

United Provinces Minor Irrigation Works Act, 1920

1 of 1920

[30 April 1920]

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short Title And Extent
2. Definitions

CHAPTER 2 :- PREPARATION OF SCHEME

3. Preliminary Order Of The State Government
4. Publication Of Preliminary Order
5. Implied Consent Of Owners
6. Inquiry And Report By The Collector
7. Notification By The State Government Directing Draft Scheme To Be Prepared
8. Powers Of Officer Preparing Draft Scheme
9. Compensation For Damage Caused By Entry Under Section 8
10. Draft Scheme
11. Publication Of Draft Scheme
12. Adoption By The State Government Of Approved Scheme
13. Operation Of A Notified Scheme As A Notification Under Section 5 Of The Act, 1873 (Viii Of 1873)
14. Modification Of Approved Scheme, Or Substitution Of New Scheme

CHAPTER 3 :- CONSTRUCTION AND MAINTENANCE

15. Appointment Of Officer-In-Charge
16. Powers Of Officer-In-Charge
17. Appeal Against Order Of Officer-In-Charge
18. Section 18

CHAPTER 4 :- RECOVERY OF EXPENDITURE

19. Alternative Modes Of Recoupment By The State Government
20. Appeal Against Rates
21. Limitation Of Appeal
22. Exclusion Of Jurisdiction Of Ordinary Courts
23. Rate By Whom Payable When Charged On Land Held By Several Occupiers
24. Enhancement And Abatement Of Rent

- 25. Procedure In Enhancement And Abatement
- 26. Apportionment Of Charges Due Under Clause (B) Of Section 19
- 27. Enforcement Of Agreement Previous To Act
- 28. Certified Dues And Debts Recoverable As Land Revenue
- 29. Power To Contract For Collection Of Dues
- 30. Lambardars May Be Required To Collect Dues
- 31. Saving In Respect Of Fines

CHAPTER 5 :- PENALTIES AND PREVENTIVE ACTION

- 32. Offences
- 33. Saving
- 34. Summary Arrest
- 35. Definition Of "Work" In This Part

CHAPTER 6 :- JURISDICTION AND PROCEDURE

- 36. Preparation Of Record Of Rights
- 37. Settlement Of Disputes Between Private Persons
- 38. Compensation For Damage Caused By The Application Or Use Of Act No. Viii Of 1873
- 39. Compensation Relating To Water-Courses
- 40. Compensation For Damage Caused By Entry Under Section 16(1)(D)
- 41. Compensation For Damage Caused In Other Cases
- 42. Limitation Of Claims For Compensation For Damage
- 43. Bar To Suits Against Officers
- 44. Power To Summon And Examine Witnesses

CHAPTER 7 :- MISCELLANEOUS

- 45. Vesting Of Work
- 46. Delegation Of Power By The State Government
- 47. Power Of State Government To Make Rules

United Provinces Minor Irrigation Works Act, 1920

1 of 1920

[30 April 1920]

Whereas it is expedient to make provision for the construction, improvement and maintenance by Government of irrigation works on a smaller scale than that contemplated by the provisions of the Northern India Canal and Drainage Act, 1873; and whereas the previous sanction of the Governor General has been obtained under sub-section (2) of Section 79 of the Government of India Act, 1915; It is hereby enacted as follows : 1. Received the assent of the Lieutenant-Governor on the 30th April, 1920, and of the Governor General on the 1st June, 1920, and was published under

Section 81 of the Government of India Act, 1919 on 3rd July, 1920.

CHAPTER 1
PRELIMINARY

1. Short Title And Extent :-

(1) This Act may be called the United Provinces Minor Irrigation Works Act, 1920. 1[(2) It shall extend² to the whole of Uttar Pradesh] 1. Substituted for sub-section (2) of Section 1 by the A.O. 1950. 2. This Act has been extended to the areas mentioned in column 1 of this table under the Act or Order mentioned in column 2 and enforced in such areas under notification, if any, mentioned in column 3 with effect from the date mentioned in column 4 against each such area : Areas Act or Order under which extended Notification, if any, under which enforced Date from which enforced

Areas	Act or Order under which extended	Notification, if any, under which enforced	Date from which enforced
1	2	3	4
1. Rampur District	Rampur (Application of Laws) Act, 1950		30th December, 1949.
2. Banaras District	Banaras (Application of Laws) Order, 1949	Nos. 3262 (1) and 3262 (2)/ XVII, dated 30th November, 1949	30th November, 1949
3. Tehri-Garhwal District	Tehri-Garhwal (Application of Laws) Order, 1949	Ditto	Ditto.

2. Definitions :-

In this Act, unless there be something repugnant in the subject or context,-- (1) "Construction" (with its grammatical variations and cognate expressions) includes improvement within a limited time and in a specific manner; (2) "Minor Irrigation Work" or "work" means an irrigation, submersion, drainage or protective work or system of such works, natural or artificial, of which the construction or maintenance by the 1[State Government] appears to that Government to call for action on a smaller scale than that contemplated by the Northern India Canal and Drainage Act, 1873 (Act No. VIII of 1873); (3) "Owner" includes an under-proprietor, a permanent tenure-holder, a permanent lessee, a fixed rate tenant

and a mortgagor or mortgagee in possession; but does not include a mortgagor or mortgagee out of possession or a lessee for a term of years, nor, where a superior and an inferior right of ownership co-exist, the owner of the superior right. 1. Substituted by A.O. 1950.

CHAPTER 2

PREPARATION OF SCHEME

3. Preliminary Order Of The State Government :-

The 1[State Government], may direct the Collector or any other person to make inquiry whether it is desirable to undertake the construction or maintenance of a minor irrigation work of any description in any specified local area. 1. Substituted by A.O. 1950.

4. Publication Of Preliminary Order :-

(1) The Collector shall, thereupon, publish a notice in the village or villages concerned specifying the place at which and the date (which shall not be earlier than forty-two days after the date of such publication) on which the inquiry shall be held, and shall also, subject to any rule made under Section 47, cause a copy of the notice to be served on any owner whose land he believes to be likely to be affected by the proposed construction or maintenance. (2) The notice shall set forth the general character of the proposed construction or maintenance, and shall invite all persons having interests, likely to be affected thereby, to submit any objection or suggestion that they may desire to make on or before a date prescribed in the notice and to produce any evidence in support of such objection or suggestion on the date appointed for the holding of the inquiry.

5. Implied Consent Of Owners :-

Every owner of land likely to be affected by such construction or maintenance who fails within the period allowed by the notice to submit any objection or suggestion in the manner prescribed shall be deemed for the purposes of this Act to have given his consent thereto.

6. Inquiry And Report By The Collector :-

(1) If the Collector or other person appointed to make the inquiry, after considering any objection or suggestion duly submitted and taking such evidence as he thinks necessary, finds that the owners of at least one-half of the land likely to be affected by the construction or maintenance of the work consent, or are deemed to consent, to such construction or maintenance, he shall embody his

proceedings in a report to be submitted to the 1[State Government] and shall in such report make proposals as to the manner in which the 1[State Government] is to be compensated or to recoup itself for any expenditure, whether capital or recurring, incurred by it. (2) If the owners of more than one-half of the land, affected or likely to be affected are opposed to the construction or maintenance of the work, a report to this effect only shall be submitted to the 1[State Government]. 1. Substituted by A.O. 1950.

7. Notification By The State Government Directing Draft Scheme To Be Prepared :-

Upon receipt of the report referred to in sub-section (1) of the preceding section, the 1[State Government] may, after such further inquiry, if any, as it thinks fit, publish a notification in the 2[Official Gazette] directing the preparation of a draft scheme of construction or maintenance, or of both. 1. Substituted by A.O. 1950. 2. Substituted by A.O. 1937.

8. Powers Of Officer Preparing Draft Scheme :-

Upon such publication, any officer empowered by the 1[State Government] in this behalf by general or special order may enter, or depute any other person to enter upon, any lands within the area specified in Section 3, or on any lands adjacent thereto, for the purpose of doing any act necessary in his opinion for the preparation of the draft scheme, provided that reasonable notice shall be given before entry is made into any building or any enclosed Court or garden attached to a dwelling house. 1. Substituted by A.O. 1950.

9. Compensation For Damage Caused By Entry Under Section 8 :-

In case of entry under Section 8, the officer empowered under that section shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under that section and in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector, and such decision shall be final.

10. Draft Scheme :-

(1) The officer empowered by the 1[State Government] under Section 8 shall submit a draft scheme to the 1[State Government] and such scheme shall, so far as he deems necessary, embody the following particulars and be accompanied by the following

documents, namely : (a) a specification and plan of the work which it is proposed to maintain and an estimate of the capital or recurring expenditure involved thereby; (b) the estimated time required for the completion of a scheme of construction; (c) a statement detailing-- (i) the land and interests in land which in his opinion it will be necessary to acquire in order to carry out the scheme; (ii) the portion of such land and interests therein which can be acquired by negotiation, (iii) the portion of such land and interests therein which it will be necessary to acquire under the Land Acquisition Act, 1894 (Act No. I of 1894); and (iv) an estimate in each case of the expenditure required for the purpose of acquisition; (d) the extent to which it will be necessary, in his opinion, to make compensation for damage caused to property by the carrying out of the scheme and the expenditure required for this purpose; (e) the area which will be benefited by the Scheme; (f) the method of management of the work; (g) with reference to Section 19, the method or methods by which the 1[State Government] will be recouped or compensated for expenditure incurred by it; (h) where all or any of the owners within the benefited area agree-- (i) to make themselves responsible to the 1[State Government] for any expenditure incurred by the 1[State Government] from time to time in the execution of the scheme or for interest at a specified rate thereon, or for both; or (ii) to pay any fixed contract sum or sums [along with interest at a specified rate on arrears thereof] to the 1[State Government] for the execution by the 1[State Government] of the schemes; an agreement to either effect executed by such owner, (i) the description of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, whereof the water should be applied or used for the purpose of the work; (j) any other matter which is required by the circumstances of the case. (2) Such scheme shall also embody any particulars and be accompanied by any documents required by any rule made under Section 47. (3) Any agreement referred to in Clause (h) of subsection (1) may provide that on payment of the amount expressed therein the work shall vest in and be maintained by the owners executing the agreement, subject to the provisions of Part III. 1. Substituted by A.O. 1950.

11. Publication Of Draft Scheme :-

(1) When the draft scheme has been prepared to the satisfaction of the 1[State Government] a notice, giving such particulars as are

required by rule in this behalf and stating at what place and times the scheme will be open to inspection, shall be published by affixing a copy of the notice in a prominent place in each village of which the land is, in the opinion of the Collector, likely to be affected by the scheme carried out. (2) The Collector may also serve notice to the same effect on any owner or occupier of land likely to be affected by the scheme or on the agent of such owner or occupier. (3) On publication of the notice under sub-section (1) any person likely to be affected by the scheme may, within one month from the date of such publication, present in writing to the Collector any objection which he may have to the scheme. (4) The Collector shall forward to the 1[State Government] all objections which may be presented to him together with any remark that he may desire to make in respect of such objections. 1. Substituted by A.O. 1950.

12. Adoption By The State Government Of Approved Scheme :-

(1) After such modification of the draft scheme as appears to be required by any objection made under the previous section, the 1[State Government] may, if it thinks fit to proceed with the scheme, notify the same as approved by publication in the 2[Official Gazette] and thereafter it shall be entitled to carry out such approved scheme in accordance with the provisions of this Act: Provided that if the scheme has, in the opinion of the 1[State Government] been substantially altered, the provisions of Section 11 shall apply to the amended scheme. (2) The publication under sub-section (1) of a scheme as approved shall be conclusive proof of the fact that any consent recorded therein has been duly obtained, that the scheme will benefit the area specified therein in that behalf (hereinafter called the benefited area), and that the scheme has in all respects been duly prepared and approved. 1. Substituted by A.O.1950. 2. Substituted by A.O. 1937.

13. Operation Of A Notified Scheme As A Notification Under Section 5 Of The Act, 1873 (Viii Of 1873) :-

The intimation in a scheme notified under sub-section (1) of Section 12 of the intention to apply or use the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, for the purpose of the work to which the scheme relates, shall operate as a notification under Section 5 of the Northern India Canal and Drainage Act, 1873 declaring that the said water will be so applied or used on the expiration of three

months from the date of the notification.

14. Modification Of Approved Scheme, Or Substitution Of New Scheme :-

(1) The 1[State Government] may from time to time modify any approved scheme notified under Section 12 or substitute another scheme in its stead, and the provisions of this Act applicable to a scheme notified under Section 12 shall thereafter be applicable to any scheme so modified or substituted : (2) Provided that any consent, publication or other thing required by this Act in respect of a scheme shall be necessary also in respect of the alteration of a scheme or the substitution of a new scheme for an existing one. 1. Substituted by A.O.1950.

CHAPTER 3

CONSTRUCTION AND MAINTENANCE

15. Appointment Of Officer-In-Charge :-

The 1[State Government] may by general or special order, appoint an officer (hereinafter called the officer-in-charge) to be in-charge of the construction or maintenance of a minor irrigation work in respect of which an approved scheme has been published. 1. Substituted by A.O.1950.

16. Powers Of Officer-In-Charge :-

(1) The officer-in-charge and any officer to whom he is subordinate shall have the following powers, namely : (a) to exercise, with reference to the work, the powers conferred by Section 6 of the Northern India Canal and Drainage Act, 1873 (VI of 1873); (b) to prohibit by order in writing any person from doing anything which in his opinion diminishes or is likely to diminish, the efficiency of the work; (c) to require by order in writing any owner or occupier of land within the benefited area to take or permit such action in respect of any property therein belonging to him or in his possession as may appear necessary for the preservation or maintenance of the work or may appear to be necessary for the purpose of increasing or extending within the benefited area, by means of distributaries or otherwise, the benefit of the work; (d) to enter or authorise any other person to enter upon any land for the purpose of construction or maintaining the work, or of preventing or remedying the effect of any accident to the same, or of inspecting or regulating the use of the water supplied, or of measuring lands irrigated by the work or chargeable with any water rate or other sum, or of doing any other thing necessary for the

proper regulation and management of the work; (e) to require, in cases of urgency, any owner or occupier of land receiving benefit from the work to assist in procuring at market rates such labour as may be necessary for the preservation or maintenance of the work; (f) to do or prevent being done anything in respect of which an order has been issued by him under clauses (b) and (c), provided that the person so ordered has failed to obey the order within the time specified in the order, and provided also that no action shall be taken under this clause in respect of an order issued under clause (c) until such order has become final under Section 17; (g) if a divisional canal officer, to issue an order in writing to the persons using any water-course to construct suitable bridges, culverts or other works for the passage of the water of such water-course across any public road, canal or drainage channel in use before the said watercourse was made, or to repair any such works, and on the failure of the person to whom the order has been issued to comply within a reasonable time, himself to take the required action at the cost of such person which shall be recoverable under Section 28. (2) The power conferred by clause (c) of sub-section (1) shall include the power to order the transfer by one person to another, on the payment of compensation to be determined in the manner described in Section 40, of a water-course, or of any land or right in land required for the construction of a water-course.

17. Appeal Against Order Of Officer-In-Charge :-

(1) Orders issued by the officer-in-charge under Section 16 shall be subject to appeal in writing made within fifteen days to such officer or officers as the¹[State Government] directs by rule, but unless appealed against in the prescribed manner shall be final. (2) The order of the Appellate Authority shall be final. 1. Substituted by A.O. 1950.

18. Section 18 :-

(1) Any land or interest in land which, in the opinion of the ¹[State Government], it is necessary to acquire in pursuance of a scheme notified under Section 12 shall, for the purposes of the Land Acquisition Act, 1894 (Act No. I of 1894), be deemed to be required for a public purpose. (2) For the purposes of sub-section (1) of Section 23 of the said Act the market value of such land at the date of the publication of the declaration relating thereto under Section 6 of that Act shall be deemed to be the market value at the time of the issue of the preliminary order under Section 3 of this Act. 1. Substituted by A.O. 1950.

19. Alternative Modes Of Recoupment By The State Government :-

The 1[State Government] may compensate or recoup itself for any expenditure which it incurs, or agrees to incur in the carrying out of any approved scheme of construction or maintenance, or of both, in any one or more of the following methods, namely : (a) by the levy from the owners of land within the benefited area, whether such benefit takes the form of direct irrigation, percolation, submersion, improvement of the water-supply in wells or drainage of excessive water or otherwise, of a uniform rate or of differential rates imposed on such a land in accordance with rules made by the 1[State Government]; (b) by the recovery from any owners executing an agreement under clause (h), (i) or clause (h) (ii) of sub-section (1) of Section 10 of any sums due thereunder, or (c) by the realization of miscellaneous income arising from the management by the 1[State Government] of the work. 1. Substituted by A.O. 1950.

20. Appeal Against Rates :-

(1) An appeal against the assessment or levy of any rate under this Act shall lie to such officer as is empowered by rule in this behalf. (2) In every appeal the costs shall be at the discretion of the officer deciding the appeal. (3) Cost awarded under this section against the appellant shall be recoverable as though they were an arrear of land revenue due from the appellant.

21. Limitation Of Appeal :-

No appeal shall lie in respect of any rate unless it is preferred within thirty days from the time when the demand or the rate is first made.

22. Exclusion Of Jurisdiction Of Ordinary Courts :-

No objection shall be taken to any assessment, nor shall the liability of any person to be assessed or rated be questioned in any other manner, or by any other authority, than is provided in or under this Act: Provided that nothing in this section shall prevent any person from obtaining a declaration in the Civil Court that he is not liable to such assessment on the ground that he is not the owner of the land in respect of which the assessment has been made, and the assessing officer shall be bound by such declaration.

23. Rate By Whom Payable When Charged On Land Held By Several Occupiers :-

Where a rate is charged on land held by several joint owners it shall be payable by the manager or other person who receives the rents or profits of such land, who may recover from such joint owners any sums so paid on their behalf.

24. Enhancement And Abatement Of Rent :-

(1) Notwithstanding anything contained in any enactment to the contrary, but subject to any rules made in this behalf, where benefits are received for a minor irrigation work constructed or maintained under this Act, such benefits, whether due to the supply of direct irrigation or to percolation, submersion, improvement of the water supply in wells or drainage of excessive water or otherwise, shall be deemed a ground for enhancement of rent. (2) In like manner, the loss or discontinuance of any benefits received from a minor irrigation work shall be deemed a ground for abatement of rent.

25. Procedure In Enhancement And Abatement :-

Except as may be otherwise provided by rules made under Section 47, all claims under the preceding section in any local area shall be made by suit to be instituted in a Revenue Court empowered to try suits for the enhancement or abatement of rent in such local area, and the Court shall in the trial of such suit follow the procedure prescribed for the trial of suits for the enhancement or abatement of rent in such local area.

26. Apportionment Of Charges Due Under Clause (B) Of Section 19 :-

Where any sum is recoverable under clause (b) of Section 19 from owners for the time being of land within the benefited area they shall be jointly and severally liable for the same.

27. Enforcement Of Agreement Previous To Act :-

(1) All agreements made within a period of twelve years prior to the date on which this Act comes into force regarding the construction, repair and maintenance of a minor irrigation work which might have been constructed or maintained under this Act, had it been in force, shall, so far as the terms thereof are consistent with this Act, be deemed to have been made under this Act, and shall have force accordingly. (2) Nothing in sub-section (1) shall apply to any such agreement in respect of a minor irrigation work unless and until the 1[State Government] declares the work

by notification in the 2[Official Gazette] to be subject to the provisions of this section. 1. Substituted by A.O.1950. 2. Substituted by A.O. 1937.

28. Certified Dues And Debts Recoverable As Land Revenue

:-

Any sum lawfully due under this Act and certified by the Officer-in-charge to be so due and any sum not otherwise recoverable under this Act but due under an agreement referred to in Section 27 which remains unpaid after the day on which it becomes due shall be recoverable by the Collector from any person liable for the same as if it were an arrear of land revenue.

29. Power To Contract For Collection Of Dues :-

(1) The officer-in-charge or the Collector may enter into an agreement with any person for the collection and payment to the 1[State Government] by such person of any sum payable under this Act by a third party. (2) When such agreement has been made, such person may recover such sum by suit as though it were an arrear of rent due to him on account of the land in respect of which such sum is payable or water shall have been supplied or used. (3) If such person makes default in the payment of any sum to be collected by him under this section, such sum may be recovered from him by the Collector under Section 28 and if such sum or any part of it be still due by the said third party, the sum or part so due may be recovered in like manner by the Collector from such third party. 1. Substituted by A.O. 1950.

30. Lambardars May Be Required To Collect Dues :-

(1) In the absence of an agreement made under Section 29 with any other person the Collector may require the lambardar of any mahal to collect and pay any sums payable under this Act by a third party in respect of any land or water in such mahal and in the event of his failing to pay any sum so required may recover it from him as an arrear of land revenue. (2) Where a lambardar is required to pay any sum under sub-section (1), all the provisions of law for the time being applicable to the recovery by him or by the Collector on his behalf of land revenue and remuneration fees from any third party shall apply to the recovery of sums from any third party liable for the same as if they were enacted in this Act.

31. Saving In Respect Of Fines :-

Nothing in Sections 28, 29 and 30 applies to fines.

32. Offences :-

Whoever without proper authority, and voluntarily, does any of the following acts namely-- (1) damages, alters, enlarges or obstructs any work; (2) interferes with, increases or diminishes the supply of water in or the flow of water from, through, over or under any work; (3) being responsible for the maintenance of any work or of any part thereof or using any work or any part thereof, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of water therefrom or uses such water in an unauthorized manner; (4) corrupts or fouls the water of any work so as to render it less fit for the purposes for which it is ordinarily used; (5) destroys or moves any level mark or water gauge fixed by the authority of a public servant; (6) passes or causes animals or vehicles to pass on or across any work, contrary to rules made under this Act; (7) violates any rule made under this Act the breach of which is declared to be punishable, or disobeys any lawful order of Collector or other officer; shall be liable on conviction before a Magistrate, to imprisonment for a period not exceeding one month or to a fine not exceeding fifty rupees or, where the offence is a continuing one, to a further fine which may extend to ten rupees for every day on which the offence continues after the date of first conviction.

33. Saving :-

Nothing herein contained shall prevent any person being prosecuted under any other law for any offence punishable under this Act, provided that no person shall be punished twice for the same offence.

34. Summary Arrest :-

Any person-in-charge of or employed upon any work may remove from the lands or buildings belonging thereto or may take into custody without a warrant and take (or send) forthwith to a Magistrate or to the nearest police station to be dealt with according to law, any person who within his view commits any of the following offences : (a) wilfully damages or obstructs any work; (b) without proper authority interferes with the supply or flow of water to or from any work so as to endanger, damage or render less useful such work.

35. Definition Of "Work" In This Part :-

In this part the word "work" shall be deemed to include all lands occupied by the 1[Government] for the purpose of a minor irrigation work in respect of which an approved scheme has been published and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce, occupied by or belonging to the 1[Government] upon such lands. 1. Substituted by A.O.1950.

CHAPTER 6

JURISDICTION AND PROCEDURE

36. Preparation Of Record Of Rights :-

(1) The Collector shall, whenever the 1[State Government] by special order, or by rules made under this Act, so directs, prepare or revise for any minor irrigation work in respect of which an approved scheme has been published a record showing all or any of the following matters, namely: (a) the custom or rule of irrigation; (b) the rights to water and the conditions on which such rights are enjoyed; (c) the rights as to the erection, repair, reconstruction, and working of mills and the conditions on which such rights are enjoyed; and (d) such other matters as the 1[State Government] may by rule prescribe in this behalf. (2) Entries in the record so prepared or revised shall be relevant as evidence in any dispute as to the matters recorded and shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor : Provided that no such entry shall be so construed as to limit any of the powers conferred on the 1[State Government] by this Act. (3) When a record showing all or any of the matters enumerated in sub-section (1) has been framed at any settlement of the land revenue such record shall be deemed to have been made under this section. (4) Every person interested shall be bound to furnish to the Collector, or to any person acting under the direction of the Collector, all informations necessary for the correct preparation of a record under this section. (5) The provisions of Chapter IV of the United Provinces Land Revenue Act, 1901 (U.P. Act No. III of 1901), shall so far as may be, apply to the preparation and revision of every such record. 1. Substituted by A.O.1950.

37. Settlement Of Disputes Between Private Persons :-

(1) Subject to the provisions of Section 39, whenever a dispute arises between two or more persons in regard to any right or liability arising from the construction or maintenance under this Act of a minor irrigation work in respect of which an approved scheme has been published, or arising from the issue of any order under

this Act in respect of such work, any such person may apply in writing to the officer-in-charge of the work stating the matter in dispute. (2) That officer shall thereupon give notice to the other persons interested that, on a day to be named in the notice, he will proceed to inquire into the said matter. (3) On the day fixed for the inquiry, or on any subsequent day, the aforesaid officer shall pass an order determining the matter in dispute, unless he transfers (as he is hereby empowered to do) the matter to the Collector who, in such case, shall inquire into and pass an order determining the said matter. (4) An order under sub-section (3) may award compensation to any person who is a party to the proceedings against any other such person for any injury sustained, and any compensation so awarded shall be recoverable upon application made to the revenue Court having jurisdiction in the area concerned as if it had been awarded by a decree of that Court. (5) The order of the officer-in-charge of the work or of the Collector as to the use or distribution of water shall be final so far as it applies to any crop sown or growing at the time when such order is made, and so far as it applies to any future crop shall remain in force until and except so far as it is set aside by subsequent order passed in a fresh dispute under this section or by a decree of a Civil Court passed in a suit or proceeding within its jurisdiction. (6) For the purpose of sub-section (5) a dispute shall be deemed to be a fresh dispute when it arises out of different or changed circumstances.

38. Compensation For Damage Caused By The Application Or Use Of Act No. Viii Of 1873 :-

The provisions of Sections 7 to 13 (inclusive) of the Northern India Canal and Drainage Act, 1873 (Act No. VIII of 1873), shall be applicable as if they were enacted in this Act, in respect of compensation for any stoppage, diminution or damage of the description contemplated by the aforesaid sections and caused by the carrying out of any scheme under this Act.

39. Compensation Relating To Water-Courses :-

(1) Where the transfer of any water-course or of any land or interest in land required for the construction of a water-course is directed by an order made under Section 16, upon payment of compensation, the Collector shall, on the application of any person affected by such order, proceed to determine the compensation under the provisions of the Land Acquisition Act, 1894 (Act No. I of 1894); but he may, if the person to be compensated so desires, award such compensation in the form of a rent-charge payable in

respect of the land or water-course occupied or transferred. (2) If any sum or rent-charge awarded under sub-section (1) is not paid when lawfully demanded by the person entitled to receive the same, the amount shall be recovered by the Collector as if it were an arrear of land revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

40. Compensation For Damage Caused By Entry Under Section 16(1)(D) :-

In every case of entry under clause (d) of Section 16(1) upon any lands adjacent to a minor irrigation work for the purpose of preventing or remedying the effect of any accident to the work, the officer-in-charge shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the officer-in-charge shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the 1[State Government] had directed the occupation of the lands under Section 35 of the Land Acquisition Act, 1894 (Act No. I of 1894). 1. Substituted by A.O. 1950.

41. Compensation For Damage Caused In Other Cases :-

Where any damage, other than damage of the description referred to in Sections 9, 16(2), 38, 39(1) or 40 is caused to a person by the exercise, with reference to a minor irrigation work, of any of the powers conferred by this Act, the officer-in-charge of the work shall, subject to any rules made under Section 47 in this behalf, tender reasonable compensation to the person sustaining the damage and in case of dispute as to the sufficiency of the amount tendered, he shall forthwith refer the matter for decision to the Collector, and such decision shall be final.

42. Limitation Of Claims For Compensation For Damage :-

No claim for compensation for damage under this Act shall be made after the expiration of one year from the accrual of the damage, unless good cause is shown by the claimant for not making his claim within that period.

43. Bar To Suits Against Officers :-

No suit or other legal proceeding shall lie against any officer of the 1[Government] or person acting under the directions of an officer of the 1[Government] for anything done or intended to be done in good faith under this Act. 1. Substituted by A.O. 1950.

44. Power To Summon And Examine Witnesses :-

Any officer empowered by or under this Act to conduct any inquiry or to assess compensation may exercise all such powers connected with the summoning and examining of witnesses as are conferred on Civil Courts by the Code of Civil Procedure, 1908 (Act No. V of 1908) and the inquiry or proceeding shall be deemed a judicial proceeding.

CHAPTER 7

MISCELLANEOUS

45. Vesting Of Work :-

Every work shall be deemed to be vested in the persons or authority for the time being entrusted with the construction or maintenance thereof by the terms of a scheme notified under Section 12.

46. Delegation Of Power By The State Government :-

The 1[State Government] may delegate any of its powers under this Act to the Board of Revenue or to the Commissioner or other officer, and in such case references to the 1[State Government] shall be construed as references to the Board of Revenue, the Commissioner, or other officer, as the case may be. 1. Substituted by A.O. 1950.

47. Power Of State Government To Make Rules :-

(1) The 1[State Government] may, after previous publication 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 be made as to all or any of the following matters, namely: (a) the nature, scope and extent of works to be undertaken under this Act; (b) the conduct of an inquiry under Section 3 and other matters relating to the preparation of a draft scheme; (c) the publication and service of notices under Sections 4 and 11; (d) the particulars and documents to be embodied in or submitted with a draft scheme; (e) the rates leviable from owners and the method of assessing the same and time of payment; (f) the officer to whom an appeal shall lie under Section 20; (g) the procedure to be adopted in proceedings held under Section 24 for the enhancement or abatement of rent; (h) the remuneration of persons collecting sums for the 1[State Government] under Section 29 or 30 and their indemnification against expenses properly incurred in collection; (i) the delegation by the 1[State Government] of any powers conferred upon it under this Act. (3) In making any rule under this section the 1[State Government] may

declare that a breach of such rule is punishable under this Act. (4)
All rules made under this section shall be published in the 2[Official
Gazette], and, on such publication, shall have effect as if enacted
in this Act. 1. Substituted by A.O. 1950. 2. Substituted by A.O.
1937.