

Madras Land Improvement Schemes (Contour Bunding And Contour Trenching) Act, 1949

22 of 1949

[06 September 1949]

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Power of Government to direct Board to prepare draft scheme in respect of specified area
4. Preparation of draft scheme
5. Publication of draft scheme
6. Inquiring Officer to consider objections and submit report to Board
7. Power of Board to sanction or reject scheme
8. Execution of scheme
9. Liability of owner to carry out works
10. Works in Government lands
11. Contribution to cost of works
12. Assessment not to be reduced
13. Record of rights and liabilities
14. Obligation of owners of lands to maintain and repair works
15. Power of entry, etc., on land
16. Amounts to be recovered as arrears of land revenue
17. Inquiries to be held summarily
18. Provisions in respect of records, documents, plans or maps connected with sanctioned schemes
19. Delegation of powers by Collector
20. Certain officers to be public servants
21. Bar of certain suits, prosecutions, etc.
22. Limitation for certain suits and prosecutions
23. Power to make rules

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PREAMBLE

An Act to provide for the preparation and execution of land

improvement schemes in the Province of Madras, including contour bunding and contour trenching schemes.

Whereas it is expedient to provide for the preparation and execution of land improvement schemes, in the Province of Madras, including contour bunding and contour trenching schemes; It is hereby enacted as follows:--

1. For Statement of Objects and Reasons, see Fort St. George Gazette, dated the 2nd November 1948, Part IV-A, page 409.

1. Short title, extent and commencement :-

(1) This Act may be called the Madras Land Improvement Schemes (Contour Bunding and Contour Trenching) Act, 1949.

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

(3) This section shall come into force at once; and the remaining provisions of this Act shall come into force in such areas and on such dates as the Government may, by notification in the Fort St. George Gazette, appoint.

1. This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context-

(a) "Board" means the Board of Revenue and where the Government, by notification in the Fort St. George Gazette empower any other authority or officer to perform the functions of the Board under this Act, means such other authority or officer;

(b) "Collector" means the Collector of the district;

(c) "Executing Officer" means an officer appointed under section 8;

(d) "Government" means the ¹[State] Government;

(e) "Inquiring Officer" means an officer appointed under section 5(2)(b);

(f) "owner" means--

(i) any person holding land in severalty or jointly or in common under a ryotwari settlement or in any way subject to the payment of revenue direct to the Government, or

(ii) a landholder as defined in the Madras Estates Land Act, 1908 (Madras Act I of 1908), or a ryot as defined in that Act, or

(iii) an inamdar not being a landholder defined as aforesaid, or

- (iv) a landlord as defined in the Malabar Tenancy Act, 1929(Madras Act XIV of 1930), or a tenant as defined in that Act, and includes a mortgagee with possession, a lessee or a sub-lessee;
- (g) "prescribed" means prescribed by rules made under this Act;
- (h) "record of rights" or "record" means the record of rights and liabilities published under section 13;
- (i) "scheme" means any land improvement scheme, prepared under this Act including a contour bunding and contour trenching scheme;
- (j) "work" means any work carried out or to be carried out under any scheme.

1. This word was substituted for the word "Provincial" by *ibid*.

3. Power of Government to direct Board to prepare draft scheme in respect of specified area :-

The Government may direct the Board to prepare detailed plans and estimates for a scheme in respect of any area.

4. Preparation of draft scheme :-

(1) The Board shall thereupon appoint an officer to prepare, in accordance with its instructions, a draft scheme setting out--

- (a) the objects of the scheme;
- (b) the boundaries and approximate area of the lands to be included in the scheme;
- (c) the persons, including the Government, who will be affected by the scheme;
- (d) the works, if any, to be carried out under the scheme;
- (e) such other particulars as may be prescribed.

(2) The draft scheme so prepared shall be submitted to the Board which may approve it either with or without modifications or may reject it and prepare, or cause to be prepared, a fresh scheme in lieu thereof.

5. Publication of draft scheme :-

(1) Copies of the scheme as approved or prepared or caused to be prepared by the Board, together with the connected maps and plans, if any, shall be forwarded to the Collector and shall be made available by him for inspection by the public free of charge in every village, and at the headquarters of the taluk, in which the lands proposed to be included in the scheme are situated, at such places

as the Collector may direct.

(2) A general notice shall be published in the District Gazette and also in such newspapers, if any, circulating in the locality as the Collector may direct-

(a) intimating that the scheme has been prepared and that copies thereof have been kept and may be inspected by the public free of charge at the places aforesaid and also that copies of the scheme may be obtained on payment of the cost thereof (which shall be specified in the notice) from the Collector or the Tahsildar and also from any other officer specified in the notice;

(b) requiring all persons affected by the scheme who wish to object to it or to any part thereof, to submit their objections in writing to an officer appointed by the Board in that behalf, or to appear before him and state their objections, within thirty days of the publication of the notice.

(3) Separate notices to the same effect shall also be served in the prescribed manner on all owners of the lands affected by the scheme and on all persons shown in the village records as interested in such lands, so far as such service may be practicable.

6. Inquiring Officer to consider objections and submit report to Board :-

The Inquiring Officer shall inquire into the objections received or recorded by him and submit them to the Board together with his report thereon and his recommendations, if any, for the modification of the scheme.

7. Power of Board to sanction or reject scheme :-

(1) After considering the objections and the report and recommendations of the Inquiring Officer and any further report which the Board may require from him, the Board may-

(a) sanction the scheme with or without modifications; or

(b) reject the scheme, and direct that, in lieu thereof, a fresh scheme be prepared and submitted for its sanction.

(2) If the scheme is sanctioned by the Board, the scheme as sanctioned shall be published in the District Gazette and also in every village, and at the headquarters of the taluk, in which the lands included in the scheme are situated, at such places and in such manner as the Collector may direct.

Copies of the scheme shall also be sold at the offices of the Collector and of the Tahsildar and at such other offices as the

Collector may specify in this behalf.

(3) The scheme shall come into force and shall have effect as if it were enacted in this Act, on and from the date of its publication in the District Gazette.

8. Execution of scheme :-

When a scheme comes into force, the Board shall appoint an officer to execute it.

9. Liability of owner to carry out works :-

(1) The owner of any land in which any works are carried out by the Government in pursuance of the scheme shall pay the cost or part of the cost of such works, if the scheme so provides.

(2) If any owner desires to carry out any of the said works himself, he shall give notice in writing to that effect in the prescribed manner to the Executing Officer within twenty-one days of the publication of the scheme in the District Gazette.

(3) The Executing Officer shall thereupon fix the date before which the owner shall carry out the works specified by him and inform him, by notice given in the prescribed manner, of such date and of the details of the works to be carried out.

(4) If any work is not carried out to the satisfaction of the Executing Officer before the date fixed in that behalf, or within such further time as he may allow, or if the owner intimates to the Executing Officer in writing that he is unable to carry out any work before the date or within the time aforesaid, the Executing Officer may cause the work to be carried out and recover the expenses from the owner.

(5) Any amount payable under sub-section (1) or sub-section (4) shall, at the option of the person liable to pay it, be paid either in a lump sum or with interest at such rate as may be prescribed, in equated annual instalments not exceeding twenty in number:

Provided that where a person who elects to pay in instalments, commits default in the payment of any instalment, the entire unpaid balance shall become immediately payable.

10. Works in Government lands :-

In land owned by the Government, all works shall be carried out by, or under the authority of, the department having the control or management of the land, unless the Board directs the Executing

Officer to carry out the works himself.

11. Contribution to cost of works :-

(1) If in consequence of any work carried out in any land, any person (including the Government) other than the owner of the land is, in the opinion of the Board, likely to be benefited, such person shall pay to the owner of the land, by way of contribution, such amount and within such time as the Board may determine:

Provided that, before any person is required to pay any such contribution, he shall be given a reasonable opportunity of making his representations, if any in regard to the matter:

Provided further that the Board may, in its discretion permit any such contribution to be paid with interest at such rate as it may determine in equated annual instalments not exceeding twenty in number:

Provided also that any such contribution may be waived by the Government in whole or in part, in respect of any work carried out in land owned by them.

(2) If default is made in the payment of any such contribution or of any instalment thereof, as the case may be, within the time determined in that behalf in pursuance of sub-section (1), the contribution or where payment is made in instalments, the entire unpaid balance (which shall be deemed to have become payable immediately on the occurrence of the default) shall be recovered by the Board and paid to the owner.

12. Assessment not to be reduced :-

The assessment on any land shall not be reduced merely on the ground that the unprofitable area therein has increased as the result of any work, notwithstanding anything to the contrary in any orders issued by the Government or the Board of Revenue.

13. Record of rights and liabilities :-

(1) The Executing Officer shall prepare, in the prescribed manner, a record of rights and liabilities setting out--

(a) the names of the owners of the lands included in the scheme;

(b) a map and plan, if any, showing the situation, nature and dimensions of all works;

(c) in regard to each such work, the owner or owners liable to maintain and repair it, and the extent of the liability of each such

owner;

(d) the rights, if any, of the owners or any of them in regard to the use of any such work;

(e) such other particulars as may be prescribed.

(2) If, on any matter which is not covered by the scheme, a dispute exists which, in the opinion of the Executing Officer, it is necessary to decide for the purpose of preparing the record, he shall inquire into and decide the dispute.

(3) After the record has been so prepared, a notice shall be published in the prescribed manner, in the language of the district, intimating that the record has been prepared and that copies thereof in the said language are kept and may be inspected at such places as may be specified in the notice, provided that there shall be at least one such place in every village, and at the headquarters of the taluk, in which the lands to which the record relates are situated.

(4) Against any entry in the record so published, an appeal shall lie to the Collector within two months from the date of publication of the notice referred to in subsection (3).

(5) The Collector may also revise the record from time to time, subject to such rules as may be prescribed; and whenever the record is so revised, notice shall be given of the fact of such revision in the prescribed manner, and the record kept at each of the places referred to in sub-section (3) shall also be revised accordingly.

(6) Every entry in the record shall be evidence of the matter referred to in such entry, and shall be presumed to be correct until the contrary is proved or until a new entry is lawfully substituted therefor.

(7) In any suit or proceeding in which the correctness of any entry in the record is called in question, whether directly or indirectly, the Court shall, before the final settlement of issues in the case of a suit and at as early a stage as possible in the case of any other proceeding, give notice of the suit or proceeding to the Collector, and shall make the ¹[State] of Madras a party to the suit or proceeding, if moved to do so by the Collector.

1. This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

14. Obligation of owners of lands to maintain and repair works :-

(1) Every owner of land who is bound to maintain or repair any work in accordance with the entries in the record shall do so to the satisfaction of the Collector, and all repairs shall be executed within such time as he may fix or such further time as he may allow.

(2) If any owner fails so to maintain or repair the work, the Collector may--

(a) authorize any other person who, in his opinion, is interested in such maintenance or repair, or any officer appointed by the Government in this behalf, to maintain or repair the work; and

(b) recover the expenses incurred by such person or officer from the owner and pay the same to such person or to the Government, as the case may be.

(3) Any dispute as to the amount of the expenses shall be decided by the Collector, and his decision shall be final.

15. Power of entry, etc., on land :-

Any of the following officers or persons may after giving such notice as may be prescribed to the occupier of any land, and if the occupier is not the owner also to the owner in all cases where it is practicable to give notice without undue delay to the owner, enter upon, survey and demarcate such land and do all such other acts as may be necessary for the purpose of preparing, inquiring into, or executing any scheme or of preparing any record of rights--

(a) The officer appointed by the Board under section 4.

(b) The Inquiring Officer.

(c) The Executing Officer.

(d) Any officer or person authorized by the Board, the Collector, or any of the officers referred to in clauses (a), (b) and (c).

16. Amounts to be recovered as arrears of land revenue :-

All amounts payable to, or recoverable by, the Government, the Board, or any officer of the Government under this Act may be recovered as if they were arrears of land revenue.

17. Inquiries to be held summarily :-

Any authority having power to make an inquiry under this Act shall make the inquiry in the manner provided in the Madras Revenue Inquiries Act, 1893(Madras Act V of 1893), and shall have all the

powers which are or may be vested in revenue officers by that Act and by the Madras Revenue Summonses Act, 1869(Madras Act III of 1869).

18. Provisions in respect of records, documents, plans or maps connected with sanctioned schemes :-

(1) Nothing in the Indian Registration Act, 1908 (Central Act XVI of 1908), shall be deemed to require the registration of any record, document, plan, or map prepared, made or sanctioned in connexion with a scheme which has come into force; and all such records, documents, plans and maps shall, for the purpose of sections 48, 49 and 50 of that Act, be deemed to have been duly registered in accordance with its provisions.

(2) Subject to such rules, and to the previous payment of such fees, as may be prescribed--

(a) all such records, documents, plans and maps shall be open to the inspection of any person applying for such inspection; and

(b) copies of such records, documents, plans and maps shall be given to any person applying for such copies.

19. Delegation of powers by Collector :-

Subject to such rules as may be prescribed, the Collector may delegate any of the powers conferred on him by or under this Act, to any officer in the district or having jurisdiction over the district or any part thereof.

20. Certain officers to be public servants :-

All officers and persons authorized or appointed in pursuance of sections 4, 5, 8, 14 and 15 shall be deemed to be public servants for the purposes of this Act and the Indian Penal Code(Central Act XLV of 1860).

21. Bar of certain suits, prosecutions, etc. :-

(1) No suit or other proceedings shall lie against the Government for any act done or purporting to be done under this Act or any rule made thereunder.

(2) (a) No suit, prosecution or other proceeding shall lie against any officer or servant of the Government or any public servant for any act done or purporting to be done under this Act or any rule made thereunder, without the previous sanction of the Government.

(b) No officer or servant of the Government, and no public servant, shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith and in the course of the execution of the duties or the discharge of the functions imposed by or under this Act.

22. Limitation for certain suits and prosecutions :-

No suit, prosecution or other proceeding shall be instituted against any officer or servant of the Government or any public servant for any act done or purporting to be done under this Act, after the expiry of one year from the date of the act complained of.

23. Power to make rules :-

(1) The Government may, by notification published in the Fort St. George 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--

(a) all matters expressly required or allowed by this Act, to be prescribed;

(b) the manner in which publicity shall be given to the appointment of the officer referred to in section 4, subsection (1);

(c) the time within which any amount due under section 9, sub-section (1) or sub-section (4), shall be payable; the manner in which such amount shall be apportioned where there are two or more owners in respect of the same land; and the time within which, and the authority or officer to whom, any option exercised in pursuance of section 9, sub-section (5) shall be intimated; and

(d) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the Government, necessary for giving effect to the purposes of this Act.

(3) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.