may be prescribed by rules.

(3) The authorised Canal Officer shall publish the draft scheme in the Official Gazette, and shall also publish it in the manner prescribed in every village through which the water-course is proposed to be taken, together with a notice calling upon the holders of lands and all persons affected by the scheme, to submit to him in writing their suggestions or objections within such period as may be specified in the notice.

(4) As soon as may be after the expiry of the period specified in the notice the authorised Canal Officer shall, after considering the suggestions and objections, if any, received under sub-section (3) -

- (a) sanction the draft scheme with or without modification;
- (b) publish the sanctioned scheme (to be called the "final scheme") by notification in the Official Gazette and in such other manner as may be prescribed by rules; and
- (c) send a copy of the notification so published to the Collector, and to the State Government.

25AB. Obligation on holders to construct watercourses under final scheme.- Upon the publication of the final scheme, it shall be binding on all the holders of lands mentioned therein, and it shall be their duty to construct in the prescribed manner the water-courses under the scheme.

25AC. Acquisition of land covered by schemes for purposes of water-courses.- (1) The publication of the final scheme shall, in relation to the land to be acquired or right or interest in land to be extinguished for the purposes of the final scheme, be deemed to be a declaration under section 6 of the Land Acquisition Act, 1894, and shall be conclusive as if it were made under that section and the land is needed, or right or interest is required to be extinguished for a public purpose within the meaning of the said Act. On the publication of the final scheme, the Collector shall proceed to take order for the acquisition of the land, right or interest, as the case may be, and the provisions of the aforesaid Act shall apply to the determination of the amount of compensation, the apportionment of the compensation and other matters relating to the acquisition of the said land, right or interest. The State Government may make rules in all matters connected with the enforcement of the said provision in so far as they are applicable to the acquisition of such land, right or interest.

(2) Notwithstanding anything to the contrary in this Act, or in the Land Acquisition Act, 1894, at any time after the publication of the final scheme, the State Government may direct that the land to be acquired under the final scheme shall be taken possession of by the authorised Canal Officer, and the right and interest in land specified in the scheme shall be extinguished from the date specified in the direction. On the date on which possession is taken, the said land shall vest without any further assurance and free from all encumbrances in the State Government :

Provided that, before or at the time of taking possession of any land under this sub-section, the Collector shall offer to the person interested compensation for the standing crops, trees and structures, if any. on such land; and for any damage sustained by him which is caused by such sudden dispossession, and not excepted in section 24 of the Land Acquisition Act, 1894, and if such offer is not accepted, the value of such crops, trees and structures and the amount of such other damage shall be allowed in awarding compensation for the land under the provisions of the said Act.

(3) On the direction made under sub-section (2), the authorised

Canal Officer shall be put in possession of the land by the Collector; and the amount of the cost of acquisition of the land shall be apportioned by the Collector among the holders of land as provided in the final scheme.

1[(4) For the purposes of acquisition of any land under this section, the Land Acquisition Act, 1894, shall have effect subject to the modification that the market value of the land shall be deemed to be market value on the date on which the final scheme is published under section 25AA.]

25AD. Provision of section 7 to apply.- Whenever it shall be necessary to make any inquiry or examination in connection with the construction of a water-course under section 25AA or with the acquisition of any land under section 25AC, the provisions of section 7 shall apply in relation to such inquiry or examination as they apply in relation to an inquiry or examination in connection with a projected canal.

25AE. Notice to holders of land to construct water-courses.- (1) On being put in possession of land under section 25AC, the authorised Canal Officer shall by notice in writing require each holder to construct the water-course and to pay to the State Government the cost of acquisition of land, if any, as provided by the final scheme.

(2) The notice under sub-section (1) shall be given in such form and in such manner as may be prescribed.

25AF. Power to authorised Canal Officer to construct water-courses.- If any holder of land fails to construct the water-course as required by notice aforesaid within the period specified in the final scheme, the authorised Canal Officer may construct the same at the cost of that holder.

25AG. Consequences of completions of construction of water-courses.- (1) When the construction of the water-ourse as provided in the final scheme is duly completed -

(a) the authorised Canal Officer shall issue a certificate to that effect in the prescribed form, and

(b) the State Government or the authorised Canal Officer, if so empowered by the State Government shall, by order in writing, transfer the land acquired under the final scheme and occupied by the water-ourse to all holders of lands benefited by the water-ourse; and thereupon, the lands so transferred together with the water-course shall vest in such holders, and the provisions of sections 21 to 25 (both inclusive) shall apply to such holders as they apply in relation to an owner of a water-course.

(2) Nothng in sub-section (1) shall affect the right of the State

Government to recover the cost of the acquisition of land under section 25AC and the cost of the construction of the water-course payable by any holder of land under the final scheme.

25AH. Mode of payment of cost of construction of water-courses, etc.- (1) Subject to the provisions of sub-section (2), the cost of acquisition of any land and of the construction of the water-course payable under the final scheme shall be paid by each holder either in lump sum within such period, or in such instalments not exceeding five with simple interest at 4 1/2 per cent, per annum on or before such date or dates, as may be prescribed.

(2) Where any holder of land has constructed a water-course at his own cost or made available any part of his land for its construction, the authorised Canal Officer shall determine the value of the construction, or as the case may be, the value of the land so made available, and the value so determined shall be deducted from the cost payable by the holder under sub-section (1)."

1. Sub-section (4) was substituted by Mah. 38 of 1966, section 2.

4. Amendment Of Section 34 Of Bom. Vii Of 1879 :-

In section 34 of the Bombay Irrigation Act, after the word and figure "section 9" the words, figures and letters "or section 25AD" shall be inserted.

5. Insertion Of New Section 43A In Bom. Vii Of 1879 :-

In Part V of the Bombay Irrigation Act, after section 43, the following new Section shall be inserted, namely :-

"43A. Provisions of this Part not to apply to acquisition under section 25AC.- The provisions in relation to compensation in this Part shall not apply to compensation claimed or awarded under the provisions of section 25AC."

6. Amendment Of Section 87 Of Bom. Vii Of 1879 :-

In Section 87 of the Bombay Irrigation Act -

(a) after the figures and letter "48A", the words, figures and letters "and every order made by an authorised Canal Officer in relation to the provisions of section 25AA or section 25AH" shall be inserted;

(b) after the words "to the Collector", the words, figures and letters "and an order passed under section 25AA as respects the alignment of a projected water-course shall be appeal able to a Canal Officer

not below the rank of a Superintending Engineer" shall be added;
(c) for the words "proceedings of a Collector" the words "proceedings of a Collector or Canal Officer" shall be substituted.

7. Amendment Of Section 70 Of Bom. Vii Of 1879 :-

In section 70 of the Bombay Irrigation Act, after clause (c), the following clauses shall be inserted, namely :-

"(ca) the other particulars to be specified in a scheme, the manner of publishing a draft scheme and final scheme, under section 25AA;
(cb) the manner of constructing a water-course under section 25AB;

(cc) rules to be made with respect to matters connected with the enforcement of the provisions of the Land Acquisition Act, 1894, under sub-section (1) of section 25AC;

(cd) the form of notice and the manner of giving it, under sub-section (2) of section 25AE;

(ce) the form of a certificate under section 25AG;

(cf) the period for lump sum payment, and the date or dates of payment of instalments, under section 25AH."

8. Amendment Of Section 23 Of C. P. Act Iii Of 1931 :-

In section 23 of the Central Provinces Irrigation Act, 1931 (hereinafter referred to as the Central Provinces Irrigation Act), in sub-section (2), after clause (g), the following shall be inserted, namely :-

"(gg) if an order in relation to the provisions of section 73A of 73G is made by an authorised Canal Officer, to the Collector; and if an order made under section 73A is as respects alignment of a projected water-course, to the Superintending Engineer".

9. Insertion Of New Sections 73A To 73-I In C. P. Act Iii Of 1931 :-

After section 73 of the Central Provinces Irrigation Act, the following new heading and sections shall be inserted, namely :-

"Schemes for Compulsory Construction of water-courses.

73A. Schemes for compulsory construction of water courses.- (1)
Where a Canal Officer especially authorised in this behalf by the State Government (hereinafter referred to as the "authorised Canal Officer"), is of opinion that although water for irrigation is available on any area, but nevertheless lands capable of being irrigated

therefrom, are not being irrigated, or are being prevented from being irrigated for any reason, and he is further of opinion that in the interest of the general public it is necessary so to do, he may prepare a draft irrigation scheme providing for the construction of water-courses for the supply of irrigation water to the best advantage in such area :

Provided that, no scheme shall be prepared unless not less than fifty-one per cent, of the permanent holders of land in the area consent in writing to the preparation of such a scheme.

(2) The draft scheme shall contain the following particulars, that is to say,-

- (i) the area to which the scheme applies;
- (ii) the proposed water-courses, and the most suitable alignment thereof;
- (iii) the approximate area which is likely to be needed for the construction of the water-course, the land which it is necessary to occupy for the construction of the water-course and the plan indicating the land;
- (iv) the lands, if any, to be acquired for the purposes of the water-course and the nature of any right or interest therein, which is to be extinguished, and approximate cost of such acquisition;
- (v) the survey numbers and acreage of each of the lands to be benefitted by the water-course; and the names of the permanent holders thereof;
- (vi) the canal from which water is to be carried to the water-course;
- (vii) the period within which each permanent holder of land in the area mentioned in item (v) may construct either jointly or severally a water-course for carrying water from the canal to his land;
- (viii) the approximate cost of construction of the water-course;
- (ix) the extent of the liability of each permanent holder of land for the construction of the water-course;
- (x) such other particulars as may be prescribed by rules.

(3) The authorised Canal Officer shall publish the draft scheme in the Official Gazette, and shall also publish it in the manner prescribed in every village through which the water-course is proposed to be taken, together with a notice calling upon the permanent holders of land and all persons affected by the scheme, to submit to him in writing their suggestions or objections within such period as may be specified in the notice.

(4) As soon as may be after the expiry of the period specified in the notice, the authorised Canal Officer shall, after considering the

suggestions and objections, if any, received under sub-section (3),-

- (a) sanction the draft scheme with or without modification;
- (b) publish the sanctioned scheme (to be called the "final scheme") by notification in the Official Gazette, and in such other manner as may be prescribed by rules; and
- (c) send a copy of the notification so published to the Collector, and to the State Government.

73B. Obligation on permanent holders to construct water-courses under final scheme.-Upon the publication of the final scheme, it shall be binding on all the permanent holders of lands mentioned therein, and it shall be their duty, to construct in the prescribed manner the water-courses under the scheme.

73C. Acquisition of land covered by schemes for purposes of water-courses.- (1) The publication of the final scheme shall, in relation to the land to be acquired or right or interest in land to be extinguished for the purposes of the final scheme, be deemed to be a declaration under section 6 of the Land Acquisition Act, 1894, and shall be conclusive as if it were made under that section, and the land is needed, or right or interest is required to be extinguished for a public purpose within the meaning of the said Act. On the publication of the final scheme, the Collector shall proceed to take order for the acquisition of the land, right or interest, as the case may be, and the provisions of the aforesaid Act shall apply to the determination of the amount of compensation, the apportionment of compensation, and other matters relating to the acquisition of the said land, right or interest. The State Government may make rules in all matters connected with the enforcement of the said provisions in so far as they are applicable to the acquisition of such land, right or interest.

(2) Notwithstanding anything to the contrary in this Act or in the Land Acquisition Act, 1894, at any time after the publication of the final scheme, the State Government may direct that the land to be acquired in the final scheme shall be taken possession of by the authorised Canal Officer, and the right and interest in land specified in the scheme shall be extinguished from the date specified in the direction. On the date on which possession is taken, the said land shall vest without any further assurance and free from all encumbrances in the State Government :

Provided that, before or at the time of taking possession of any land under this sub-section, the Collector shall offer to the person interested compensation for the standing crops, trees and structures, if any, on such land, and for any damage sustained by

him which is caused by such sudden dispossession, and not excepted in section 24 of the Land Acquisition Act, 1894 and if such offer is not accepted, the value of such crops, trees and structures and the amount of such other damage shall be allowed in awarding compensation for the land under the provisions of the said Act.

(3) On the direction made under sub-section (2), the authorised Canal Officer shall be put in possession of the land by the Collector; and the amount of the cost of acquisition of the land shall be apportioned by the Collector among the permanent holders of land as provided in the final scheme.

1[(4) For the purposes of acquisition of any land under this section, 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 final scheme is published under section 73A.]

73D. Notice to holders to land to construct water- courses.- (1) On being put in possession of the land under the last preceding section the authorised Canal Officer shall by notice in writing require each permanent holder to construct the water-course, and to pay to the State Government the cost of acquisition of land, if any, as provided by the final scheme.

(2) The notice under sub-section (1) shall be given in such form and in such manner as may be prescribed.

73E. Power of authorised Canal Officer to construct water-courses.- If any permanent holder of land fails to construct the water-course as required by notice aforesaid within the period specified in the final scheme, the authorised Canal Officer may construct the same at the cost of that permanent holder.

73F. Consequences of completion of construction of water-courses.-

(1) When the construction of the watercourse as provided in the final scheme is duly completed,-

(a) the authorised Canal Officer shall issue a certificate to that effect in the prescribed form, and

(b) the State Government or the authorised Canal Officer, if so empowered by the State Government, shall, by order in writing, transfer the land acquired under the final scheme and occupied by the watercourse to all permanent holders of lands benefited by the water-course; and thereupon, the lands so transferred together with the water-course shall vest in such permanent holders; and thereupon it shall be duty of the permanent holders to maintain and repair the water-course at their own cost, and the provisions of section 73 shall apply to such permanent holders as they apply in

relation to raiyats who are required to maintain and repair a water course constructed by the State Government.

(2) Nothing in sub-section (1) shall affect the right of the State Government to recover the cost of the acquisition of land under section 73C and the cost of the construction of the water-course payable by any permanent holder of land under the final scheme.

73G. Mode of payment of cost or of construction of water-courses, etc.- (1) Subject to the provisions of sub-section (2), the cost of acquisition of any land and of the construction of the water-course payable under the final scheme shall be paid by each permanent holder either in lump sum within sub-period, in such instalments not exceeding five with simple interest at 4 1/2 per cent, per annum on or before such date or dates, as may be prescribed.

(2) Where any permanent holder of land has constructed a water-course at his own cost or made available any part of his land for its construction the authorised Canal Officer shall determine the value of the construction, or as the case may be, the value of the land so made available and the value so determined shall be deducted from the cost payable by the permanent holder under sub-section (1).

73H. Settlement of disputes as to mutual rights and liabilities of persons interested in water-courses.- Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, or among joint owners of a water-course, as to their respective shares of the expense of constructing or maintaining such watercourse, or as to the amounts severally contributed by them towards such expense, or as to failure on the part of any permanent land-holder to contribute his share, any person interested in the matter of such dispute may apply, in writing, to any Canal Officer duly empowered to receive such applications, stating the matter in dispute.

Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to inquire into the said matter;

and if all the persons interested consent, in writing to his being arbitrator, he may pass his order thereon;

failing such consent, he shall transfer the matter to the Collector, who shall inquire into and pass his orders thereon. Any order passed by the Collector under this section shall remain in force until set aside by a decree of a civil court.

73I. Saving.- Nothing contained in sections 73A to 73H shall apply in relation to any water-courses constructed or land acquired in

accordance with the other provisions of this Chapter."

1. Sub-section (4) was substituted by Mah. 38 of 1966, section 3.

10. Amendment Of Section 75 Of C. P. Act Iii Of 1931 :-

In section 75 of the Central Provinces Irrigation Act, after clause (d), the following clauses shall be inserted, namely :-

"(e) the other particulars to be specified in a scheme, the manner of publishing draft scheme and final scheme, under section 73A;

(f) the manner of constructing a water-course under section 73B;

(g) rules to be made in matters connected with enforcement of the provisions of the Land Acquisition Act, 1894, under sub-section (1) of section 73C;

(h) the form of notice and the manner of giving it, under sub-section (2) of section 73D;

(i) the form of a certificate under section 73F;

(j) the period for lump sum payment, or the date or dates of payment of instalments under section 73G.

11. Amendment Of Section 15 Of Hyd. Xxiv Of 1357 F :-

In section 15 of the Hyderabad Irrigation Act (hereinafter referred to as the Hyderabad Irrigation Act), for the word and figures "and 14" the figures, word and letter "14 and 17E" shall be substituted.

12. Insertion Of New Sections 17A To 17H In Hyd. Xxiv Of 1357 F :-

After section 17 of the Hyderabad Irrigation Act, the following new heading and sections shall be inserted, namely :-

"Schemes for Compulsory Construction of Water-courses

17.A. Scheme for compulsory construction of water-courses.- (1)

Where an Irrigation Officer, especially authorised in this behalf by the State Government (hereinafter referred to as the "authorised Irrigation Officer"), is of opinion, that although water for irrigation is available in any area, but nevertheless lands capable of being irrigated therefrom, are not being irrigated, or are being prevented from being irrigated for any reason, and he is further of opinion that in the interest of the general public it is necessary so to do, he may prepare a draft irrigation scheme providing for the construction of water-courses for the supply of irrigation water to the best advantage in such area;

Provided that, no scheme shall be prepared unless not less than fifty-one per cent, of the pattedars or occupiers of land in the area consent in writing to the preparation of such a scheme.

(2) The draft scheme shall contain the following particulars, that is to say -

- (i) the area to which the scheme applies;
- (ii) the proposed water-courses, and the most suitable alignment thereof;
- (iii) the approximate area which is likely to be needed for the construction of the water-course, the land which it is necessary to occupy for the construction of the water-course and the plan indicating the land;
- (iv) the lands, if any, to be acquired for the purposes of the water-course and the nature of any right or interest therein, which is to be extinguished, and the approximate cost of such acquisition;
- (v) the survey numbers and acreage of each of the lands to be benefited by the water-course; and the names of the pattedars or occupiers thereof;
- (vi) the canal from which water is to be carried to the water-course;
- (vii) the period within which each pattedar or occupier of land in the area mentioned in item (v) may construct either jointly or severally a water-course for carrying water from the canal to his land;
- (viii) the approximate cost of construction of the watercourse;
- (ix) the extent of the liability of each pattedar or occupier of land for the construction of the watercourse;
- (x) such other particulars as may be prescribed by rules.

(3) The authorised Irrigation Officer shall publish the draft scheme in the Official Gazette, and shall also publish it in the manner prescribed in every village through which the watercourse is proposed to be taken, together with a notice calling upon the pattedars or occupiers of land and all the persons affected by the scheme, to submit to him in writing their suggestions or objections within such period as may be specified in the notice.

(4) As soon as may be after the expiry of the period specified in the notice the authorised Irrigation Officer shall, after considering the suggestions and objections, if any, received under sub-section (3),-

- (a) sanction the draft scheme with or without modification;
- (b) publish the sanctioned scheme (to be called the "final scheme") by notification in the Official Gazette and in such other manner as may be prescribed by rules; and

(c) send a copy of the notification so published to the Collector, and to the State Government.

17B. Obligation on pattedars or occupiers to construct water-courses under final scheme.- Upon the publication of the final scheme, it shall be binding on all the pattedars or occupiers of lands mentioned therein; and it shall be their duty to construct in the prescribed manner the water-courses under the scheme.

17C. Acquisition of land covered by scheme for purposes of water-courses.- (1) The publication of the final scheme shall, in relation to the land to be acquired or right or interest in land to be extinguished for the purposes of the final scheme, be deemed to be a declaration under section 5 of the Land Acquisition Act, and shall be conclusive as if it were made under that section and the land is needed, or right or interest is required to be extinguished for a public purpose within the meaning of the said Act. On the publication of the final scheme, the Collector shall proceed to take order for the acquisition of the land, right or interest, as the case may be, and the provisions of the above-said Act shall apply to the determination of the amount of compensation, the apportionment of compensation and other matters relating to the acquisition of the said land, right or interest. The State Government may make rules in all matters connected with the enforcement of the said provisions in so far as they are applicable to the acquisition of such land, right or interest.

(2) Notwithstanding anything to the contrary in this Act or in the Land Acquisition Act, at any time after the publication of the final scheme, the State Government may direct that the land to be acquired in the final scheme shall be taken possession of by the authorised Irrigation Officer and the right and interest in the land specified in the scheme shall be extinguished from the date specified in the direction. On the date on which possession is taken, the said land shall vest without any further assurance and free, from all encumbrances in the State Government :

Provided that, before or at the time of taking possession of any land under this sub-section, the Collector shall offer to the person interested compensation for the standing crops, trees and structures, if any, on such land; and for any damage sustained by him which is caused by such sudden dispossession, and not expected in section 19 of the Land Acquisition Act and if such offer is not accepted, the value of such crops, trees and structures and the amount of such other damage shall be allowed in awarding compensation for the land under the provisions of the said Act.

(3) On the direction made under sub-section (2), the authorised Irrigation Officer shall be put in possession of the land by the Collector, and the amount of the cost of acquisition of the land, shall be apportioned by the Collector among the pattedars or occupiers of land as provided in the final scheme.

1[(4) For the purposes of acquisition of any land under this section, 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 final scheme is published under section 17A.]

17D. Provision of section 8 to apply.- Whenever it shall be necessary to make any inquiry or examination in connection with the construction of a water-course under section 17 A or with the acquisition of any land under section 17C, the provisions of section 8 shall apply in relation to such inquiry or examination as they apply in relation to the inquiry or examination in connection with a projected irrigation work.

17E. Notice to pattedars and occupiers of land to construct water-courses.- (1) On being put in possession of land under section 17C, the authorised Irrigation Officer shall, by notice in writing, require each pattedar or occupier of land to construct the water-course and to pay to the State Government the cost of acquisition of land, if any, as provided by the final scheme.

(2) The notice under sub-section (1) shall be given in such form and in such manner as may be prescribed.

17F. Power of authorised Irrigation Officer to construct water-courses.- (1) If any pattedar or occupier of land fails to construct the water-course as required by notice aforesaid within the period specified in the final scheme, the authorised Irrigation Officer may construct the same at the cost of that pattedar or occupier.

17G. Consequences of completion of construction of water-courses.-

(1) When the construction of the water-course as provided in the final scheme is duly completed,-

(a) the authorised Irrigation Officer shall issue a certificate to that effect in the prescribed form, and

(b) the State Government or the authorised Irrigation Officer, if so empowered by the State Government shall, by order in writing, transfer the land acquired under the final scheme and occupied by the watercourse to all pattedars or occupiers of land benefited by the water-course; and thereupon, the land so transferred together with the water-course shall vest in such pattedars or occupiers; and the provisions of sections 16 and 17 shall apply to such pattedars

or occupiers as they apply in relation to pattedars and occupiers receiving water from a water-course.

(2) Nothing in sub-section (1) shall affect the right of the State Government to recover the cost of the acquisition of land under section 17-C and the cost of the construction of the water-course payable by any pattedar or occupier of land under the final scheme.

17H. Mode of payment of cost of construction of watercourses, etc.-

(1) Subject to the provisions of sub-section (2), the cost of acquisition of any land, and of the construction of the water-course payable under the final period, or in such instalments not exceeding five with simple interest at 4 1/2 percent, per annum on or before such date or dates as may be prescribed.

(2) Where any pattedar or occupier of land has constructed the water-course at his own cost or made available any part of his land for its construction, the authorised Irrigation Officer shall determine the value of the construction, or as the case may be, the value of the land so made available, and the value so determined shall be deducted from the cost payable by the pattedar or occupier under sub-section (1).".

1. Sub-section (4) was substituted by Mah. 38 of 1966, section 3.

13. Amendment Of Section 25 Of Hyd. Xxiv Of 1357 F :-

In section 25 of the Hyderabad Irrigation Act, for the word and figures "or 10" the figures, word and letter "10 or 17D" shall be inserted.

14. Insertion Of New Section 29A In Hyd. Xxiv Of 1357 F :-

In Part IV of the Hyderabad Irrigation Act, after section 29, the following new section shall be inserted, namely:-

"29A. Provision of this Part not to apply to acquisition under section 17C.- The provisions in relation to compensation in this Part shall not apply to compensation claimed or awarded under the provisions of section 17C."

15. Amendment Of Section 62 Of Hyd. Xxiv Of 1357 F :-

In section 62 of the Hyderabad Irrigation Act, the words "an Irrigation Officer" the brackets and words "(including an authorised Irrigation Officer)" shall be inserted.

16. Amendment Of Section 67 Of Hyd. Xxiv Of 1357 F :-

In section 67 of the Hyderabad Irrigation Act, after clause (e), the following clauses shall be inserted, namely :-

"(e1) the other particulars to be specified in a scheme, the manner of publishing a draft scheme and final scheme under section 17A;

(e2) the manner of constructing a water-course under section 17B;

(e3) rules to be made in matters connected with the enforcement of the provisions of the Land Acquisition Act, under sub-section (1) of section 17C;

(e4) the form of notice and the manner of giving it under sub-section (2) of section 17E;

(e5) the form of a certificate under section 17G;

(e6) the period of lump-sum payment or the date or dates of payment of instalments, under section 17H."