

MAHARASHTRA TAPI IRRIGATION DEVELOPMENT CORPORATION ACT, 1997

4 of 1998

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SCHEDULE 1 :- SCHEDULE

MAHARASHTRA TAPI IRRIGATION DEVELOPMENT CORPORATION ACT, 1997

4 of 1998

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An Act to make special provisions for promotion and operation of irrigation projects, command area development and schemes for generation of hydro-electric energy to harness the water of Tapi River pertaining to the State of Maharashtra and other allied and incidental activities including flood control in the Tapi River Valley by establishing the Tapi Irrigation Development Corporation. WHEREAS it was expedient to make special provisions for promotion and operation of some irrigation projects, command area development and schemes for generation of hydro-electric energy to harness the water of Tapi River pertaining to the State of Maharashtra and other allied and incidental activities including flood control in the Tapi Valley by establishing the Tapi Irrigation Development Corporation; AND WHEREAS it was considered necessary to immediately make a law for the same; 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 a law for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Tapi Irrigation Development Ordinance, 1997 on the 4th December, 1997; AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Forty-eighth Year of the Republic of India, as follows :-

1. Short title, extent and commencement :-

(1) This Act may be called the MAHARASHTRATAPI IRRIGATION DEVELOPMENT CORPORATION ACT, 1997 .

(2) It shall extend to the main stream of Tapi River in the State of Maharashtra and such other area or areas, as the State Government may, by notification in the Official Gazette, specify.

(3) It shall be deemed to have come into force on the 14th December, 1997.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "Area of operation of the Corporation" means the area of the main stream of Tapi River and any other area or areas to which the provisions of this Act are extended by the State Government by notification in the Official Gazette under sub-section (2) of Section 1 ;

(b) "Corporation" means the Tapi Irrigation Development Corporation established under Section 3 ;

(c) "Hydro-Electric Power Project" means and includes the planning, construction, maintenance and management of Hydro-Electric Power Projects, within the area of operation of the Corporation and shall also include such hydro-electric power projects as are assigned, handed over or transferred to the Corporation by the State Government;

(d) "Irrigation Department" means the Irrigation Department of the Government;

(e) "Irrigation Project" means the planning, construction, maintenance and management of-

(i) Major Irrigation Project having irrigable command area of more than 10,000 hectares:

(ii) Medium Irrigation Project having irrigable command area of more than 2,000 hectares and upto 10,000 hectares.

(iii) Minor Irrigation Project having irrigable command area of more than 250 hectares and upto 2,000 hectares and shall include command area development, flood control and other allied activities;

- (f) "Main Stream of Tapi River" means the geographical area of Tapi River and all its tributaries within the State of Maharashtra;
- (g) "Member" means a member of the Corporation designated as Director;
- (h) "prescribed" means prescribed by the rules made under this Act;
- (i) "regulations" means the regulations made under this Act;
- (j) "State Government" or "Government" means the Government of Maharashtra.

CHAPTER 2

Establishment, Conduct of Business and Employees of the Corporation

3. Establishment of Tapi Irrigation Development Corporation :-

(1) The State Government shall, by notification in the Official Gazette, establish, for the purposes of this Act, a Corporation to be called the Tapi Irrigation Development Corporation.

(2) The Corporation established under sub-section (1) shall be a body corporate, having perpetual succession and a common seal, with power to contract, acquire, hold and dispose of property, both movable and immovable, and to do all things necessary for the purposes of this Act, and may sue and be sued by its corporate name.

(3) The Head Office of the Corporation shall be at Jalgaon.

4. Constitution of Corporation :-

(1) The Corporation shall consist of the following members, namely:-

(a) the Minister for Irrigation ex-officio Chairman.

(b) one non-official member from khandesh to be appointed by the State Government. vice-Chairman.

(c) the Chief Secretary to Government. ex-officio Vice-Chairman

(d) Secretary to Government, Irrigation Department ex-officio Managing Director.

(e) Secretary to Government, Irrigation Department (Command

Area Development) ex-officio Member.

(f) Secretary to Government, Finance Department. ex-officio Member.

(g) Secretary to Government, Planning Department ex-officio Member.

(h) Secretary to Government, Revenue and Forests Department (Forests) ex-officio Member

(i) Secretary to Government, Revenue and Forests Department (Relief and Rehabilitation) ex-officio Member

(j) Secretary to Government Agriculture Department. ex-officio Member

(k) Two members to be nominated by the State Government, from amongst the members of the Maharashtra State Legislative Assembly elected from the Assembly Constituencies in Dhule, Nashik and Jalgaon Districts.

(l) One member to be nominated by the State Government, from amongst the members of the Maharashtra State Legislative Council from Dhule, Nashik and Jalgaon Districts.

(m) One officer not below the rank of Secretary to Government from the cadre of the Engineering Services of the irrigation Department to be appointed by the State Government as the Member Secretary of the Corporation, who shall be designated as the Executive Director of the Corporation. The Executive Director shall be entitled to take part in all the deliberations and proceedings of the meetings of the Corporation but shall have no right to vote.

(2) The term of office of the nominated members shall be for a period of one year unless terminated earlier by the State Government:

Provided that, the members of the Maharashtra State Legislature shall cease to be the members of the Corporation, if they cease to be members of the Maharashtra State Legislature.

(3) The non-official member of the Corporation nominated under clause (b) of sub-section (1) shall receive such remuneration and allowances as may be laid down by regulations.

(4) The official members of the Corporation shall receive such compensatory allowances, for the purpose of meeting the personal expenditure in attending the meetings of the Corporation, as may be laid down by the regulations.

5. Executive Committee :-

(1) There shall be an Executive committee consisting of the following members namely:- (a) (b) (c) (d) (e) (f) Managing Director of the Corporation. Executive Director of the Corporation Chief Engineer, Irrigation Department North Maharashtra Region, Nashik Chief engineer of the Corporation Chief Accounts and Finance Officer. Executive Engineer of the Corporation. .. Chairman. .. Member. .. Member. .. Member. .. Member. .. Member-Secretary The powers, functions and duties of the Executive Committee shall be such as may be laid down by regulations.

6. Disqualification for membership and removal of members :-

(1) A person shall be disqualified for being nominated as a non-official member or continue to be such member, if he

(a) is an employee of the Corporation except the Executive Director;

(b) is of unsound mind, and stands so declared by a competent Court;

(c) is an discharged insolvent;

(d) is convicted for an offence involving moral turpitude;

(e) has, directly or indirect by himself or by any partner, employer or employer any share or interest whether pecuniary or of any other nature, in any contract or employment with, by or on behalf of, the Corporation;

(f) is a Director, Secretary, Manager or other officer of any company, which has any share or interest in any contract or employment with, by or on behalf of, the Corporation: Provided that, a person shall not be disqualified under clause (e) or clause (f) by reason only of his or the company of which he is a Director, Secretary, Manager, or other officer, having a share or interest in-

(i) any sale, purchase, lease or exchange of immovable property or any agreement for the same;

(ii) any agreement for loan of money or any security for payment of money only;

(iii) any newspaper in which any advertisement relating to the affairs of the Corporation is published.

(2) The State Government may remove from the Corporation any non-official member nominated who in its opinion,-

(a) has been disqualified under sub-section (1);

(b) refuses to act;

(c) has so abused his position as a member as to render his continuance on the Corporation detrimental to the interest of the public; or.

(d) is otherwise unsuitable to continue as member

(3) No order of removal under sub-section (2) shall be made unless the non-official member has been given an opportunity to submit his explanation to the Government, and when such order is passed the office of the member so removed shall be deemed to be vacant.

(4) A member who has been so removed under sub-section (3) shall not be eligible for reappointment as member or in any other capacity on the Corporation.

7. Meetings of the Corporation :-

(1) The Corporation shall meet at such times and places as the Chairman may decide and shall, subject to the provisions of sub-section (3), observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum thereof) as may be laid down by regulations:

Provided that, at least one meeting shall be held in every calendar month in such manner so as to ensure that not more than thirty days intervene between the two meetings.

(2) The Chairman or, in his absence the Vice-Chairman, appointed under clause (b) of subsections (1) of Section 4 , shall preside at every meeting of the Corporation. If the Vice-Chairman appointed under the said clause (b) is a person other than a member of the State Legislature, the Chief Secretary, being the other ex-officio Vice-Chairman, shall preside over such meeting. If for any reason the Chairman and Vice-Chairman are unable to attend any meeting.

(3) A member, who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal entered into or proposed to be entered into, by or on behalf of the Corporation, shall, at the earliest possible opportunity, disclose the nature of his interest to the Corporation, and shall not be present at any meeting of the Corporation when any such contract, loan, arrangement or proposal is discussed, unless his presence is required by the other members for the purpose of eliciting information, but no members so required to be present shall vote on any such contract, loan arrangement or proposal:

Provided that, a member shall not be deemed to be concerned or interested as aforesaid by reason only of his being a share-holder of a Company concerned in any such contract, loan, arrangement or proposal.

8. Constitution of committees :-

The Corporation may, from time to time, constitute a committee out of its members consisting of such number of them as it may think proper and may delegate to such committee or committees such powers of the Corporation as it may deem fit for carrying out the purposes of this Act.

9. Provision for inviting officers of Government and local authority :-

(1) The Corporation or any of its committees may invite any officer of the central Government, State Government, local authority or any organization or any person to attend its meeting or meetings as a special invitee for the purpose of assisting or advising it on any matter or matters. The officer or person so invited may take part in the proceedings, but shall have no right to vote.

(2) The officer or person so invited shall be entitled to draw such honorarium or compensatory allowance for the purpose of meeting the personal expenditure in attending the meetings of the Corporation or any of its committees as the Corporation may determine, from time to time.

10. Filling up of casual vacancy of member :-

Any vacancy of a member of the Corporation shall be filled, as early as practicable. In like manner as if the appointment were being made for the first time.

11. Act not to be invalidated by vacancy, informality, etc :-

No act done or proceedings taken under this Act by the Corporation or any committee appointed by the Corporation shall be invalidated merely on the grounds of

(a) any vacancy of a member or any defect in the constitution or reconstitution of the Corporation or a committee thereof; or

(b) any defect or irregularity in the appointment of a person as a member of the Corporation or of a committee thereof; or

(c) any defect or irregularity in such act or proceedings, not affecting the substance.

12. Officers and servants of Corporation :-

(1) The State Government shall appoint Executive Director as provided in sub-section (1) of Section 4 Chief Engineer, Superintending Engineer sub- section (1) and Chief Accounts and Finance Officer not below the rank of Director from the Maharashtra Finance and Accounts Service for the Corporation.

(2) The Corporation may, with prior approval of the State Government, appoint such other officers and servants subordinate to the officers mentioned in sub-section (1) as it considers necessary for the efficient performance of its duties, and functions.

(3) The conditions of appointment and service of the officers and servants and their scales of pay shall.

(a) as regards the officers mentioned in sub-section (1), be such as may be prescribed, and

(b) as regards the officers and servants mentioned in sub-section (2), be such as may be laid down from time, to time by regulations.

(4) subject to the superintendence of the Corporation the Executive Director shall supervise and control all its officers and employees including any officers of Government appointed on eputation to the Corporation.

13. Disqualification of all officers and staff :-

No person who has, directly or indirectly, by himself or by his partner or agent, any share or interest in any share or interest in any contract, by or on behalf of the Corporation or in any employment under, by or on behalf of the Corporation otherwise than as an officer or staff thereof, shall be qualified to be an officer or staff of the Corporation.

14. Authentication of orders, etc. of Corporation :-

All proceedings of the Corporation shall be authenticated by the Chairman or Vice-Chairman and all orders and instruments of the Corporation shall be authenticated by the Executive Director or any other officer of the Corporation as may be authorised in this behalf by regulations.

CHAPTER 3

Vesting of Property, Assests, Liabilities and Obligations and Transfer or Employees

15. Vesting and transfer of Property to Corporation :-

(1) From such date as may be specified from time to time, by the State Government (hereinafter in this Section referred to as "the appointed date"),

(a) the properties and assets comprising movables and immovables including Irrigation projects, Hydro-Electric Power Projects, works under construction, and management of completed schemes, specified in that behalf, situated in the area of operation of the Corporation, which immediately before the appointed date vested in the State Government and were under the control of the Irrigation Department, shall vest in and stand transferred to the Corporation, and all income derived and expenses incurred in that behalf be brought on books of the Corporation; and (b) the rights, liabilities and obligations of the State Government, whether arising out of any contract or otherwise pertaining to the said projects of the State Government, shall be deemed to be the rights, liabilities and obligations of the Corporation.

(2) Such properties, assets, rights, liabilities and obligations shall be valued in such manner as the State Government, may determine.

(3) All suits and other legal proceedings with respect to any scheme for the development of Irrigation Projects and Hydro-Electric Power Projects vested in the Corporation, under sub-section (1) instituted against or defended by the State Government before the appointed date may be continued, or against or defended by the Corporation.

16. Decision of the State Government on the vesting of property to be final :-

Where any doubt or dispute arises as to whether any property or assets has vested in the Corporation under Section 15 or any right, liabilities or obligations has become the rights, liabilities or

obligations of the Corporation under that Section, such doubt or dispute shall be referred to the State Government, whose decision shall be final.

17. Power of State Government to depute certain Government employees to Corporation :-

(1) Where on account of conferment of any powers, duties and functions on the Corporation by or under this Act, in the opinion of the State Government, any employees in the field establishments, that is officers and employees belonging to technical staff as well as ministerial and non-ministerial staff (permanent, regular, temporary, converted regular permanent, temporary and daily wages) in the Irrigation Department on the date specified by the State Government engaged in the fields of planning, investigation, design, construction, management, land development of the State sector, irrigation projects, lift irrigation scheme and Hydro-Electric Power Projects, have been rendered surplus or are likely to be rendered surplus wholly or partially to the requirements of the State Government, or where the services of such officers and servants are required by the Corporation for efficient exercise of its powers, performance of its duties or discharge of its functions, the State Government, the Head of the Department of the State Government or any officer authorised by the State Government in this , behalf may, from time to time, having regard to the necessity therefore, by order, depute such officers or employees to the Corporation, and the Corporation shall take them over and employ them on deputation, subject to the provisions of this Section.

(2) The period of deputation of any such employee to the Corporation shall be five years except when any such person is required to be repatriated on the grounds, such as promotion, reversion, termination or superannuation or any other reason as may be directed by the State Government. After the expiry of the period of deputation, he shall stand repatriated to service under the State Government:

Provided that, during the period of such deputation all matters relating to the pay, leave allowances, retirement, pension, provident fund and other conditions of service of the employees on deputation shall be regulated by the Maharashtra Civil Services Rules or such other rules as may, from time to time, be made by the State Government.

(3) All the regular, permanent and regular temporary permanent employees of the said establishment transferred on deputation to the Corporation under sub-section (2) shall have a lien on their posts on the service under the State Government and the period of their service under the Corporation shall, on their repatriation to the service under the State Government, be counted for their increments, pensions and other matters relating to their service.

(4) The Corporation shall have the authority to transfer the officers and staff members within the area of operation of the Corporation.

(5) No employee on deputation to the Corporation shall be entitled to any deputation allowance.

(6) The salaries and allowances of employees on deputation to the Corporation shall be paid from the Corporation fund.

(7) Save as otherwise provided in this Section, the terms and conditions of services of employees on deputation to the Corporation, shall not be less advantageous than those applicable to them immediately before deputation and shall not be varied to their disadvantage except with the previous sanction of the State Government.

CHAPTER 4

Functions and Powers of Corporation

18. Functions of Corporation :-

The functions of the Corporation shall be :-

(a) to promote and operate,-

(i) irrigation projects and command area development including flood control; and

(ii) schemes for the generation of hydro-electrical energy;

(b) to plan, investigate, design, construct and manage the irrigation projects and command area development; upto a water use of 326.26 TMC at 75% dependability; and to help drip irrigation schemes through the Agriculture Department of Government

(c) to plan, investigate, design, construct and manage the schemes of the generation of hydro electrical energy;

(d) to enter into contracts in respect of the works and any other matters transferred to the Corporation along assets and liabilities

under this Act;

(e) to invite tenders, bids, offers and enter into contracts for the purposes of all the activities of the Corporation;

(f) to promote participation of any person or body or association of individuals, whether incorporated or not, in planning, investigation, designing, construction and management of irrigation projects, and command area development and Hydro-Electric Power Projects including flood control;

(g) to undertake schemes or works, either jointly with other corporate bodies, or institutions, or with Government or local authorities, or any agency basis in furtherance of the purposes for which the Corporation is established and all matters connected therewith;

(h) to promote irrigation related activities such as fisheries, pisciculture, floriculture, horticulture, sericulture, tissueculture, etc.;

(i) to promote tourism, water sports and other related activities on and around the Irrigation and Hydro-Electric Power Projects;

(j) to develop the land around or nearby lake and in other suitable locations with irrigation facilities and other infrastructure facilities and lease part or whole of such developed properties to the interested parties;

(k) to prepare annual plan and five year working development plan

(l) to prepare annual budget;

(m) to take in possession on the terms and conditions laid down by the Corporation, the existing co-operative Lift Irrigation Schemes, enumerated in the Schedule appended to this Act. each having ICA greater than 250 ha. in Jalgaon (21 Nos.) and Dhule (35 Nos) districts, for operation and maintenance with their assets and liabilities, and hand over back to the Co-operative Lift Irrigation Societies on a receipt of the full payment of expenditure incurred by the Corporation;

(n) to undertake any other activities entrusted by the State Government in furtherance of the objectives for which the Corporation is established.

19. General powers of the Corporation :-

The Corporation shall have the power to accord administrative

approval, revised administrative approval, technical sanction, acceptance of all tenders, sanctioning budget and making financial provisions, settling disputes arising out of contracts and any other thing which may be necessary or expedient for the purposes of carrying out its functions under this Act.

(2) Without prejudice to the generality of the foregoing provisions, such power shall include the power;-

(a) to acquire and hold property, both movable and immovable as the Corporation may deem necessary for the performance of any of its functions, duties, activities and to lease, sell, exchange or otherwise transfer any property held by it on such conditions as may be deemed proper by the Corporation

(b) to construct or cause to be constructed such dams, barrages, reservoirs, power houses, power structures, electrical transmission lines and sub-stations navigation works, irrigation, flood control and drainage canals and such other works and structures as may be required.

(c) to take measures to prevent pollution of any water under its control and to take all measures deemed necessary to prevent discharges into such water of effluents which are harmful to water supply, Irrigation, public health or fish life;

(d) to stock its reservoirs or water courses with fish and to sell fish or fishing rights and prohibit taking out fish from the water under its control;

(e) to assist in the establishment of water users association and other organizations formed under the Maharashtra Co-operative Societies Act, 1960 for the better use of facilities made available by the Corporation;

(f) to lease rights for water sports, other recreational activities related to the use of reservoir and its surroundings and reservoir water;

(g) to establish, maintain and operate laboratories, experimental and research stations and farms for conducting experiments and research for-

(i) utilizing the water, electrical energy and other resources in the most economical manner for the development of the Tapi River Valley;

(ii) determining the effect of its operations on the flow conditions in the Tapi Rivers and its tributaries;

(iii) providing navigation condition on the Tapi River and its tributaries;

(h) to engage suitable consultant or person having special knowledge or skill to assist the Corporation in the performance of its functions;

(i) to do all such other things and perform such acts as may be necessary for, or incidental or conducive to any matters which are necessary for furtherance of the objectives for which the Corporation is established.

20. . :-

The Corporation shall, from time to time, determine and levy water charges according to volume, for supply of water for irrigation, industrial and domestic purposes to the State Government, local authorities, Government agencies, cultivators and water users associations;

Provided that, the levy of water charges shall be such that water charges so recovered shall be sufficient at least to cover the interest charges of the loan raised by the Corporation from the open market.

21. Responsibility of Corporation for payment of interest on borrowed money :-

The Corporation shall pay the interest on the borrowed money through the recovery of water charges.

22. Prohibition of construction of dam, bandhara, weir, etc. except with approval of the Corporation :-

No person shall construct, operate or maintain within the area of operation of the Corporation any dam, bandhara or weir or other work or any installation for the extraction of surface water without the prior approval of the Corporation:

Provided that, the State Government or a local authority may construct and operate such dams. weirs bandharas, etc., anywhere or across any river or basin within such area of operation or assign or handover such dam, bandhara , weir. etc. to the Corporation.

23. Co-ordination with other authorities to minimize inconvenience caused by submergence :-

The Corporation shall keep co-ordination with the State Government, Railway Authorities, local authorities and other statutory bodies with a view of minimizing the inconvenience likely to be caused by the submergence of railway, lands and roads and communications and shall bear the cost of any realignment thereof or resettlement of any population rendered necessary by such submergence.

24. Powers to be exercised by the Corporation under the Maharashtra Irrigation Act, 1976 :-

Notwithstanding anything contained in the Maharashtra Irrigation Act, 1976 and the Bombay Canal Rules, 1934,

(a) the Corporation may carry out all or any of the functions and exercise all or any of the powers of the State Government or the appropriate authority; and

(b) any officer of the Corporation authorised in this behalf by the Corporation may carry out all or any of the functions and exercise all or any of the powers of the Canal Officer, under the provisions of the said Act and the rules, within the area of operation of the Corporation.

25. Power of State Government to issue directions :-

The State Government may issue to the Corporation such general or special directions as to policy or exercise of the powers or performance of the functions by the Corporation, excepting in respect of the levying and recovery of water charges by the Corporation, as it may think necessary or expedient for carrying out the purposes of this Act and the Corporation shall be bound to follow and act upon such direction.

26. Power to acquire land for purposes of this Act :-

The State Government may, for carrying out the purposes of this Act, compulsorily acquire land under the Land Acquisition Act, 1894, and the acquisition of any land for any of the said purposes shall be deemed to be a public purpose within the meaning of that Act.

27. Transfer of Government lands to Corporation :-

(1) For the furtherance of the objects of this Act, the State Government may, by notification in the Official Gazette, upon such conditions as may be agreed upon between the Government and the Corporation, place at the disposal of the Corporation any lands

vested in the State Government:

Provided that, the State Government shall not place at the disposal of the Corporation any lands which are notified and included in a reserved forest.

(2) After any such land has been so placed at the disposal of the Corporation it shall be dealt with by the Corporation in accordance with the provisions of this Act or the rules or regulations made thereunder and the directions, if any, given by the State Government in this behalf.

(3) If any land placed at the disposal of the Corporation under subsection (1) is not required by the Corporation, the State Government may ask the Corporation to restore it to the State Government upon such terms and conditions as may be mutually agreed upon.

28. . :-

Subject to any rules made by the State Government under this Act, the Corporation may retain, lease, sell, exchange or otherwise dispose of any land, any building or other property vested in it, in such manner as it thinks fit for carrying out the purposes of this Act.

CHAPTER 5

Finance Accounts and Audit

29. Application of Corporations assets etc :-

All property, fund and other assets vesting in the Corporation shall be held and applied by it, for the purposes of this Act.

30. Fund of Corporation :-

(1) The Corporation shall have and maintain its own fund, to which shall be credited-

(a) all money received by the Corporation from the State Government by way of grants, subventions, loans, advances and the loans raised under this Act;

(b) all fees, costs and charges received by the Corporation under this Act;

(c) all money received by the Corporation from the disposal of lands, buildings and other properties, movable and immovable and other transactions;

(d) all moneys received by the Corporation by way of water charges, rents and profits or from any other source.

(2) The Corporation may keep current and deposit account with the State Bank of India or any other Bank approved by the State Government in this behalf.

(3) Such accounts shall be operated by such officers of the Corporation as may be authorised by it in this behalf.

(4) Notwithstanding anything contained in sub-sections (2) and (3), the Corporation may keep on hand such sum as it thinks fit for its day to day transactions, subject to such limits and conditions as may be prescribed.

31. Contribution of Government to Corporation Fund :-

(1) The State Government shall, by appropriation duly made in this behalf, from time to time, provide an aggregate sum of not less than rupees [2337] crores to the Corporation Fund, as its share of the capital required by the Corporation, for the performance of the functions of the Corporation under this Act and such contribution shall be paid in suitable instalments spread over a period of ten years from the date of establishment of the Corporation:

Provided that, the State Government shall, by appropriation duly made in this behalf, initially contribute and pay a sum of rupees 100 crores to the Corporation Fund:

Provided further that, the contribution made by the Government shall be exclusive of the expenditure incurred by the Government for and in connection with the establishment of the Corporation.

(2) The capital provided by the State Government shall not carry any interest.

32. Grants, subventions, loans and advances to Corporation :-

The State Government may, after due appropriation made by the State Legislature by law in this behalf, make such grants, subventions, loans and advances to the Corporation as it may deem necessary for the performance of the functions of the Corporation under this Act; and all grants, subventions, loans and advances made shall be on such terms and conditions as the State Government may determine.

33. Power of Corporation to borrow :-

(1) The Corporation may, subject to such conditions as may be prescribed in this behalf, borrow money from the financial institutions or non-resident Indians or from the open market by issue of guaranteed or un-guaranteed bonds, debentures stocks and otherwise, for the purpose of providing itself with adequate resources.

(2) The maximum amount which the Corporation may at any time have on loan under subsection (1) shall not exceed rupees one thousand crores, unless the State Government fixes a higher maximum limit for this purpose.

34. Acceptance of deposits by Corporation :-

The Corporation may accept deposits on such conditions as it deems fit, from persons, authorities or institutions, to whom allotment or sale of land or buildings or fishing rights is made or is likely to be made in furtherance of the objects of this Act.

35. Power to spend :-

The Corporation shall have the authority to spend such sums as it thinks fit for the purposes authorised under this Act from and out of the fund of Corporation referred to in Section 30 or from the reserve and other funds referred to in Section 38 as the case may be.

36. Expenditure on objects other than Irrigation and Power Projects :-

It shall be competent for the Corporation to spend such sums as it thinks fit also on objects authorised under this Act other than Irrigation Projects and Hydro-Electric Power Projects, and such sums shall be treated as common expenditure payable out of the fund of the Corporation before allocation under Section 37 of this Act.

37. Allocation of expenditure chargeable to project on main objects :-

The total capital expenditure chargeable to a project shall be allocated between the two main objects, Irrigation Projects and Hydro-Electric Power Projects as follows, namely:-

(a) Expenditure solely attributable to any one of the said two objects, including a proportionate share of overhead and general charges, shall be charged to that object; and

(b) Expenditure common to both the said objects, including a proportionate share of overhead and general charges, shall be allocated to the said objects in proportion to the expenditure which, according to the estimate of the Corporation, would have been incurred in constructing a separate structure for that object less any amount determined under clause (a) in respect of that object.

38. Reserve and other funds :-

(1) The Corporation shall make provisions for such reserve and other specially denominated funds as the State Government may, from time to time, direct.

(2) The management of the funds referred to in sub-section (1), the sums to be transferred from time to time, to the credit thereof and the application of money comprised therein, shall, subject to the directions, if any, issued by the State Government in this behalf, be determined by the Corporation.

(3) None of the funds referred to in sub-section (1) shall, except with the previous approval of the State Government, be utilised for any purposes other than that for which it is constituted.

39. Submission of budget to Corporation :-

(1) The Executive Director of the Corporation shall, at a special meeting to be held in the month of October in each year, lay before the Corporation, the budget estimates of the Corporation for the next year.

(2) Every such budget estimate shall be prepared in such form as the State Government may, from time to time, by order, determine and shall provide for,-

(i) the proposals, plans and projects which the Corporation proposes to execute either in part or in whole during the next year;

(ii) the due fulfillment of all the liabilities of the Corporation and

(iii) the implementation of the provisions of this Act;

40. Sanction of budget estimates :-

The Corporation shall consider the budget estimates submitted to it under Section 39 and approve the same with or without modifications on or before such date as the State Government may, from time to time, determine.

41. Government as Guarantor :-

The State Government may guarantee the repayment of any loans and payment of interest on all or any of the loans given or transferred to the Corporation.

42. Disposal of profits and deficits :-

(1) Subject to the provisions of sub-section (2) of Section 44 of this Act, the net profit, if any attributable to each of the main objects, namely, irrigation and power shall be fully credited to the Corporation.

(2) The net deficit, if any, in respect of any of the objects shall be solely, borne by the State Government.

43. Interest charges and others expenses to be added to and receipts taken for reduction of capital cost :-

The interest charges and all other expenditure shall be added to the capital cost and all receipts shall be taken in reduction of such capital cost, if the Corporation is in deficit.

44. Depreciation Fund :-

(1) The Corporation may make provision for depreciation fund at such rates and on such terms as may be specified by the Controller and Auditor General of India, and in consultation with the State Government.

(2) The net profit for the purpose of Section 42 shall be determined after such provision has been made.

45. Apportionment of betterment charges levied by State Government :-

In the event of any betterment levy being imposed by the State Government, the apportionment of proceeds thereof in so far as they are attributable to the operations of the Corporation, shall be credited to the Corporation.

46. Financial Statement and programme of work :-

(1) The Corporation shall, by such date in each financial year, as may be prescribed, prepare and submit to the State Government for approval of an annual financial statement and the programme of work for the succeeding financial statement and the programme of work for the succeeding financial year and the State Government may approve such financial statement and the programme of work

of the Corporation as submitted by the Corporation or with such variations as the State Government thinks fit.

(2) The annual financial statement shall show the estimated receipts and expenditure during the succeeding financial year in such form and detail as may be prescribed.

(3) The Corporation shall be competent to make variations in the approved programme of work in the course of the financial year provided that all such variations and reappropriations out of the sanctioned budget are brought to the notice of the State Government by a supplementary financial statement.

(4) A copy each of the annual financial statement and the programme of work and the supplementary financial statement, if any, shall be placed before each House of the State Legislature as soon as may be after their receipt by the State Government.

47. Accounts and Audit :-

(1) The Corporation shall maintain books of account and other books in relation to the business and transaction in such form, and in such manner, as may be prescribed.

(2) The accounts of the Corporation shall be audited by an Auditor appointed by the State Government, in consultation with the Comptroller and Auditor General of India.

(3) within nine months from the end of the financial year the Corporation shall send a copy of the accounts audited together with a copy of the report of the Auditor thereon to the State Government.

(4) The State Government shall cause the accounts of the Corporation together with the audit report thereon forwarded to it under sub-section (3) to be laid before each House of the State Legislature, as far as possible, before the expiry of the year next succeeding the year to which the accounts and the report relate.

48. Concurrent and special audit of accounts :-

(1) Notwithstanding anything contained in the last preceding Section, the State Government may order that there shall be concurrent audit of the accounts of the Corporation by such person as it thinks fit. The State Government may also direct a special audit to be made by such person, as it thinks fit of the accounts of

the Corporation relating to any particular transaction or class or series of transactions or to a particular period.

(2) When an order is made under sub-section (1), the Corporation shall present or cause to be presented for audit all such accounts and shall furnish to the person appointed under sub-section (1) such information as the said person may require for the purpose of audit.

CHAPTER 6

Miscellaneous and Supplementary Provisions

49. . :-

(1) The Corporation shall prepare and submit to the State Government, in such form as may be prescribed, an annual report within six months after the end of every financial year of its activities during the previous financial year, with particular reference to-

(a) irrigation, command area development and flood control.

(b) water-supply,

(c) Hydro-Electrical energy,

(d) recreation facilities,

(e) use of lands,

(f) resettlement of displaced persons, and

(g) other activities of the Corporation.

(2) The Corporation shall also furnish to the State Government such returns statistics, reports, accounts and other information with respect to its conduct of affairs, properties or activities or in regard to any proposed work or scheme as the State Government may, from time to time, require.

50. Rehabilitation and resettlement of the project affected persons :-

The rehabilitation and resettlement of the persons affected due to the Irrigation and the Hydro-Electric Power Projects shall be carried out by the State Government in accordance with the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1986:

Provided that all the expenditure required to be incurred by the State Government for the rehabilitation and the resettlement of

persons affected by the Irrigation and Hydro-Electric Power Project shall be borne by the Corporation.

51. Execution of contracts etc :-

Every contract or assurance of property on behalf of the Corporation shall be in writing and executed by such authority or officer in such manner as may be provided by regulations.

52. General Penalty :-

Whoever contravenes the provisions of this Act or any rules or regulations made thereunder or fails to comply with any notice, order or requisition issued under this Act shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

53. Power of entry :-

Any officer or servant of the Corporation generally or specially authorised by the Corporation may at all reasonable time enter upon any land or premises and do such things as may be necessary for the purpose of lawfully carrying out any of its work or of making any survey, examination or investigation preliminary or incidental to the exercise of powers or the performance of functions by the Corporation under this Act.

54. Dues to be recovered as arrears of land revenue :-

All sums due or payable by any person to the Corporation or recoverable by it on account of any charge, costs, expenses, fees, rent, compensation, or on any other account under this Act or any rule or regulation made thereunder or any agreement made with the Corporation and all charges or expenses incurred in connection therewith shall, without prejudice to any other mode of recovery, be recoverable as arrears of land revenue.

55. Services of notice, etc :-

(1) All notices, orders and other documents required by this Act or any rules or regulations made thereunder to be served upon any person shall, save as otherwise provided in this Act or such rules or regulations made thereunder, be deemed to be duly served (a) where a person to be served is a company the service is effected in accordance with the provisions of Section 51 of the Companies Act, 1956 ;

(b) where the person to be served is a firm, if the document is

addressed to the firm at its principal place of business, identifying it by the name and style under which its business is carried on. and is either.-

(i) sent under a certificate of posting or by registered post; or

(it) left at the said place of business;

(c) where the person to be served is a statutory public body or a Corporation or a Society or other body, if the document is addressed to the Secretary at its principal office, and is either,-

(i) sent under a certificate of posting or by registered post, or

(ii) left at that office;

(d) in any other case, if the document is addressed to the person to be served and,-

(i) is given or tendered to him; or

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building to which it relates; or

(iii) is sent under a certificate of posting or by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed "the owner" or "the occupier", as the case may be, of that land or building (naming that land or building), name or description, and shall be deemed to be duly served-

(a) if the document so addressed is sent or delivered in accordance with clause (d) of subsection (1); or

(b) if the document so addressed or a copy thereof so addressed is given or tendered to some person on the land or building or, where there is no person on the land or building to whom it can be delivered, is affixed to some conspicuous part of the land or building.

(3) Where a document is served on the firm in accordance with this Section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any property, the occupier (if any), of the property may be required by notice in writing by the State Government or the Corporation, as the case may be, to State the name and address of the owner thereof.

56. Public notice how to be made known :-

Every public notice given under this Act or any rules or regulations made thereunder shall be in writing and under the signature of the officer concerned and shall be widely made known in the locality or in the farms or estates to be affected thereby by affixing copies thereof in conspicuous public places, within the said locality or the said farms or estates, or by publishing the same by beat of drum or by any other means that the officer may think fit.

57. Notice period for performance of duty :-

Where any notice, order or other document issued or made under this Act or any rules or regulations made thereunder requires anything to be done for the doing of which no time is fixed in this Act or the rules or regulations, the notice, order or other document shall specify a reasonable period of time for doing the same or complying therewith.

58. Default in performance of duty :-

(1) If the State Government is of the opinion that the Corporation has made a default in the performance of any duty or obligation imposed or cast on it by or under this Act, the State Government may fix a period for the performance of that duty or obligation and give notice to the Corporation accordingly.

(2) If the Corporation fails or neglects to perform such duty or obligation within the period so fixed for its performance, it shall be lawful for the State Government, to supersede and reconstitute the Corporation as it deems fit.

(3) After the supersession of the Corporation and until it is reconstituted, in the manner laid down in Chapter II, the powers, duties and functions of the Corporation under this Act shall be carried on by the State Government or by such officer or officers or body of officers as the State Government may appoint for this purpose, from time to time.

(4) All property vested in the Corporation shall, during the period of such supersession, vest in the State Government.

59. Offence by companies :-

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

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

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

Explanation:- For the purpose of this Section,-

(a) "company" means a body corporate and includes a firm, association or persons or body of individuals whether incorporated or not, and.

(b) "director", in relation to a firm, means a partner in the firm, and in relation to any association of persons or body of individuals, means any member controlling the affairs thereof.

60. Authority for prosecution :-

Unless otherwise expressly provided, no Court shall take cognizance of any offence relating to property belonging to, or vested by or under this Act in the Corporation, punishable under this Act except on the complaint of or upon information received from the Corporation or some person authorised by the Corporation by general or special order in this behalf.

61. Compounding of offences by Corporation :-

(1) The Corporation or any person authorised by the Corporation by general or special order in this behalf may, either before or after

the institution of the proceedings, compound any offence made punishable by or under this Act.

(2) Where an offence has been compounded the offender of in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

62. Penalty for obstruction :-

Any person who obstructs the entry of a person authorised under Section 53 to enter into or upon any land or building or molests such person after such entry or who obstructs the lawful exercise by him of any power conferred by or under this Act shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

63. Delegation of powers of Corporation :-

The Corporation may with the previous approval of the State Government, delegate any of its powers under this Act to any officer of the State Government or to any of its officers and may permit them to re-delegate specific powers to their subordinates, by general or special order in this behalf.

64. Protection of action taken in good faith :-

No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or rules or regulations made thereunder.

65. Chairman, Vice-Chairman, Executive Director, Members and Officers, etc to be public servants :-

the Chairman, Vice-Chairman, Members, Executive Director and Officers and servants on deputation or of the Corporation, as the case may be, shall, while acting or purporting to act in pursuance of any of the provisions of this Act or rules or regulations made thereunder be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 .

66. Effect of provisions of the Act inconsistent with other laws :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

67. Power to make rules :-

(1) The State Government may, by notification in the Official

Gazette, make rules to carry out the purposes of this Act.

(2) 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 successive sessions, and if, before expiry of the session in which in making any modification in the rule, or both Houses agree, it is so laid or the session immediately following, both the Houses agree that the rule should not be made, and notify their decision to that effect in the Official Gazette, the rule shall, from the date of publication of such decision in the Official Gazette, 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.

68. Power to make regulations :-

(1) The Corporation may, with the previous approval of the State Government make regulations consistent with this Act and the rules made thereunder for all or any of the matters to be provided under this Act by regulations and generally for all other matters for which provision is, in the opinion of the Corporation, necessary for the exercise of its powers and the discharge of its functions under this Act.

(2) Pending making of the regulations by the Corporation with the approval of the State Government, the rules and procedures followed by the Irrigation Department shall, mutatis mutandis, be followed by the Corporation for carrying out its functions.

69. Power to remove doubts and difficulties :-

If any doubt or difficulty arises in giving effect to the provisions of this Act the State Government may, by order, make provision or give such direction, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the doubt or difficulty:

Provided that, no such order shall be made after the expiry of a period of two year from the date of commencement of this Act.

70. Dissolution of Corporation :-

(1) Where the State Government is satisfied that the purposes for which the Corporation was established under this Act have been substantially achieved so as to render the continued existence of the Corporation in the opinion of the State Government unnecessary, the Government may, by notification in the Official Gazette, declare that the Corporation shall be dissolved with effect from such date as may be specified in the notification, and the Corporation shall be deemed to be dissolved accordingly and upon such dissolution the members (including the Chairman and the Vice-Chairman if any) shall vacate their respective offices.

(2) From the said date-

(a) all properties, funds and dues which are vested in, or realizable by, the Corporation shall vest in, or be realisable by, the State Government;

(b) all liabilities which are enforceable against the Corporation shall be enforceable against the State Government.

71. Repeal of Mah. Ord. XVIII of 1997 and Saving :-

(1) The Maharashtra Tapi Irrigation Development Corporation Ordinance, 1997 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification issued or nomination, appointment or rules made) under the said Ordinance, shall be deemed to have been done, taken, issued or made, as the case may be, under the corresponding provision of this Act.

SCHEDULE 1

SCHEDULE