

Rajasthan Lands Special Irrigation Charges Act, 1953

25 of 1953

[18 December 1953]

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PREAMBLE

An Act to provide for the levy of special charges in respect of lands included in irrigation schemes. .

Whereas it is expedient to provide for the levy of special charges by way of betterment charge and acreage rate of lands included in, and, benefited or likely to be benefited by, irrigation schemes projected or controlled by and under taken or maintained at the cost of ²[State Government].

Be it enacted by the Rajasthan State Legislature as follows: -

1. Published in the Rajasthan Gazette (Rajpatra), Part IV-A, dated January 2, 1954

2. Substituted by Raj. Act No. 27 of 1957, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

1. Short title, extent and commencement :-

(1) This Act may be called the Rajasthan Lands Special Irrigation Charges Act, 1953.

¹[(2) It extends to the whole of the State of Rajasthan].

(3) It shall come into force on the date of its publication in the ¹[Official Gazette] as an Act.

1. Substituted by Raj. Act No. 27 of 1957, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

2. Interpretation :-

(1) In this Act, unless there is something repugnant in the subject or context,-

(i) "acreage rates" means the charges levied under Sec. 4 on lands included in an irrigation scheme;

(ii) "betterment charges" means the charges levied under Sec. 5 on lands included in an irrigation scheme;

(iii) "canal" includes-

(a) all canals, channels, reservoirs, wells, tube-wells and lift irrigation arrangements constructed, maintained or controlled by the ¹[State Government] for the supply or storage of water;

(b) all works, embankments, structures, supply and escape channels connected with such canals, channels, reservoirs, wells, tube-wells or lift irrigation arrangements;

(c) all water courses, that is to say, all channels which are supplied with water from a canal but which are not maintained at the cost of the ¹[State Government] and all subsidiary works belonging to any such channels; and

(d) all parts of a river, stream, lake or other natural collection of still water or a natural drainage channel, the water of which is liable, by virtue of a declaration made under any law for the time being in force, to be applied or used by the ¹[State Government] for the purpose of any existing or projected canal or drainage work;

(iv) "canal officer" means an Officer appointed to exercise control or jurisdiction over a canal or any part thereof;

(v) "capacity factor" means the ratio of the mean supply to the authorised full supply discharge of a canal; and "mean supply" for a

period connoted the sum of the daily supply in cusecs divided by the number of days during that period;

(vi) "cusec" is the unit of discharge and means the rate of flow of one cubic foot of water per second;

(vii) "Divisional Canal Officer" means an Officer appointed to exercise control over a division of a canal;

(viii) "drainage work" includes escape channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of land from flood or from erosion, formed or maintained by ¹[State Government] but does not include works for the removal of sewage from towns;

(ix) ²[XXX];

(x) "irrigation scheme" means a scheme which has come or comes into operation after the 7th day of April, 1949, for any one or more of the following purposes, namely: -

(a) the irrigation of lands from any existing or projected canal,

(b) the extension of irrigation of land situate within the approved irrigation boundary of an existing canal,

(c) the improvement of irrigation supply or capacity factors or water allowances to lands already irrigated,

(d) the provision for, or the improvement or drainage of, any reservoir, dam or embankment constructed, maintained or controlled by the ¹[State Government] for the supply or storage of water;

(xi) "land" means land which is let or held for agricultural purposes or for purposes subservient thereto or for pasturage, and includes the land of a tank or other land covered with water which may be used for the purpose of irrigation or growing singhara or other produce and also land occupied by houses, enclosures or other structures on a holding but does not include abadi land;

(xii) "landholder" means the person to whom rent is, or but for a contract, express or implied, would be, payable and includes-

(a) in relation to a sub-tenant, the tenant-in-chief, and

(b) the holder of the whole or a portion of, or the participator in the profits of an estate, that is to say, land comprised in a jagir, Maufi, Biswedari, Istamrardari, Zamindari or any other form of grant or assignment;

(xiii) "prescribed" means prescribed by this Act or by rules made thereunder;

(xiv) "tenant" means the person who holds land from the ¹[State Government] or from a landholder and by whom rent is, or, but for a contract, express or implied, would be, payable and, except

where the contrary intention appears, includes, in relation to tenant, his sub-tenant, and an occupancy tenant means a tenant who has, under any law for the time being in force, the right of occupancy in respect of the land which he holds;

(xv) "water allowance" means the designed number of cusecs of outlet or distributory capacity per thousand acres of land included in an irrigation scheme; and

³[(xvi) "water course" has the meaning assigned to it in the Rajasthan Irrigation and Drainage Act, 1954 (Rajasthan Act 21 of 1954)];

(2) ²[XXX].

1. Substituted by Raj. Act No. 27 of 1957, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

2. Omitted by Raj. Act No. 27 of 1957, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

3. Inserted by Raj. Act No. 21 of 1960, Pub. in the Raj. Govt. Gaz., Exty., Part 4(A), dated 7.6.1960.

3. Special irrigation charges that may be levied :-

The special irrigation charges that may be levied under this Act, in addition to the rates or charges if any, recovered or recoverable under any other law or enactment for the time being in force, are all or any of the following, namely: -

- (i) an acreage rate; and
- (ii) a betterment charge.

4. Levy or acreage rates :-

(1) Where in respect of any lands included in an irrigation scheme, expenditure has been or is likely to be, incurred by the ¹[State Government] in the execution of any one or more of the following works or in undertaking any one or more of the following measures, namely: -

- (a) rectangulation, sub-rectangulation or killabandi (that is to say, sub-division of land into one acre fields);
- (b) level, to topographical or soil surveys;
- (c) construction of water courses;
- (d) construction of village roads and works appertaining thereto;

the ¹[State Government] may, for the purpose of recouping or meeting such expenditure, cause a schedule of acreage rates to be

prepared showing the rates at which they shall be leviable on the lands, and the manner in which and the persons by whom they shall be payable.

(2) A draft of the schedule prepared under sub-sec. (1), shall be published in the ¹[Official Gazette] and in such other manner, as maybe prescribed.

(3) Any landholder or occupancy tenant who may be affected by the proposed acreage rates may, within sixty days from the date of the publication of the schedule in the ¹[Official Gazette] present a petition in writing to the ¹[State Government] stating his objections, if any, to the levy of the acreage rates or the incidence thereof.

(4) After considering the objections and after making such further inquiry into the matter as the ¹[State Government] may think fit, the ¹[State Government] shall determine the final schedule of acreage rates and cause the same to be published in the ¹[Official Gazette] and in such other manner, as may be prescribed.

1. Substituted by Raj. Act No. 27 of 1957, Pub. in the Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

5. Levy of betterment charges :-

(1) The ¹[State Government] may levy betterment charges in respect of the lands, which are included or are likely to be included in an irrigation scheme, by notifying in the ¹[Official Gazette] and in such other manner as may be prescribed, its intention so to do, and shall specify in such notification such particulars respecting the proposed levy as it may think necessary, including particulars respecting the type and extent of irrigation proposed.

(2) At any time after the expiry of one month from the date of notification referred to in sub-sec. (1), the ¹[State Government] may cause a schedule of betterment charges to be prepared for all lands or class of lands included in an irrigation scheme showing the rates at which the charges shall be leviable on the lands and payable by the landholders and occupancy tenants thereof and the proportions in which the charges shall be so payable.

(3) In preparing a schedule under sub-sec. (2), for the levy of betterment charges in respect of any irrigation scheme, regard shall be had to the following, namely: -

- (a) the type of irrigation,
- (b) the improvement in irrigation,

(c) the extent of betterment accruing to the lands.

(4) A draft of the schedule prepared under sub-sec. (2) shall be published in the ¹[Official Gazette] and in such other manner, as may be prescribed.

(5) Any landholder or occupancy tenant who may be affected by the proposed betterment charges may, within sixty days from the date of the publication of the schedule in the ¹[Official Gazette] present a petition in writing to the ¹[State Government] stating his objections, if any, to the levy of the betterment charges or the rate thereof.

(6) After considering the objections and after making such further inquiry into the matter as the ¹[State Government] may think fit, the ¹[State Government] shall determine the final schedule of betterment charges and cause the same to be published in the ¹[Official Gazette] and in such other manner, as may be prescribed.

(7) The amount of the betterment charges leviable in respect of any lands included in an irrigation scheme shall not exceed one-half of the difference between the value of the lands with reference to such date prior to the commencement of any work in connection with the irrigation scheme as the ¹[State Government] may, by notification in the ¹[Official Gazette], fix in this behalf and their estimated value with reference to such other date after such commencement as the ¹[State Government] may similarly fix, and such valuations shall be made in the prescribed manner.

(8) Where in an irrigation scheme only lift irrigation arrangements are maintained and operated by the landholders or occupancy tenants, the betterment charges leviable shall not exceed one-half of the charges which would otherwise have been payable for gravity flow irrigation.

(9) Whenever such lift irrigation arrangements are converted into gravity flow irrigation, the landholders or occupancy tenants, as the case may be, shall be liable to pay the full betterment charges in respect of the lands.

1. Substituted by Raj. Act No. 27 of 1957, Pub. in the Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

6. Finality of Schedule :-

The special irrigation charges leviable under the schedules as published under sub-sec. (4) of Sec. 4 and sub-sec. (6) of Sec. 5

shall be final and no Court shall call in question the schedules so published or the levy or rates of such charges of the determination by the ¹[State Government] of the increase in value of lands for the purpose of levying betterment charges.

1. Substituted by Raj. Act No. 27 of 1957, Pub. in the Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

7. Demand of acreage rates and betterment charges :-

(1) When the Schedule of acreage rates or betterment charges has been published in the ¹[Official Gazette] under sub-sec. (4) of Sec. 4 or sub-sec. (6) of Sec. 5, the Canal Officer shall prepare a demand statement in respect thereof in such form as may be prescribed containing full particulars of the amount which each landholder or occupancy tenant shall be liable to pay and cause a notice of demand to be served on him.

(2) Any land holder or occupancy tenant may, within such period, as may be prescribed from the date of the notice of demand, present a petition to the Divisional Canal Officer objecting to the demand or any part thereof, and the petition shall be disposed of in such manner and orders passed thereon shall be subject to such appeals, as may be prescribed.

(3) Any amount due under a notice of demand shall, subject to any orders that may be passed on appeal under sub-sec. (2), be payable within such time as may be prescribed.

1. Substituted by Raj. Act No. 27 of 1957, Pub. in the Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

8. Mode of recovery :-

(1) The special irrigation charges may be paid in one or more instalments, as may be prescribed:

Provided that where the special irrigation charges are allowed to be paid in instalments, interest shall be payable in respect of such instalments at such rate as may be prescribed and such interest shall be recovered in the same manner as the special irrigation charges.

(2) Notwithstanding anything contained in this section, the ¹[State Government] may, subject to such conditions as may be prescribed, allow land-holder to relinquish any part of his land in favour of the ¹[State Government] in satisfaction of the betterment

charges payable in respect thereof.

1. Substituted by Raj. Act No. 27 of 1957, Pub. in the Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

9. Postponement of recovery in certain cases :-

Where there has been a failure of crops in any area, the ¹[State Government] may, notwithstanding anything to the contrary contained in this Act or the rules made thereunder, postpone for such period, as it thinks fit, the recovery of any special irrigation charges, whether wholly or in part.

1. Substituted by Raj. Act No. 27 of 1957, Pub. in the Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

10. Apportionment of charges :-

The special irrigation charges shall be recoverable from the landholders and occupancy tenants concerned in such proportions as may be prescribed:

Provided that in making any such apportionment between the landholder and the occupancy tenant of the same land, due regard shall be had to the prevailing practice in respect of the division of produce on capital values between such persons in respect of that land:

Provided further that where there are more landholders than one they shall be jointly and severally liable for the portion recoverable from the land-holders and similarly where there are more occupancy tenants than one, they shall be jointly and severally liable for the portion recoverable from the occupancy tenant.

11. Special charges under Act to be a charge on land :-

Any sum lawfully due under this Act by way of special irrigation charges shall take priority over all other charges payable in respect of the land except land revenue and shall be deemed to that extent to be a charge on the land and shall be recoverable as an arrears of land revenue.

12. Bar to jurisdiction of Civil Courts :-

No Civil Court shall have jurisdiction in respect of any matter relating to anything done or to be done under this Act.

13. Non-liability of Government for losses etc :-

No claim shall lie against the ¹[State Government] for compensation or for the refund of special irrigation charges on account of loss occasioned by the failure or stoppage of water in a canal or by any cause beyond the control of the ¹[State Government] or by any repairs, alterations or additions made to the canal by Canal Officer or the Divisional Canal Officer or by any measures taken by him for regulating the proper flow of water therein or for maintaining the established course of irrigation in cases where the Canal Officer or the Divisional Canal Officer considers such action to be necessary.

1. Substituted by Raj. Act No. 27 of 1957, Pub. in the Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

14. Indemnity :-

No suit, prosecution or other legal proceedings shall be against any person in respect of anything done or intended to be done in good faith under this Act or the rules made thereunder.

15. Power to make rules :-

(1) The ¹[State Government] may, by notification in the ¹[Official Gazette] make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -

(a) the manner in which notices under this Act or the schedules of special irrigation charges shall be published,

(b) the manner in which valuation may be made of any lands for the purpose of sub-sec. (7) of Sec. 5 and for determining their increase in value,

(c) the manner in which rates of special irrigation charges shall be calculated with reference to any lands or class of lands in an irrigation scheme,

(d) the time when, and the manner and form in which, demand statements in respect of special irrigation charges levied under this Act shall be prepared,

(e) the form in which notices of demand in respect of special irrigation charges levied under this Act may be prepared under this

Act and the manner of their service,

(f) the time within which objections may be preferred from notices of demand, the procedure for the determination of such objections and the authorities to whom and the manner in which and the conditions subject to which appeals may be preferred therefrom,

(g) the time within which special irrigation charges shall be payable after the notice of demand and the manner in which such charges may be realised,

(h) the conditions subject to which any sum due under this Act may be paid in instalments and the rate of interest for the payment of such sum in instalments,

(i) the conditions subject to which any landholder may be allowed to relinquish any part of his land to the ¹[State Government] in satisfaction of betterment charges due from him,

(j) the manner in which special irrigation charges may be apportioned between landholders and occupancy tenants,

(k) the manner in which and the conditions subject to which, any officer shall exercise his powers under this Act, and

(l) any other matter requiring to be prescribed under this Act.

1. Substituted by Raj. Act No. 27 of 1957, Pub. in the Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.