

Maharashtra Management Of Irrigation Systems By Farmers Act, 2005

23 of 2005

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Maharashtra Management Of Irrigation Systems By Farmers Act, 2005

23 of 2005

(First published, after having received the assent of the Governor in

the "Maharashtra Government Gazette", on the 19th May 2005).

PREAMBLE

An Act to provide for Management of Irrigation Systems by Farmers and for matters connected therewith or incidental thereto.

WHEREAS the National Water Policy (2002) lays down that efforts should be made to progressively involve farmers, in the various aspects of management of irrigation systems;

AND WHEREAS the Maharashtra Water and Irrigation Commission (1999) has recommended that the statutory provisions may be made for management by farmers, of irrigation systems, by providing water from Public Canal System to Water Users' Associations on volumetric basis;

AND WHEREAS it is decided by the State Government to bridge the gap between irrigation potential created and its actual utilisation and to optimise the benefits by ensuring proper use of surface and groundwater by increased efficiency in distribution, delivery, application and drainage of irrigation systems and for achieving this objective to give statutory recognition to the constitution and operation of Water Users' Associations so as to enable the farmers to act collectively to improve the productivity of agriculture;

AND WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action, to make necessary provisions, for the purposes aforesaid; and, therefore, promulgated the Maharashtra Management of Irrigation Systems by Farmers Ordinance, 2004 (Mah. Ord. XXIII of 2004), on the 18th August, 2004;

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Fifty-sixth Year of the Republic of India, as follows :--

CHAPTER 1 PRELIMINARY

1. Short Title Extent And Commencement :-

(1) This Act may be called the Maharashtra Management of Irrigation Systems by Farmers Act, 2005.

(2) It extends to the whole of the State of Maharashtra.

(3) Save as otherwise expressly provided in this Act, it shall come into force on such date as the State Government, may by notification in the Official Gazette, appoint and different dates may be appointed for different areas and for different provisions :

Provided that, the areas in respect of which the notification under section 5 has not been issued, it shall not come into force in such area and the provisions of the Maharashtra Irrigation Act, 1976 (Mah XXXVIII of 1976) shall continue to apply in that area.

2. Definitions :-

In this Act, unless the context otherwise requires,--

(1) (a) "adequate repairs and renovations", in relation to handing over of Canal System to Water Users Association, means those repairs and renovations which are essential for passing designated discharge, control and measuring of water, regulation of water level and convey water to all fields, by flow under gravity, in the area of operation of Water Users Association;

(b) "Agreement" means an agreement between the Water Users Association and the upper level Water Users Association or Canal Officer, as the case may be, for the supply of water on volumetric basis for irrigation and handing over of physical system for operation, maintenance and management;

(c) "Applicable Water Entitlement (Water Quota)", in relation to a reservoir supported canal system, means the total volume of water guaranteed to be supplied to a Water Users Association at the agreed point of supply, in any year arrived at according to the rules made under this Act, by the Appropriate Authority and in the case of Minor Irrigation Projects having only one Water Users Association, available water for Irrigation at Canal Head;

(d) "Appropriate Authority" means the Appropriate Authority as defined in clause (2) of section 2 of the Maharashtra Irrigation Act, 1976 (Mah. XXXVIII of 1976) and also includes Maharashtra Water Resources Regulatory Authority and Irrigation Development Corporations established by the State Government by Acts of the State Legislature;

(e) "area of operation", in relation to a Water Users Association means the area notified under section 5 in respect of such Association;

(f) "Canal Officer" means the Canal Officer appointed under clause (4) of section 2 of the Maharashtra Irrigation Act, 1976 (Mah. XXXVIII OF 1976) who is duly empowered by the State Government, by notification in the Official Gazette, for the purposes of exercising the powers and discharging the duties under this Act;

(g) "Canal System" means all canals and includes all lands commanded thereby;

- (h) "Command Area", in relation to flow and lift irrigation on a canal, means the land under irrigable command of a canal, bound by hydraulic or other boundaries for which a Water Users Association is formed;
- (i) "Competent Authority" means the Authority appointed under section 38;
- (j) "Culturable Command Area" means the area under an Irrigation Project, which is culturable and can get irrigation facility through Canal System;
- (k) "Deficit Year", in relation to a diversion system or reservoir based canal system, means a year in which the water availability at the head works is less than that in a Normal Year;
- (l) "Designated Discharge" means designed discharge or a revised designed discharge which the Canal System can carry after its rehabilitation or renovation, as the case may be;
- (m) "Entitlement" means bulk water use entitlement or individual water use entitlement, as determined by Appropriate Authority from time to time;
- (n) "General Body", in relation to a Water Users Association means the body of all members of such Association;
- (o) "Hydraulic Basis" means the basis for identifying an area of operation of Water Users Association served by one or more hydraulic structures such as Head Regulator of Canal, Distributary, Minor, Sub-Minor, Field Channel, Lift Irrigation Scheme or irrigation through lifting water by pumps and similar regulatory structures;
- (p) "Irrigation Development Corporation" means an Irrigation Development Corporation established by the State Government by an Act of the State Legislature;
- (q) "Lands under Management of Irrigation Systems by Farmers" means lands under irrigable command of a canal where the management of irrigation water distribution with all its related aspects including responsibility of maintenance is handed over to Water Users Association;
- (r) "Lift Irrigation" or "Lift Irrigation Scheme", in relation to Lift Irrigation Water Users Association means all Lift Irrigation Schemes, wherein Government permission is required for lifting water, but excluding the Lift Irrigation Schemes on private open wells and bore wells;
- (s) "Lift Irrigation Water Users Association (LIWUA)", in relation to Management of Irrigation System by Farmers (MISF), means an association constituted for the purpose of lift irrigation, registered in the prescribed manner as provided in section 43;

(t) "Maharashtra Water Resources Regulatory Authority (MWRRA)" means the authority established by the State Government by an Act of the State Legislature for regulation of water resources in the State;

(u) "Major Irrigation Project", "Medium Irrigation Project" and "Minor Irrigation Project" means project having culturable command area exceeding ten thousand hectares, exceeding two thousand hectares but not exceeding ten thousand hectares, and not exceeding two thousand hectares, respectively;

(v) "Management of Irrigation Systems by Farmers (MISF)" means involvement of irrigation users in all aspects of irrigation, including planning, designing, constructing, supervising, financing, operating, managing, maintaining, monitoring and evaluating of the Canal System;

(w) "Member" means a member of a Water Users Association who is either a land holder or occupier of the delineated area of the Water Users Association and includes Water Users Association of another upper level association constituted under the provision of this Act;

(x) "Non-Irrigation Water Supply" means water supply from an irrigation project for purposes other than irrigation and includes water supply for the purposes such as domestic, industrial, power generation, fisheries and as may be specified by the Appropriate Authority from time to time;

(y) "Normal year", in relation to a diversion system or a reservoir based canal system means a year in which the water availability at the headworks (including the water that is allowed to be lifted from the reservoir and losses therefrom) is as envisaged in the Irrigation Project Report or as revised subsequently by the State Government;

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

(aa) " Prescribed Unit Water Use Entitlement", in relation to a reservoir based canal system means the total volume of water that is available in an irrigation year or season per hectare of Culturable Command Area at the point of supply to Water Users Association, arrived at after considering prior sanction for Non-Irrigation purposes and all the losses and gains from the canal system in a Normal Year;

(ab) " Prescribed Unit Water Allowance ", in relation to a canal system which is not reservoir supported, means the discharge allocable per hectare of the Culturable Command Area, measured at the point of supply to a Command Area;

(ac) " Previous Dues ", in relation to assessment and recovery of

water charges, means the outstanding dues of members of Water Users Association pertaining to the period prior to the date of handing over the management of irrigation systems;

(ad) "Reservoir based canal system" means a canal system where certain per cent of the volume of water as specified by the Appropriate Authority is stored, making the availability of water predictable for use;

(ae) "rules" means the rules made under this Act;

(af) "Rotational Water Supply (RWS)" means a system of water distribution in which water is supplied to water users by rotation, according to an approved schedule indicating the day, duration and time of supply;

(ag) "Sanctioned Water Use Entitlement", in relation to an Agreement with Water Users Association on a reservoir based canal system means, the total volume of water guaranteed to be supplied to the Water Users Association, at the agreed point of supply, in different seasons, in a Normal Year;

(ah) "State Government" or "Government" means the Government of Maharashtra;

(ai) "Surplus Year", in relation to a diversion system or reservoir based canal system means a year in which the water availability at the headworks is more than that in the Normal Year;

(aj) "Water Allowance" means the discharge allotted at the point of supply to the Water Users Association;

(ak) "Water Users" means and includes any individual or body corporate or an Association, using water from a Government source of irrigation;

(al) "Water Users Association", in relation to Management of Irrigation systems by Farmers means all types of Water Users Association at all levels of canal system for flow as well as lift irrigation;

(am) "Water Users Association at Minor Level" means the primary unit of Water Users Association;

(II) Words and expressions used in this Act, but not defined herein, shall have their respective meanings as assigned to them in the Maharashtra Irrigation Act, 1976 (Mah. XXXVIII OF 1976)

CHAPTER 2 WATER USERS' ASSOCIATION AND DELINEATION OF COMMAND AREA THEREOF

3. Water Users Association To Be Body Corporate :-

Every Water Users Association (WUA) constituted under this Act

shall be a body corporate with a distinct name having perpetual succession and a common seal and shall have the power to acquire, hold and dispose of property and to enter into contracts and of doing all things necessary, proper or expedient for the purposes for which it is constituted and may sue or be sued in its corporate name :

Provided that, no Water Users Association shall have the power to alienate in any manner, any property vested in it by the Government for the operation and management.

4. Objects Of Water Users Association :-

(1) The objects of a Water Users Association shall be to,--

(i) promote and secure equitable distribution of water amongst its members;

(ii) maintain adequately the irrigation systems; and ensure efficient, economical and equitable distribution and utilisation of water to optimise agricultural production;

(iii) protect the environment;

(iv) ensure ecological balance;

(v) actively involve the members inculcating amongst them a sense of ownership of the irrigation system; and

(vi) safeguard and promote the common interests of its members pertaining to irrigation and agriculture in the area of operation.

(2) The Association may also engage into any activity of common interest of the members in the Command Area related to irrigation and agriculture, such as introduction of Drip and Sprinkler system for optimising the use of water; developing farm ponds and community projects for exploiting groundwater; procurement and distribution of seeds, fertilisers and pesticides; procurement and renting of agricultural implements; marketing and processing agricultural produce from the Command Area and supplementary business like dairy and fisheries.

5. Delineation Of Areas As Areas Under Management Of Irrigation System By Farmers :-

For the purposes of this Act, the Appropriate Authority may, by notification in the Official Gazette, delineate, on hydraulic basis and having regard to the administrative convenience, the command area of an irrigation project into an area under the Management of Irrigation System by Farmers, for which there shall be constituted Water Users Association under this Act and may, by like notification

from time to time, alter their limits, by--

(i) amalgamating or dividing the Water Users Association;

(ii) increasing an area of any Water Users Association;

(iii) reducing an area of any Water Users Association:

Provided that, no such notification making amalgamation, division, or in any way altering the boundaries of the Water Users Association shall be issued unless a reasonable opportunity, as prescribed, is given to the Water Users Association and holders or occupiers of the lands likely to be affected thereby :

Provided further that, no Water Users Association and land holder or occupier shall be eligible to obtain membership of any other Water Users Association unless No dues Certificate of the previous Water Users Association, is produced.

6. Delineation Of Command Area Of Water Users Association At Minor Level :-

(1) A Canal Officer not below the rank of an Executive Engineer duly empowered in this behalf may, by notification in the Official Gazette and in accordance with the rules, on hydraulic basis and having regard to the administrative convenience, delineate command area of Water Users Association at Minor Level separately within lands under irrigable command and declare it to be an area of operation of Water Users Association at Minor Level for the purposes of this Act. The area of operation so declared may include both flow and lift irrigation.

(2) The notification under sub-section (1) shall contain,--

(a) a certified copy of updated map of area of operation of Water Users Association showing prescribed details necessary for operation and management of such Association; and

(b) a certified copy of updated list of landholders and occupiers of land with prescribed details within the area of operation of Water Users Association at Minor Level.

(3) The notification published under sub-section (1) may be given wide publicity as prescribed and may also be published in such other manner in or in the vicinity of such area of operation of Water Users Association at Minor level as the Canal Officer may think fit.

(4) Any person desirous of obtaining a copy of the notification under sub-section (1) may, on an application being made in that behalf, and on payment of such fees as may be prescribed, obtain the same.

(5) Any person aggrieved by the notification issued under sub-

section (1) may, within thirty days from the date of publication of such notification in the Official Gazette, file an appeal before the Canal Officer:

Provided that, no Canal Officer below the rank of Superintending Engineer shall be notified as the appellate officer by the Government.

(6) The Appellate Officer may pass such order in the appeal as he deems fit, and may pass order modifying the notification. On passing such modifying order, such notification shall stand modified to the extent and from the date as specified in the order:

Provided that, no order of modification of any such notification or part thereof, affecting any person shall be made without giving such person a reasonable opportunity of being heard.

7. Supply Of Water To Land Under Mahagement Of Irrigation System By Farmers :-

On delineation of Command area of Water Users Association, by notification in the Official Gazette under section 6, no water shall be supplied by the Appropriate Authority to the individual holder or occupier; and the system of supply of water through Water Users Association shall be binding on all holders and occupiers of such lands.

8. Constitution Of Water Users Association At Minor Level :-

(1) When an area of operation of a Water Users Association at Minor Level has been delineated under section 6, the holders and occupiers of the land so delineated shall form a Water Users Association. Such Water Users Association shall be registered in the prescribed manner:

Provided that, where no such Water Users Association is constituted, the Appropriate Authority may, entrust the functions of such Water Users Association to a Government agency or Co-operative society or any other Water Users Association in the manner prescribed, till such Association is constituted and functional.

(2) All the holders and occupiers in delineated land of a Water Users Association at Minor Level shall be deemed to be the members of Water Users Association at Minor Level, and shall constitute the General Body of the Water Users Association and shall have right to vote as prescribed.

9. Managing Committee Of Water Users Association At Minor Level And Election Of Its Directors And Chairperson :-

(1) There shall be a Managing Committee for every Water Users Association at Minor Level, consisting of such number of members including Chairperson and Directors as may be prescribed. Such Association shall have a Secretary having prescribed qualifications; and the pay and allowances of such person shall be fixed by the respective Water Users Association, in the prescribed manner.

(2) The Canal Officer, duly empowered in this behalf shall, make arrangements for the election of Directors of the Managing Committee of the Water Users Association at Minor Level by direct election from amongst members of such Water Users Association within such time and in manner as may be prescribed.

(3) Adequate representation shall be given on the Managing Committee to the holders or occupiers of the land from Head, Middle and Tail reaches of the area of operation of Water Users Association; and women members in such manner as may be prescribed.

(4) Such Canal Officer shall make arrangements for the election of the Chairperson of the Water Users Association at Minor Level in the prescribed manner. The Directors of the Managing Committee shall elect the Chairperson in the first meeting of the Managing Committee convened and presided by the Canal Officer pending the election of Chairperson.

(5) The tenure of the post of Chairperson and its rotation amongst the Managing Committee Directors representing Head, Middle and Tail reaches of the area of operation of Water Users Association and women Directors, shall be such as may be prescribed:

Provided that, where a land holder or occupier holds or occupies a land in the area of operation of more than one Water Users Association, such person shall be eligible to take part in the election for the Directorship of the Managing Committee of only one Water Users Association opted by him, in the prescribed manner.

(6) The Canal Officer may, for the reasons to be recorded in writing, postpone the election upto one year.

(7) The Directors of the Managing Committee shall, unless recalled earlier under section 19 hold office for a period of six years from the date of the constitution of the said Managing Committee.

(8) The Managing Committee shall exercise such powers, discharge such duties and perform such functions of the Water Users Association, as provided in this Act and as prescribed.

(9) Notwithstanding anything contained in sub-section (2), the Canal Officer, duly empowered in this behalf, may pending election and constitution of the Managing Committee appoint an Ad-hoc Management Committee in the prescribed manner.

10. Delineation Of Area Of Operation Of Distributary Level Association :-

(1) A Canal Officer not below the rank of an Executive Engineer, duly empowered in this behalf may, by notification in the Official Gazette and in accordance with the rules delineate, on hydraulic basis and having regard to the administrative convenience, command area of Distributary Level Association (DLA) within lands under irrigable command and declare it to be an area of operation of Distributary Level Association for the purposes of this Act. The area so declared may include both, the flow and lift irrigation.

(2) The notification under sub-section (1) shall contain,--

(a) a certified copy of updated map of area of operation of Distributary Level Association showing prescribed details necessary for Operation and Management of Canal System under Distributary Level Association;

(b) a certified copy of the updated list of Water Users Associations at Minor Level included in the Distributary Level Association with prescribed details.

(3) The provisions of sub-sections (3), (4), (5) and (6) of section 6 shall, mutatis mutandis, apply to the notification under sub-section (1).

11. Constitution Of Distributary Level Association :-

(1) In the area delineated as an area of operation of Distributary Level Association under section 10, a Distributary Level Association shall be constituted by the Water Users Associations at Minor Level. Such Association shall be registered in the prescribed manner.

(2) All the Water Users Associations at Minor Level, represented by the members of Managing Committees of the Water Users Associations at Minor Level in the command area of Distributary Level Association shall constitute the General Body of the Distributary Level Association and shall have right to vote and elect the Managing Committee of the Distributary Level Association, in such manner as may be prescribed.

(3) After the operation and maintenance of the delineated area is handed over to such Distributary Level Association, water supply to

water users in such delineated area shall be through the respective Distributary Level Association.

12. Managing Committee Of Distributary Level Association And Election Of Its Directions And Chairperson :-

(1) There shall be a Managing Committee for every Distributary Level Association (DLA) consisting of such number of members, including Chairperson and Directors as may be prescribed. Such Association shall have a Secretary, having prescribed qualifications; and the pay and allowances of such person shall be fixed by the respective Water Users Association, in the prescribed manner.

(2) The Canal Officer, duly empowered in this behalf, shall make arrangements for the election of Directors of the Managing Committee of Distributary Minor Level Association by election from amongst members of General Body of Minor Level Association, within such time and in such manner, as may be prescribed.

(3) Adequate representation shall be given on the Managing Committee of the Distributary Level Association to the Water Users Associations from Head, Middle and Tail reaches of the area of operation of Distributary Level Association and women Directors in the prescribed manner.

(4) Such Canal Officer shall also make arrangements for the election of the Chairperson of the Distributary Level Association in the manner as may be prescribed. The Directors of Managing Committee shall elect the Chairperson in the first meeting of the Managing Committee convened and presided over by such Canal Officer, pending election of the Chairperson.

(5) The tenure of the post of the Chairperson, and its rotation amongst the Managing Committee Directors representing Head, Middle and Tail reaches of the area of operation of a Distributary Level Association and women Directors shall be such as may be prescribed.

(6) The Canal Officer may, for the reasons to be recorded in writing, postpone the election upto one year.

(7) The Members of the Managing Committee shall, unless recalled earlier under section 19, hold office for a period of six years from the date of the constitution of the said Managing Committee.

(8) The Managing Committee shall exercise such powers, discharge such duties and perform such functions of the Distributary Level Association as may be provided in this Act and as prescribed.

(9) Notwithstanding anything contained in sub-section (2), the

Canal Officer, duly empowered in this behalf pending election and constitution of Managing Committee may, appoint an Ad-hoc Management Committee in the prescribed manner.

13. Delineation Of Area Of Operation Of Canal Level Association :-

(1) A Canal Officer not below the rank of an Executive Engineer, duly empowered in this behalf, may, by notification in the Official Gazette, and in accordance with the rules delineate on hydraulic basis and having regard to administrative convenience, command area of Canal Level Association (CLA) within lands under irrigable command and declare it to be an area of operation of a Canal Level Association for the purposes of this Act. The area of operation so declared may include both, the flow and lift irrigation.

(2) The notification under sub-section (1) shall contain,--

(a) a certified copy of updated map of area of operation of Canal Level Association showing prescribed details necessary for Operation and Management;

(b) a certified copy of the updated list with prescribed details of Distributary Level Associations included in the Canal Level Association.

(3) The provisions of sub-sections (3), (4), (5) and (6) of section 6 shall, mutatis mutandis, apply to the notification under sub-section (1).

14. Constitution Of Canal Level Association :-

(1) In the area delineated as an area of operation of Canal Level Association (CLA) under section 13, a Canal Level Association shall be constituted by the Distributary Level Associations. Such Association shall be registered in the prescribed manner.

(2) All the Distributary Level Associations, represented by the Directors of the Managing Committees of the Distributary Level Associations, under the command of Canal Level Association shall constitute the General Body of Canal Level Association and have right to vote and elect the Managing Committee of the Canal Level Association in such manner as may be prescribed.

(3) After the operation and maintenance of the delineated area is handed over to Canal Level Association, water supply to water users in such delineated area shall be through the respective Canal Level Association.

15. Managing Committee Of Canal Level Association And Election Of Its Directors And Chairperson :-

(1) There shall be a Managing Committee for every Canal Level Association (CLA) consisting of such number of members, including Chairperson and Directors as may be prescribed. Such Association shall have a Secretary having prescribed qualifications; and the pay and allowances of such person shall be fixed by the respective Water Users Association, in the prescribed manner.

(2) The Canal Officer, duly empowered in this behalf, shall make arrangements for the election of Directors of the Managing Committee of Canal Level Association by election from among members of General Body of Canal Level Association, within such time and in such manner as may be prescribed.

(3) Adequate representation shall be given on the Managing Committee of the Canal Level Association to the Distributary Level Associations from Head, Middle and Tail reaches of the area of operation of Canal Level Associations and women in the prescribed manner.

(4) Such Canal Officer shall also cause arrangements for the election of the Chairperson of the Canal Level Association in the manner as may be prescribed. The Directors of the Managing Committee shall elect the Chairperson in the first meeting of the Managing Committee convened and presided over by such Canal Officer, pending election of the Chairperson.

(5) The tenure of the post of Chairperson and its rotation amongst the Managing Committee Directors representing Head, Middle and Tail reaches of the area of operation of Canal Level Associations and women members shall be such as may be prescribed.

(6) The Canal Officer may, for the reasons to be recorded in writing, postpone the election upto one year.

(7) The Directors of the Managing Committee shall, unless recalled earlier under section 19, hold office for a period of six years from the date of the constitution of the said Managing Committee.

(8) The Managing Committee shall exercise such powers, discharge such duties and perform such functions of the Canal Level Association as may be provided in this Act and as prescribed.

(9) Notwithstanding anything contained in sub-section (2), the Canal Officer, duly empowered in this behalf may, pending election and constitution of Managing Committee, appoint an Ad-hoc Managing Committee, in the manner prescribed.

16. Delineation Of Area Of Operation Of Project Level Association :-

(1) A Canal Officer not below the rank of Superintending Engineer, duly empowered in this behalf, may, by notification in the Official Gazette and in accordance with the rules delineate lands under irrigable command of the Project and declare it to be an area of operation of Project Level Association (PLA) for the purposes of this Act. The area of operation so declared may include both, the flow and lift irrigation.

(2) The notification under sub-section (1) shall contain,--

(a) a certified copy of updated map of area of operation of Project Level Association showing areas of operation of all Water Users Associations at different levels under the Project and other prescribed details necessary for operation and management;

(b) a certified copy of the updated list with prescribed details of all Water Users Associations at different levels included in the Project Level Association.

(3) The provisions of sub-sections (3), (4), (5) and (6) of section 6 shall, mutatis mutandis, apply to the notification under sub-section (1).

(4) Notwithstanding anything contained in this section, in the case of a Minor Irrigation Project, notified Executive Engineer shall delineate the area of operation of Project Level Association and the appellate officer shall be the notified Superintending Engineer.

17. Constitution Of Project Level Association :-

(1) In the area delineated as an area of operation of Project Level Association (PLA) under section 16, a Project Level Association shall be constituted by the Canal Level Associations functioning within the project. Such Association shall be registered in the prescribed manner.

(2) All Canal Level Associations and Lift Irrigation Water Users Associations on reservoir within the project, represented by Directors of their respective Managing Committees, shall constitute the General Body of Project Level Association and shall have right to vote and elect the Managing Committee of the Project Level Association in such manner as may be prescribed.

(3) After the operation and maintenance of the delineated area is handed over to the Project Level Association, water supply to water users in such delineated area shall be through the respective

Project Level Association.

(4) Notwithstanding anything contained in sub-section (1), the State Government may, having regard to the administrative convenience, for reasons to be recorded in writing, authorise an association at any level, to function as a Project Level Association in respect of a project. On such authorisation, the provisions of subsection (2) and other provisions of the Act applicable to the Project Level Association shall, mutatis mutandis, apply to such association.

18. Managing Committee Of Project Level Association And Election Of Its Directions And Chairperson :-

(1) There shall be a Managing Committee for every Project Level Association (PLA) consisting of such number of Members including Chairperson and Director as may be prescribed. Such Association shall have a Secretary having prescribed qualifications; and the pay and allowances of such person shall be fixed by the respective Water Users Association, in the prescribed manner.

(2) The Canal Officer, duly empowered in this behalf, shall make arrangements for the election of Directors of the Managing Committee of Project Level Association by election from amongst members of General Body of Project Level Association, within such time and in such manner, as may be prescribed.

(3) Adequate representation shall be given on the Managing Committee of the Project Level Association to member Water Users Associations from Head, Middle and Tail reaches of the area of operation of the Project Level Associations and women members, in the prescribed manner.

(4) Such Canal Officer shall also make arrangements for the election of the Chairperson of the Project Level Association in the manner as may be prescribed. The Directors of Managing Committee shall elect the Chairperson in the First Meeting of the Managing Committee convened and presided over by the Canal Officer pending election of the Chairperson.

(5) The tenure of the post of Chairperson, and its rotation amongst the Managing Committee Directors representing Head, Middle and Tail reaches of the area of operation of Project Level Association and women Directors shall be such as may be prescribed.

(6) The Canal Officer may, for reasons to be recorded in writing postpone the election upto one year.

(7) The Directors of the Managing Committee, shall unless recalled

earlier under section 19, hold office for a period of six years from the date of the constitution of the said Managing Committee.

(8) The Managing Committee shall exercise such powers, discharge such duties and perform such functions of the Project Level Association as may be provided in this Act and as prescribed.

(9) Notwithstanding anything contained in sub-section (2), the Canal Officer, duly empowered in this behalf may, pending election and constitution of the Managing Committee appoint an Ad-hoc Managing Committee in the manner prescribed, till the elected Managing Committee comes into existence.

19. Procedure For Recall :-

(1) A motion for recall of a Director of a Managing Committee of a Water Users Association at any level may be made by giving a notice, in writing in the prescribed form, signed by not less than one-half of the total number of members of the concerned Water Users Association, entitled to vote :

Provided that, no such motion against any office bearer shall be allowed within two years from the date of assumption of office by such office bearer.

(2) If the motion referred to in sub-section (1) is carried with the support of two-third of the members present and voting at a meeting of the General Body specially convened for the purpose, the Canal Officer shall, by order, remove the office bearer, against whom such motion is. passed and the resultant vacancy shall be filled in, in the prescribed manner.

20. Constitution Of Sub-Committees Of Water Usersassociation :-

20. The Managing Committee of a Water Users Association may constitute sub-committees to carry out all or any of the functions vested in such Water Users Association under this Act.

21. Agreement :-

(1) There shall be an Agreement between the Water Users Association (WUA) and the upper level Water UsersAssociation or the Canal Officer of the rank of Superintending Engineer or Executive Engineer as the case may be, within three months of the constitution of the concerned Water Users Association. Such Agreement shall contain the contents mentioned in section 29.

(2) Such agreement shall be valid for such period as may be prescribed.

22. Joint Inspection Repairs Rehabilitation And Handing Over Of Management Of Command Area To Minor Level Water Users Association :-

(1) After the Water Users Association at a minor level has been duly constituted and the Agreement between Water Users Association and the Canal Officer,, as the case may be, has been entered into, there shall be held a joint inspection of the canal system under the said Agreement within a period of three months from the date of Agreement. The entire canal system within the command area of Water Users Association, shall be jointly inspected by the Executive Engineer or his representative and the office-bearers of the Water Users Association and the works pertaining to the systems shall be classified into two separate lists i.e. Priority-I and Priority-II.

(2) The Priority-I List shall include the mandatory nature of works which are absolutely essential for passing of designated discharge, control and measuring and conveyance of water, by flow under gravity in the area of operation of Water Users Associations. The Priority-II List shall include the works other than those mentioned in Priority-I which although necessary for the efficient functioning of Water Users Associations, can be taken up after the Priority-I works.

(3) The findings of the joint inspection shall be recorded in duplicate, signed by both the Minor Level Water Users Association and the Canal Officer and one copy thereof shall be retained by each party.

(4) Within one month of the joint inspection, a list of the items of works which need to be carried out for rehabilitation of the canal system, based on the findings of such joint inspection and in accordance with the directives and orders of the Appropriate Authority and agreed to between the Canal Officer and the Water Users Association, shall be prepared.

(5) On preparation of such list of items of works under sub-section (4), the Canal Officer not below the rank of an Executive Engineer duly empowered in this behalf, shall inform the Water Users Association, the schedule of completion of repairs and renovation, if any required, to ensure that water can be delivered to the entire command area of the canal system, within the designed and

specified period. The schedule of completion for the works of Priority-I, shall not extend beyond the period of twelve months, from the date of joint inspection, except with the consent of the concerned Water Users Association. After completion of Priority-I works, the system will be tested and handed over to Water Users Association. If the Water Users Association fails to take over the system, within one month of such testing, it shall stand handed over to the Water Users Associations. The participation of Water Users Association in repairs and renovation works shall be as prescribed. After such handing over of the system, Priority-II works shall be completed within a period not exceeding eighteen months. The Canal Officer shall have power to extend such period, in exceptional circumstances.

(6) There shall be annexed to such list of items of works, the copies of the joint inspection findings, the agreed schedule of completion of the repairs and renovation, together with the list of items of such repairs and renovation agreed to by both the parties.

(7) If any dispute arises between Water Users Association and the Canal Officer regarding anything contained in the Agreement executed in accordance with sub-section (1), the same shall be resolved by the concerned Superintending Engineer and his decision in the matter shall be final.

23. Installation Of Measuring Device :-

(1) For every area of operation delineated under this Act or where a Water Users Association for flow irrigation has been duly constituted under this Act, it shall be the duty of the concerned Canal Officer to provide a proper measuring device or devices on the canal at the point of supply to Water Users Association and ensure its proper working from time to time.

(2) The accurate flow measurement, the form of record in which it shall be entered into and the periodic evaluation thereof; as well as the mode of ascertaining the volume of water for a period in which measuring device is out of order, shall be such as may be prescribed.

24. Freedom Of Cropping :-

The Water Users Association shall have the freedom of growing different crops within Applicable Water Entitlement or Water Allowance, as the case may be, subject to any restriction mentioned in Agreement.

25. Freedom Of Recycling Irrigation Water And Use Of Ground Water :-

(1) The Water Users Association in the areas under the Management of Irrigation Systems by Farmers shall have the freedom of recycling the water, at its own cost, for irrigation :

Provided that, there shall not be any extra charge to be paid to the Appropriate Authority for such recycling.

(2) The Water Users Associations shall also have the freedom of using groundwater in their command area, in the prescribed manner, in conjunction with canal water or otherwise :

Provided that, there shall not be any extra charge to be paid to the Appropriate Authority for use of such groundwater.

(3) In order to ensure equity of water supply within project and river basin and to protect environment, the Appropriate Authority may prohibit the formation of obstructions to drainage within certain limits by taking recourse to the provisions of sections 19, 20 and 21 of Maharashtra Irrigation Act, 1976 (Mah. XXXVIII of 1976)

26. Modes And Rates For Supply Water To Water Users Association :-

(1) Water from the canal system shall be supplied to the Water Users Associations (WUA) at various levels, from tail to head, on bulk basis measured volumetrically as per their water entitlements by Canal Officer or upper level Water Users Association, as the case may be.

(2) The rates for supply of water to a Water Users Association shall be on the volumetric basis measured at the point of supply.

(3) The Appropriate Authority shall have the power to levy the minimum charges as prescribed to the Water Users Association if water is not demanded or used for irrigation by Water Users Association in a season as per the Applicable Water Use Entitlement.

(4) The rates for supply of water under sub-section (2) and the minimum charges under sub-section (3) shall be such as may be prescribed.

27. Powers Of Water Users Association To Charge For Supply Of Water To Members :-

(1) The Water Users Association shall have the power and responsibility to charge to its members, water rates as may be

approved by the General Body of the Water Users Association.

(2) The Water Users Association shall have the power to levy the minimum charges in respect of the land for which water is not demanded or used for irrigation by the member:

Provided that, no such minimum charge shall be levied if the water is not available as per the Sanctioned Water Use Entitlement.

(3) The Water Users Association shall also have the power to levy the water charges for use of recycled water of ground water by members.

(4) The Water Users Association shall be entitled to recover the previous dues from its member the prescribed manner.

28. Supply Of Water As Per Entitlement :-

(1) It shall be the responsibility of the Appropriate Authority to supply water as per the Applicable Water Use Entitlement, in the prescribed manner to the Water Users Associations on the bulk basis measured volumetrically.

(2) It shall be the responsibility of the Water Users Association to supply water equitably in its area of operation as per the Applicable Water Entitlement of each member.

29. Contents Of Agreement :-

(1) Supply of water for irrigation to any Water Users Association at any level within the area of Management of Irrigation Systems by Farmers shall be in accordance with the Agreement to be signed by the Chairperson of the Water Users Association and the Chairperson of upper level Association or the Canal Officer duly empowered in this behalf, as the case may be. A note of such agreement, shall be kept with the Water Resources Department in the prescribed manner.

(2) The agreement shall, inter alia, contain the provisions for following:--

(i) Objectives of the Agreement;

(ii) Water Use Entitlement;

(iii) Water rate and assessment on volumetric basis;

(iv) Rights of member of the Water Users Association;

(v) Rights of the Water Users Association;

(vi) Recovery of water charges;

(vii) Previous dues;

(viii) Maintenance and Repairs of the Canal System;

(ix) Maintenance and Repairs of field channels and field drains;

- (x) Special incentives, if any, given by the Appropriate Authority, from time to time;
- (xi) Resolution of conflicts;
- (xii) Period of Agreement;
- (xiii) Termination or Revision of Agreement;
- (xiv) Joint inspections, rehabilitation, schedule of balance work and handing over, etc;
- (xv) Compensation;
- (xvi) Penalties;
- (xvii) Technical guidance and training;
- (xviii) All other matters, as prescribed, which need to be provided for carrying out the purposes of this Act, in the Agreement under this Act.

30. Office Bearers Of Water Users Association And Their Powers :-

In order to carry out functions of the Water Users Association, and to achieve the objectives of this Act, the office-bearers of Water Users Association and any person acting under the general or specific instructions of such office-bearers shall have such powers as may be prescribed.

31. Power To Remove Encroachment :-

A Water Users Association may, remove the encroachments from the property attached to the canal system within its area of operation in accordance with such procedure as may be prescribed.

32. Resignation :-

(1) A Director of the Managing Committee of a Water Users Association, at any level, may resign his office by a letter sent by the registered post or tendered in person to the Chairperson of the Managing Committee concerned.

(2) The Chairperson of the Managing Committee of a Water Users Association at any level may resign his office by a letter sent or tendered in person to the Chairperson of the Managing Committee of the next immediate upper level Association concerned :

Provided that, the Chairperson of the Managing Committee of a Project Level Association may resign his office by a letter sent by the registered post or tendered in person to the concerned Canal Officer.

Explanation.--In case, where the Managing Committee of the upper level Association at any level does not exist, the resignation of the Chairperson of Managing Committee shall be sent by registered post or tendered in person to the Chairperson of the Managing Committee of the next upper level Association or the concerned Canal Officer, as the case may be.

(3) The resignation letters received under sub-sections (1) and (2), shall immediately be forwarded to the Managing Committee of the Water Users Association concerned for acceptance or otherwise, and a copy of such resignation letter shall also be forwarded to the concerned Canal Officer.

(4) Every such resignation shall take effect from the date of its acceptance by the concerned Managing Committee or on the expiry of thirty days from the date of its receipt by the concerned Managing Committee, whichever is earlier.

33. Disqualifications :-

(1) An employee of the Government of India or any State Government or of a Local Authority or any institution receiving aid from the funds of the Government, shall be disqualified for election or for being or continuing as the Chairperson or a Director of a Managing Committee of the Water Users Association.

(2) No person who has been convicted by a criminal court for any offence involving moral turpitude shall be qualified for election or being or continuing in the office of a Chairperson or a Director of a Managing Committee of a Water Users Association.

(3) A person shall be disqualified for being elected as the Chairperson or a Director of the Managing Committee of a Water Users Association if, on the date fixed for the scrutiny of the nominations for election, or on the date of nominations, he is,--

- (a) of unsound mind and stands so declared by a competent court;
- (b) an undischarged insolvent;
- (c) has defaulted in the payment of land revenue or water tax or charges payable either to the Government or to the Water Users Association;
- (d) interested in a subsisting contract made with, or any work being done for, a Municipal Council or Corporation or the Panchayat Samiti or a Zilla Parishad or any State or Central Government or the Water Users Association :

Provided that, a person shall not be deemed to have any interest in such contract or work by reason only of his having share or interest

in,--

- (i) the company as a mere share-holder but not as a director; or
- (ii) any lease, sale or purchase of immovable property or any agreement for the same; or
- (iii) any agreement for the loan of money or any security for the payment or money only; or
- (iv) any newspaper in which an advertisement relating to the affairs of the Water Users Association is inserted.

Explanation.--For the purposes of this clause, where a contract is fully performed, it shall not be deemed to be subsisting merely on the ground that the concerned Municipal Council or Corporation or Panchayat Samiti, or Zilla Parishad, or Water Users Association, State or Central Government, has not performed its part of the contractual obligations.

(4) A Chairperson or a Director of the Managing Committee of a Water Users Association shall be disqualified for election to or continuing in such office if such office bearer absents himself from three consecutive meetings of the Managing Committee without reasonable cause and without prior intimation to the Committee in writing.

(5) A person having more than two children at the time of contesting the election of the Chairperson or Director of the Managing Committee shall be disqualified for such election :

Provided that, a person having more than two children on the date of coming into force of this Act shall not be disqualified under this sub-section, for so long as the number of children he had on the date of such coming into force has not increased :

Provided further that, a child or more than one child born at one time, within a period of one year from the date of such commencement shall not be taken into consideration for the purposes of disqualification under this section.

Explanation.--For the purposes of this sub-section,--

(i) where a couple has only one child on or after the date of such coming into force, any number of children born subsequently at one time only shall be deemed to be one child for the purposes of this section;

(ii) "child" does not include an adopted child or children.

(6) A person shall become disqualified to continue as a Director of the Water Users Association or hold the office of the Chairperson or the Director of the Managing Committee of a Water Users Association, if he ceases to be a landholder or occupier in the area of operation of the concerned Water Users Association.

34. Filling Up Of Vacancies :-

(1) A vacancy arising either due to recalling of a Director under section 19 or disqualification under section 33 or due to death, resignation, or by any other reason shall be filled up by nomination in the prescribed manner.

(2) The term of office of a Director or the Chairperson of a Water Users Association, nominated under sub-section (1), shall be co-terminus with the term of the Managing Committee.

35. Records :-

(1) Every Water Users Association shall keep at its office, the following books of accounts and records, namely:--

(a) a register of members of the Water Users Association, containing the names of the members, their holding of lands in the area of operation of the Water Users Association and their Water Entitlements in the normal Year;

(b) a copy of this Act duly modified upto date;

(c) a map of the area of operation of the Water Users Association alongwith map of the structures and canal systems prepared in consultation with the Water Resources Department of the Government;

(d) a statement of the assets and liabilities;

(e) a register of the proceedings of the General Body meetings;

(f) a register of the proceedings of the Managing Committee meetings;

(g) a register of proceedings of the elections and recall of the director of the Managing Committee;

(h) books of account showing receipts and payments;

(i) books of account of all purchases and sales of goods by the Water Users Association;

(j) register of measurement books, level field books, work orders and the like;

(k) copies of audit reports and enquiry reports;

(l) Water Accounts; and

(m) all such other accounts, records and documents as may be prescribed.

(2) The books of accounts and other records maintained by the Water Users Associations shall be open for information to the Members of such Association, subject to the rules being made in this behalf.

36. Model Regulations :-

(1) The State Government shall, publish model regulations for guidance and adoption by the Water Users Associations and its Managing Committee laying down guidelines relating to the number of meetings to be held, the procedure and the quorum in the meeting, etc.

(2) The Water Users Association shall adopt the model regulations, with necessary modification, if any, required, after recording reasons necessitating such modification, so however as not to be entirely defeating its nature and purpose.

37. Dissolution Of Managing Committee Of Water Users Association And Transitional Arrangements :-

(1) In case of any abuse of powers and failure to carry out functions on the part of the Managing Committee of a Water Users Association, or contravention of the provisions of this Act or rules, the concerned Appropriate Authority may, after giving the defaulting Managing Committee a reasonable opportunity to show cause, dissolve such Managing Committee or pass such orders as deemed necessary:

Provided that, on such dissolution, the Managing Committee shall be reconstituted within a period of three months from the date of such dissolution.

(2) The State Government may, by notification in the Official Gazette, pending the reconstitution of the Managing Committee of a Water Users Association appoint an officer, as prescribed, to exercise the powers and perform the function of such Managing Committee.

(3) If the Water Users Association does not function even after such reconstitution under sub-section (1), the Appropriate Authority may, after giving the Managing Committee of such association a reasonable opportunity of being heard, take such necessary action, as may be prescribed.

38. Appointment Of Competent Authority :-

(1) The Appropriate Authority may, by notification in the Official Gazette, appoint or designate such number of officers of the State Government in the Water Resources Department, as it may deem fit, to be the Competent Authority in respect of any Water Users Association for the purposes of this Act.

(2) The Competent Authority so designated under sub-section (1) shall provide technical advice and ensure that work is executed in accordance with technical parameters.

CHAPTER 3 LIFT IRRIGATION WATER USERS' ASSOCIATION

39. Water Users Association For Lift Irrigation :-

(1) For every lift irrigation scheme under this Act, then shall be constituted a Water Users Association.

(2) The State Government shall, by notification in the Official Gazette, declare a cut-off-date, being a date not earlier than one year from the date of such notification, after which the sanctions to individual schemes of lift irrigation shall stand cancelled in the delineated areas :

Provided that, the State Government may, by notification in the Official Gazette, extend the said period :

Provided further that, under exceptional circumstances and having regard to geographical situations, the permission to individual lifts may be continued till constitution of the Lift Irrigation Association.

40. Permission To Form Lift Irrigation Water Users Associations On Notified Rivers Or Streams In Command Of Flow Irrigation :-

In order to avoid overlapping in command areas of flow and lift irrigation and complications arising thereby, the Appropriate Authority may give permission to form Lift Irrigation Water Users Associations, on notified rivers or streams in the command of flow irrigation, after delineating the area of flow and lift irrigation separately in the prescribed manner.

41. Permission To Individual Lifts On Notified Rievers Or Streams Upstream Of Reservoir Beyond The Area Of Operation Of Lift Irrigation Water Users Associations On Reservoir :-

In the case of Lift Irrigation on notified rivers or streams upstream of reservoir which are beyond the area of operation of Lift Irrigation Water Users Associations along the periphery of a reservoir within the prescribed extent of water use and to all concerned project affected people as prescribed, the Canal Officer duly empowered by the Appropriate Authority, in this behalf, may give permission to individual lifts and exercise control thereon:

Provided that, the Canal Officer shall, on constitution of the Lift Irrigation Water Users Associations, cancel the individual sanctions given, under this section :

Provided further that, the quantum of water to be allowed for lift irrigation along reservoir shall be determined in the prescribed manner depending upon the geographical situation and water availability.

42. Delineation Of Areas Of Operation Of Lift Irrigation Water Users Associations :-

(1) A Canal Officer not below the rank of an Executive Engineer, duly empowered by the Appropriate Authority in this behalf shall, by notification in Official Gazette and in accordance with the rules made under this Act, delineate command areas of the Lift Irrigation Water Users Associations separately based on the prescribed guidelines and declare those areas to be the areas of operation of respective Lift Irrigation Water Users Associations for the purposes of this Act.

(2) The provisions of sub-sections (2), (3), (4), (5) and (6) of section 6 shall, mutatis mutandis, apply to delineation of area of operation of Lift irrigation Water Users Associations.

43. Constitution Of Lift Irrigation Water Users Association :-

(1) In an area delineated as an area of operation of the Lift Irrigation Water Users Associations under section 42, Lift Irrigation Water Users Associations shall be constituted by the holders or occupiers of lands so delineated. Such Association shall be registered in the prescribed manner.

(2) The provisions of sub-section (2) of section 8 shall, mutatis mutandis, apply to the constitution of the Lift Irrigation Water Users Associations.

(3) The State Government may, for reasons to be recorded in writing, provide for any other type or form of the Lift Irrigation Water Users Associations.

44. Managing Committee Of Lift Irrigation Water Users Association And Election Of Its Directors And Chairperson :-

The provisions of section 9 shall, mutatis mutandis, apply to the

Managing Committee of the Lift Irrigation Water Users Association and election of its Chairperson and Directors.

45. Water Supply To All Lift Irrigation Water Users Associations And Individual Lifts To Be Regulated By Canal Officer :-

Water supply to the Lift Irrigation Water Users Association and individual lifts in the State, if any, shall be controlled and regulated by the Canal Officer duly empowered by the Appropriate Authority in this behalf. The Canal Officer shall assist, in obtaining permission to install pumps in the course of a river:

Provided that, if there is any difficulty in constitution of the Lift Irrigation Water Users Associations on Main Canal, the Appropriate Authority may, after studying the feasibility, by order, hand-over the responsibility of individual lifts on uncommand side of Main Canal to nearby Water Users Association at minor level for a specified period :

Provided further that, the consent of the concerned Water Users Association and the concerned holder or occupier of land shall be obtained for such handing over.

46. Lift Irrigation Water Users Associations Not To Lift Water Directly From The Main Canal :-

The Lift Irrigation Water Users Association shall not lift water directly from the Main Canal. Water shall be made available to the Lift Irrigation Water Users Association by flow under gravity through an arrangement in the intake well built by the Lift Irrigation Water Users Associations at their own cost :

Provided that, in case of the existing, individual Lift Irrigation Schemes joining the Lift Irrigation Water Users Association, as well as the existing Lift Irrigation Water Users Associations, even after registration of such Associations under section 39, the condition of constructing in take wells shall be relaxed.

47. Provision Maintenance Of Water Meters By Lift Irrigation Water Users Associations :-

(1) The Lift Irrigation Water Users Association shall provide, install, maintain and calibrate water meters for flow measurement at their cost :

Provided that, for every water lifting device, there shall be a

separate water meter certified by the Bureau of Indian Standards (ISI).

(2) The Canal Officer, duly empowered in this behalf, shall have the power to inspect and test the water meters and pass such order he deems fit.

48. Regulation Of Supply Of Electricity To Lift Irrigation Water Users Associations :-

The Appropriate Authority may make separate arrangements for the control and regulation of supply of electricity to the Lift Irrigation Water Users Associations and individual lifts as prescribed. The provisions of section 97 of the Maharashtra Irrigation Act, 1976 shall, mutatis mutandis, apply to Lift Irrigation Water Users Associations under this Act. The Canal Officer shall assist in obtaining the connection of electric power supply to the Lift Irrigation Schemes.

49. Determining Water Rates For Lift Irrigation Water Users Associations :-

The Appropriate Authority shall, in accordance with the rules made in this behalf, determine the separate water rates on volumetric basis for Lift Irrigation Water Users Associations, considering the fact that all the expenditure for installation and organisation and maintenance of the Lift Irrigation Scheme is borne by Lift Irrigation Water Users Associations.

50. Application Of Provisions Of Water Users Associations :-

Save as otherwise provided by or under any other provisions of this Act, the provisions relating to the Water Users Association shall, mutatis mutandis, apply to the Lift Irrigation Water Users Association.

51. Linkages Of Lift Irrigation Water Users Associations :-

(1) The Lift Irrigation Water Users Association on Main Canal shall be deemed to be the members of the Canal Level Association.

(2) The Lift Irrigation Water Users Association on reservoirs shall be deemed to be the members of Project Level Association.

CHAPTER 4 POWERS AND FUNCTIONS OF WATER USERS' ASSOCIATIONS

52. Powers And Functions Of Water Users Associations :-

(1) Every Water Users Association at any Level shall perform the following functions, namely:--

(a) to seek the following information from the Upper Level Association or the concerned Canal Officer, as the case may be, and maintain its record and pass it on to its members,--

(i) Applicable Water Use Entitlement of such Association and that of its members;

(ii) Number of rotations planned;

(iii) Irrigation interval fixed;

(b) to collect, check and either sanction or reject partly or fully water applications or water indents of members based on criteria prescribed and unless previous dues are paid, no water shall be supplied to such members;

(c) to seek information regarding canal operation schedule from the Upper Level Association or the concerned Canal Officer, prepare detailed water distribution programme or Rotational Water Supply for members before every rotation and ensure volumetric supply to each members as per their entitlement :

Provided that, in case of Minor Irrigation Project having only one Water Users Association, that Water Users Association itself shall prepare canal operation schedule for the project;

(d) to convene a meeting of the Managing Committee before each irrigation season to guide and help the members regarding,--

(i) Canal operation schedule and water distribution programme;

(ii) public notice to be issued;

(iii) maintenance of canal system before commencement of season;

(iv) the information about the latest decisions taken by the Upper Level Associations and the Appropriate Authority;

(e) to receive Applicable Water Entitlement from the Upper Level Association or the concerned Canal Officer and supply it to the members as per their Water Use Entitlement strictly following principle of tail to head;

(f) to maintain rotationwise or seasonwise Water Account in the prescribed form; and to remit to the Canal Officer, the water charges within the prescribed period against the Bills received from the Canal Officer;

(g) to regulate and monitor water distribution to the members;

(h) to assess water charges payable from the members and send bills in the prescribed form; and to remit to the Canal Officer the water charges within the prescribed period against the bills

received from the Canal Officer;

(i) to collect prescribed service charges for operation and maintenance from the Lower Level Water Users Association and to remit its share to the Upper Level Association, or, the concerned canal officer, as the case may be;

(j) to carry out annual maintenance and repairs to canal system falling under its jurisdiction;

(k) to ensure that, the members maintain their canal system in good condition and they receive agreed maintenance amount in time;

(l) to maintain the records as prescribed;

(m) to resolve disputes, if any, amongst the members;

(n) to raise and utilise resources as mentioned in Chapter V of this Act;

(o) to undertake all allied activities related to agriculture;

(p) to prepare and submit annual report including the Water Audit and the Audited accounts to General Body;

(q) to enable the Government to publish the Annual Irrigation Status Report, furnish to the Canal Officer, the requisite information, as prescribed, in time;

(r) to undertake any other activities required to accomplish the objectives of that Water Users Association.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Water Users Association at Minor Level shall also perform the following functions in its area of operation :--

(a) to convene a meeting of the members before each irrigation season to share with them information available regarding water availability and Water Entitlement and invite their suggestions, if any, for efficient management of available water;

(b) to recover current water charges and previous dues, if any, from the members;

(c) to issue irrigation passes to members whose water applications are sanctioned and unless previous dues are paid, no membership shall be allowed;

(d) to prepare water distribution programme or Rotational Water Supply (RWS) for sub-minors, outlets and amongst members within the limits set by canal operation schedule;

(e) to implement the Agreement.

(3) Without prejudice to the generality of the provisions of sub-section (1), it shall also be the function of a Water Users Association to send a copy of the bill of the water charges assessed under clause (h) of sub-section (1) to the Canal Officer concerned.

(4) Without prejudice to the generality of the provisions of sub-section (1), it shall also be the function of a Project Level Association to assist the Canal Officer in assessment of the water charges for non-irrigation use, which are to be remitted by such users to the Canal Officer.

(5) The Project Level Association shall also perform the following functions, in addition to the functions under sub-section (1), namely:--

(a) to prepare water budget or preliminary irrigation programme for project before commencement of each irrigation season and determine Applicable Water Entitlement, number of rotations and irrigation interval in consultation with the concerned Canal Officer;

(b) to assist the concerned Canal Officer in assessment of water charges for Lift Irrigation Water Users Association on reservoirs and non-irrigation use, which are to be remitted by such users to the Canal Officer;

(c) to obtain and use area capacity table or curve of reservoir and discharge tables of Head Regulators of canals.

(6) Without prejudice to the generality of the provisions of sub-section (1), the Lift Irrigation Water Users Association shall also perform the following functions, namely:--

(a) to give guidance to members regarding the crops and the areas to be irrigated in a season considering Applicable Water Use Entitlement, number of rotations and irrigation interval;

(b) to receive measured volume of water from the concerned Canal Officer and to supply it to the members.

(7) The Water Users Association for giving its water quota, by consent of all the members, may enter into an annual tri-partie (Water Users Association, Canal Officer and Private bodies of Company) agreement, as prescribed, so as to enable the private body or company to ensure increased agricultural production for the common interest of the members in the command area.

53. Functions Of Appropriate Authority And Power And Duties Of Canal Officer :-

The functions of the Appropriate Authority and powers and duties of Canal Officer shall be as follows :--

(a) to delineate the areas of operation of Water Users Associations at all levels and provide the information of the same to Water Users Association;

(b) to determine and notify Applicable Water Entitlement for Water

Users Associations at all levels;

(c) to determine the method to arrive at Applicable Water Entitlement in deficit years;

(d) to ensure supply of water as per the Applicable Water Entitlement on bulk basis measured volumetrically to Water Users Associations at all levels at agreed intervals every year;

(e) to rehabilitate, modernise, maintain and operate canal system not handed over to Water Users Associations;

(f) to conduct joint inspection and ensure repairs and renovations works in consultation with Water Users Association as prescribed;

(g) to enter into an Agreement with Water Users Association;

(h) to rehabilitate canal system in delineated areas under the Management of Irrigation System by Farmers, before handing over such system to Water Users Association;

(i) to provide necessary technical and managerial assistance to Water Users Associations for their capacity building;

(j) to provide all information to Water Users Associations regarding availability of water, canal operation schedules and any other information relevant to Operation and Management of water supply in the areas under Management of Irrigation System by Farmers;

(k) to issue after assessment in a prescribed manner, the bill for water supplied to a Water Users Association and to recover the same;

(l) without prejudice to the generality of the provisions of the section 53, the concerned Canal Officer shall, initiate constitution of Water Users Association under Sections 10, 13 and 16, only after the minor level Water Users, Associations (Primary Branch of Water Users Association) has been operational in an efficient manner and the Appropriate Authority, is satisfied in the manner prescribed;

(m) to carry out any other function that may be prescribed to accomplish the objectives of the Water Users Associations.

CHAPTER 5 SOURCES OF FUNDS

54. Sources Funds Of Water Users Association :-

The funds of the Water Users Association shall be raised through the following resources,--

(i) Water Charges;

(ii) Interest on Deposits;

(iii) Deposits from the Members;

(iv) Borrowings;

(v) Donations;

- (vi) Contributions by Members;
- (vii) Grants;
- (viii) Penalty and penal fees from the Members; and
- (ix) Fees for the services rendered.

55. Utilisation Of Funds Of Water Users Association :-

The funds of the Water Users Association shall be utilised to fulfill the objects of the Water Users Association in the prescribed manner.

56. Budget :-

In every financial year, the Managing Committee of a Water Users Association shall prepare a budget in respect of the next financial year, showing the estimated receipts and expenditure of the Committee and shall place the same before the General Body of the Water Users Association for its approval in the prescribed manner.

57. Deposit And Administration Of The Funds :-

The Water Users Association shall deposit its funds in a Scheduled Bank, or a Co-operative Bank or a Urban Bank or a Commercial Bank or a Post Office Savings Bank.

58. Reserve Fund :-

Every Water Users Association shall maintain such "Reserve Fund" and utilise the same in the manner as prescribed.

59. Audit :-

Every Water Users Association shall get its accounts audited annually in the prescribed manner.

CHAPTER 6 OFFENCES AND PENALTIES

60. Offences And Penalties :-

(1) Any person who without any lawful cause, sanction or authority commits any of the acts specified in sub-section (2) within the area of operation of Water Users Association shall be deemed to have committed an offence under this Act and shall, on conviction, be punished with imprisonment which may extend to six months or with fine which may be upto ten times the annual water charges or

with both.

(2) The acts referred to in sub-section (1) are as follows:--(a) damages, alters or obstructs canal system;
(b) interferes with the flow and water level in canal system;
(c) pollutes or fouls the canal water, so as to diminish its utility for the given purposes or, so as to render it less fit for the given purpose;
(d) destroys, tampers with, or removes any apparatus or part of any apparatus meant for operation and maintenance of canal system;
(e) obstructs the implementation of scheduled irrigation;
(f) uses water in unauthorised or wasteful manner;
(g) lifts water in an unauthorised manner;
(h) endangers the stability of canal system;
(i) obstructs the flow in the drainage system;
(j) neglects the maintenance of canal system;
(k) prevents the lawful use of canal system by any person authorised to use the same;
(l) does not pay the water charges in time;
(m) contravenes any of the provisions of this Act or rules made thereunder.

61. Com Compounding Of Offences :-

(1) The Appropriate Authority may either before or after the institution of the proceedings for any offence punishable under this Act or the rules made thereunder, accept from any person charged with such offence, by way of composition thereof, a sum of money not exceeding one thousand rupees within such time as the Appropriate Authority may determine.

(2) On payment by such person of such sum as composition amount, such person, if in custody, shall be released from the custody and, if any proceedings in any criminal court have been instituted against such person in respect of an offence under this Act, the composition shall be deemed to be to an acquittal and no further criminal proceedings shall be taken against such person in respect of such offence.

62. Punishment Under Other Law 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 of omission or commission made punishable by or under

this Act :

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

CHAPTER 7 CONFLICT RESOLUTION

63. Settlement Of Disputes :-

(1) Any dispute or difference concerned with the constitution, management, powers or functions of a Water Users Association arising amongst members, shall be resolved by the Managing Committee of the Water Users Association concerned.

(2) Any dispute or difference arising amongst a Member and the Managing Committee of a Water Users Association or between two or more Water Users Associations shall be resolved by the next immediate Upper Level Association :

Provided that, in case of dispute or difference arising between a member and the Managing Committee of a Project Level Association or between two or more Project Level Associations, such dispute shall be resolved by such Canal Officer, as may be prescribed, whose decision thereon shall be [final and] binding on all concerned.

(3) If the dispute is between the Water Users Association and the Appropriate Authority, such dispute shall be referred to such authority as may be prescribed in this behalf.

Explanation.-- In cases where the Managing Committee of the Upper Level Association at any level does not exist, then the dispute shall be resolved by the Managing Committee of next Upper Level Association or the concerned Canal Officer, as the case may be.

(4) Every dispute or difference under this section shall be disposed of within forty-five days from the date of reference of the dispute or difference.

(5) For resolving the dispute as regards water use entitlement and water distribution, the provisions of section 21 of the Maharashtra Water Resources Regulatory Authority Act, 2005 (Mah. XVIII of 2005) shall apply and the decisions regarding compensation shall be taken in accordance with the provisions of section 75 of the Maharashtra Irrigation Act, 1976 (Mah. XXXVIII of 1976)

64. Appeals :-

(1) Any person aggrieved by any decision made or order passed by

any Managing Committee of a Water Users Association at any level may appeal to the Managing Committee of the immediate Upper Level Association.

(2) Any person aggrieved by any decision made or order passed by the Managing Committee of a Project Level Association may appeal to such authority as may be prescribed, whose decision thereon shall be final.

(3) Any appeal under this section shall be made within thirty days from the date of receipt of the communication of the decision or from the date of the receipt of the order by the aggrieved party, whichever is earlier :

Provided that, the appellate authority may, for sufficient reasons to be recorded in writing, condone the delay in filing the appeal beyond thirty days.

(4) Every appeal under this section shall, be disposed of within thirty days from the date of filing of the appeal:

Provided that, when the appeal is not disposed of within the period specified, the appellate authority shall record the reasons in writing for the delay beyond the period of thirty days.

Explanation.--In case immediate Upper Level Association at any Level does not exist, then the Appeal may be made to the next Upper Level Association or concerned Canal Officer, as the case may be.

CHAPTER 8 GENERAL PROVISIONS

65. Application Of The Provisions Of The Maharashtra Water Resources Regulatory Authority Act 2005 :-

The provisions of the sections 11 to 14 and section 22 of the Maharashtra Water Resources Regulatory Authority Act, 2005 shall apply in implementing this Act and the rules made thereunder.

66. Ownership And Control Of Specified Items Or Components To Vest With State Government :-

Unless otherwise decided by the Government, the ownership and the control of the following shall vest in the Government, namely :-

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(i) Reservoirs and Head works of any irrigation project; (ii) main rivers and their tributaries;

(iii) Government buildings, colonies and lands;

(iv) Government vehicles;

(v) Government telecommunication systems:

Provided that, the Government may, upon request being made in that behalf, permit a Water Users Associations to use the facilities mentioned at clauses (iii), (iv) and (v) in the prescribed manner, on payment of such charges as may be prescribed. The Government may depute its employees to the Water Users Associations, if such request is made by the Water Users Association.

67. Control Of Canal System Not Handed Over To Water Users Association :-

(1) Every canal system except the canal system handed over to the Water Users Associations shall be controlled, regulated and maintained by the State Government.

(2) During natural calamity or in exceptional circumstances the special repairs work in the area of the project, handed over to the Water Users Associations shall be carried out, as prescribed, by the Appropriate Authority.

68. Water Budgeting At Project Level :-

(1) Water budgeting, that is to say, preparing the preliminary Irrigation programme for the project, in consultation with the Canal Officer duly empowered in this behalf, shall be the responsibility of the Project Level Association. Such Preliminary Irrigation Programme shall be based on priorities determined by the State Government, from time to time.

Explanation.--When a Project Level Association does not exist, the preparation of preliminary Irrigation programme shall be the responsibility of the concerned Canal Officer.

(2) The Applicable Water Use Entitlement shall be worked out every year or, every season as the case may be, considering practical situation and directives issued by the State Government..

69. State Government To Be Lawful Owner Of Canal System :-

The ownership of the canal system handed over to the Water Users Association for the purposes of management thereof shall be with the State Government and the State Government shall have the power to take control of such system in the larger public interest.

70. Water Supply For Non-Irrigation Purposes :-

The Appropriate Authority shall regulate the water supply for non-irrigation purposes from Reservoir, Main Canals, Branch Canals, Distributaries and rivers in such a manner as to protect and safeguard the Applicable Water Use Entitlement of Water Users Associations at all levels.

71. Recovery Of Water Charges :-

Sections 88 and 89 of the Maharashtra Irrigation Act, 1976 (Mah. XXXVII of 1976) (Mah. XXXVII of 1976) shall, mutatis mutandis apply to recovery of water charges in areas under the Management of Irrigation Systems by Farmers.

72. Act To Apply To Existing Water Users Associations :-

Any existing Water Users Association in a delineated area constituted prior to the date of commencement of this Act, under any law for the time being in force, shall be deemed to have been constituted under the provisions of this Act :

Provided that, the areas of operation of such Water Users Associations shall be delineated in accordance with the relevant provisions of this Act and for that purpose the existing agreement, if any, shall accordingly stand modified.

73. Section 73 :-

(1) This Act shall apply to the on going projects from the date of its publication in the Official Gazette.

(2) The work of distribution system having discharge capacity not exceeding one cubic meter per second shall be carried out only after constituting Minor Level Water Users Association under sections 5, 6, 7 and 8 of this Act, in the command area, with the participation of Minor Level Water Users Association, as prescribed and area of operation shall be handed over to such Associations. As the Minor Level Water Users Associations are participated from construction stage, the provisions under section 22, regarding repairs and renovations, shall not apply to such Associations.

74. Authentication Of Orders And Documents Of Water Users Association :-

(1) All permissions, orders, decisions, notices and other documents, except the Agreement, of the Water Users Association shall be authenticated by the Chairperson of the Water Users Association or

Member-Secretary authorised by the Water Users Association in this behalf.

(2) The Agreement, shall be signed by the Chairperson of the Water Users Associations.

75. Action Not Invalidated By Infirmary Or Vacancy :-

No actions or proceedings of the Water Users Association shall be invalid for the reason merely of the existence of any vacancy in, or defect in the constitution of such Association.

76. Rules :-

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Except when rules are made for the first time, all rules made under this Act shall be subject to the condition of previous publication.

(3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session or sessions immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification 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 or omitted to be done under that rule.

77. Repeal :-

On the commencement of this Act, in relation to the areas under the Management of Irrigation Systems by Farmers, [sub-sections (1) and (2) of section 46,] sections 46 to 48, section 55, sections 57, 58, 60 and 61 to 74 of the Maharashtra Irrigation Act, 1976, shall be deemed to have been repealed:

Provided that, the repeal shall not affect --

(i) the previous operation of any of the sections so repealed or anything duly done or suffered thereunder; or

(ii) any right, privilege, obligation or liability acquired, accrued or

incurred under any section so repealed; or

(iii) any penalty, forfeiture or punishment incurred in respect of any offence committed against any section so repealed; or

(iv) any investigation, proceeding, legal proceeding or remedy in respect of any right, privilege, obligation, liability, penalty, forfeiture or punishment, as aforesaid,

and any such investigation proceeding, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had been come into effect:

Provided further that, subject to the preceding proviso, anything done or any action taken (including any charges created, appointments, rules, notifications, orders, summons, notices, warrants and proclamations made or issued, authorities and powers conferred or vested record-of-rights prepared or revised, canals or any water works or water courses or field-channels constructed, any supply of water made, water rates charged, agreements or contracts made, any taxes or fees levied, any compensation awarded, any labour obtained or supplied for emergency works of canals, any rights acquired or liabilities incurred, any suits instituted or proceeding taken or appeal made), under any section so repealed shall, in so far as such thing done or action taken is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act; and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act;

78. Saving :-

The Provisions of the Maharashtra Irrigation Act, 1976 (Mah. XXXVIII of 1976) which have not been specifically repealed by this Act shall remain in force and shall mutatis mutandis apply to areas under the Management of Irrigation Systems by Farmers.

79. Act To Have Overriding Effect :-

Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall have overriding effect, in respect of the areas of the Management of Irrigation System by Farmers.

80. Power To Remove Difficulty :-

(1) If any difficulty arises in giving effect to the provisions on this Act or as to the first constitution or reconstitution of any Water Users Association after the coming into force of this Act, the Appropriate Authority, as the occasion may require, by order published in the Official Gazette, take necessary action for removing difficulties :

Provided that, no such order shall be issued after the expiry of a period of two years from such commencement.

(2) All orders made under sub-section (1) shall, as soon as may be, after they are made, be laid on the table of the both Houses of the State Legislature.

81. Reapal Of Mah. Ord. Xxiii Of 2004 :-

The Maharashtra Management of Irrigation Systems by Farmers Ordinance, 2004 (Mah. Ord.XXIII of 2004), is hereby repealed.

ERRATUM

In the English translation of the Maharashtra Management of Irrigation Systems by Farmers Act, 2005 (Mah. XXIII of 2005), published in the Maharashtra Government Gazette, Extraordinary, No. 50, Part VIII, dated the 19th May 2005, at pages 480-516,--

(a) on page 503, in line 16, for "then" read "there";

(b) on page 512,--

(i) in line 9, for "shall be [Final and]" read "shall be";

(ii) for lines 21 and 22, read "of the dispute or difference. For resolving the dispute as regards water use entitlement and";

(c) on page 515, in lines 24 and 25, for "Farmers, [sub-sections (1) and (2) of section 46,] " read "Farmers,".