



सत्यमेव जयते

GOVERNMENT OF MAHARASHTRA
LAW AND JUDICIARY DEPARTMENT

**MAHARASHTRA ACT No. XXXVIII OF
1976.**

THE MAHARASHTRA IRRIGATION ACT, 1976.

(As modified up to the 24th September 2012)



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THE MAHARASHTRA IRRIGATION ACT, 1976

CONTENTS

PREAMBLE.

SECTIONS.

PART I

PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.
3. Lands under irrigable command of canal.
4. Wet land.

Irrigation areas

5. Division of State into irrigation areas.

PART II

CANAL OFFICERS, THEIR CHARGES AND POWERS

6. Canal Officers.
7. Chief controlling authority in irrigation matters.
8. Appointment of Canal Officers.
9. Subordination of Canal Officers.
10. Power to allot duties among Canal Officers.

PART III

CONSTRUCTION AND MAINTENANCE OF CANALS

Application of water for purposes of canal

11. Notification when water-supply to be applied for purposes of canal or for regulation, supply or storage of water.

Powers of entry on land, etc.

12. Powers of Canal Officers for purpose of so applying water.
13. Entry for enquiry.
14. Power to inspect and regulate water-supply.
15. Power to enter for repairs and to prevent accidents.
16. Power to Canal Officer to operate gates in order to regulate floods.
17. Notice to occupier of building, etc.

Canal crossings

18. Means of crossing canals to be provided and obstruction to drainage to be avoided.

Removal of obstructions to drainage

19. Appropriate Authority may prohibit formation of obstructions of rivers, etc. within certain limits.
20. Canal Officer may issue order to any person causing obstruction.
21. Canal Officer may cause obstruction to be removed.

Construction of drainage works

22. When drainage works are necessary Appropriate Authority may order scheme to be carried out.

SECTIONS

PART IV

FIELD-CHANNELS

Construction of field-channels

23. Construction of field-channels
24. Application to Canal Officer for construction of new field-channels.
25. Procedure for constructing field-channels.
26. Procedure after construction of field-channels.

Rights and obligations of owners of field-channels

27. Obligation of owner of field-channel.
28. Arrangement with owner by other person.
29. Canal Officer after enquiry may authorise supply or declare applicant to be joint owner.
30. Prohibition of land acquired for field-channel for other purpose ; and prohibition against alteration of field-channel.
31. If owner fails to execute work or to repair field-channel, Canal Officer may execute the same.
32. Cancellation of sanction to supply of water for failure to maintain field channels.
33. Person using field-channel to pay share of expenses or repair.

Schemes for compulsory construction of field-channels.

34. Schemes for compulsory construction of field-channels.
35. Obligation on holders to construct field-channels under final scheme.
36. Provisions of section 13 to apply.
37. Notice to holders and occupiers of land to construct field-channels.
38. Power to authorise Canal Officer to construct field-channels.
39. Consequences of completion of construction of field-channels.
40. Mode of payment of cost of construction of field channels, etc.
41. Power of Appropriate Authority to direct preparation of scheme in public interest.

Settlement of disputes concerning field-channels

42. Settlement of disputes as to mutual rights and liabilities of persons interested in field-channels.
43. Provisions of this Part not to apply to field-channels constructed under Bom. XXVIII of 1942.

PART V

ACQUISITION OF LAND

44. Acquisition of land for canals and field-channels.

PART VI

SUPPLY OF WATER

CHAPTER I

GENERAL PROVISIONS FOR SUPPLY OF WATER

45. Application of this Chapter for supply of water under Chapters II to V.
46. Modes of supply of canal water, power to charge minimum rate.
47. Power of Appropriate Authority to regulate sowing, planting or growing of crops during specified period on lands under irrigable command of canal.
48. Power to fix ceiling on area of crops.

SECTIONS

Provisions as to supply

49. Power to stop water.
50. Duration of supply.
51. Agreement for supply of water transferable with property in respect of which supply is given, etc.

Occasional rates

52. Liability when person using water unauthorisedly cannot be identified.
53. Liability when water runs to waste.
54. Charges recoverable in addition to penalties.

Percolation and leakage rates

55. Land deriving benefit from percolation liable to water rate.
56. Levy of water rate for use of percolation water for non-irrigation purposes.

CHAPTER II*Supply of Water on an Application*

57. Regulation of supply of water.
58. Application for supply of water.

Supply rates

59. Determination of rates for supply of canal water.

CHAPTER III

SUPPLY OF WATER ON VOLUMETRIC BASIS

60. Supply of water on volumetric basis and formation of Water Committee.

CHAPTER IV

SUPPLY OF WATER UNDER IRRIGATION AGREEMENTS

61. Power to make irrigation agreements.
62. Scope of irrigation agreement.
63. When agreement can be made.
64. Consent to agreement necessary where land is in possession of occupier other than holder.
65. Publication of notice before agreement is made.
66. Inclusion of land irrigated by lift.
67. Charges for supply of water.
68. Liability due to irrigation agreement.
69. Cancellation of agreement by mutual consent.
70. Cancellation of agreement for failure to maintain field-channels.
71. General power to cancel agreement.

CHAPTER V

SUPPLY OF WATER UNDER SCHEME

72. Supply of water under scheme.
73. Effect of scheme; power to vary scheme.
74. Appointment of Water Committee to execute scheme and its powers.

SECTIONS

PART VII

AWARD OF COMPENSATION

Compensation when claimable

75. Compensation in cases of ascertainable substantial damage.
76. Limitation of claims.

Summary decisions

77. Compensation for damage caused by entry on land, etc.
78. Compensation on account of interruption of water supply.
79. Decision as to amount of compensation under either of last two sections to be conclusive.

Formal adjudications

80. Notice as to claims for compensation in certain cases.
81. Claims to be prepared to Collector.
82. Collector to be guided by provisions of Land Acquisition Act, 1894.
83. Diminution in market value to be considered in fixing compensation.
84. Compensation when due.

Abatement of land revenue and rent

85. Abatement of revenue demand on interruption of water supply.
86. Abatement of inferior holder's rent on interruption of water supply ; and enhancement of such rent on restoration of supply.
87. Provisions of this Part not to apply to acquisition under section 44.

PART VIII

RECOVERY OF WATER RATE

88. Payment and recovery of water rate.
89. Recovery of water rate etc., payable to Company, *Zilla Parishad*, etc.

PART IX

OBTAINING LABOUR FOR CANALS ON EMERGENCIES

90. Procedure for obtaining labour for works or repairs urgently required.
91. List of Labourers.
92. Reports to be made by Canal Officer.

PART X

PENALTIES

93. Penalty for damaging canal, etc.
94. Penalty for endangering stability of canal, etc.
95. Obstruction to be removed and damage repaired.
96. Persons employed on canal may take offenders into custody.
97. Procedure in respect of machine, apparatus with which canal water is used unauthorisedly.
98. Cognizance of certain offences.
99. Abatement.
100. Reward to informants.
101. Compensation to private persons injured.
102. Compounding of offences.

SECTIONS

PART XI

APPEAL AND REVISION

103. Appeal and revision.

PART XII

MISCELLANEOUS

104. Suits barred in certain cases.
105. Excavation of wells in lands under irrigable command of canal to be intimated.
106. Right in tank bed lands, fishing and plying of vessals in tanks, etc., controlled or maintained by Appropriate Authority to vest in Appropriate Authority.
107. Prohibition of mining or quarrying operations.
108. Recovery of cost repairing damage when offender is unascertainable.
109. Power to summon and examine witnesses.
110. Delegation of powers and duties.
111. Service of notices.
112. Power of State Government to give directions to Company and *Zilla Parishads* regarding maintenance of their canals.
113. Public servants and some other persons protected from legal proceedings.
114. Rules.
115. Saving of certain water works.
116. Application of certain provisions of Act to Lift Irrigation Works of Co-operative Societies.

PART XIII

SECOND CLASS IRRIGATION WORKS

117. Application of this Part to Second Class Irrigation Works.
118. Application of certain sections and Parts of this Act to Second Class Irrigation Works.
119. Revision of Irrigation Record-of-Rights.
120. Commutation of rights.
121. Power of State Government where works are undertaken increasing supply.
122. Publication of Irrigation Record-of-Rights.
123. Entries in Irrigation Record-of-Rights to be relevant as evidence.
124. Notice of suit to be given to Collector.
125. Obligation to carry out petty repairs.
126. Incidence of obligations to carry out petty repairs.
127. Power to enforce rights and obligations.
128. Duty to Talathi to report failure to effect repairs.
129. Constitution of Water committee for each village and its power.
130. Power of State Government to denotify any existing Second Class Irrigation work.

PART XIV

REPEAL AND SAVING

131. Repeal and saving.

MAHARASHTRA ACT No. XXXVIII OF 1976¹

[THE MAHARASHTRA IRRIGATION ACT, 1976.]

[This Act received assent of the President on the 26th July 1976 ;
assent was first published in the *Maharashtra Government Gazette*, Part-

IV, Extraordinary, on the 5th August 1976.]

Amended by Mah. 52 of 1981 *(19-9-1981)

Amended by Mah. 3 of 1984 *(11-1-1984)

Amended by Mah. 24 of 1989 *(13-7-1989)

Amended by Mah. 46 of 1997 *(29-12-1997)

Amended by Mah. 19 of 2005 *(4-5-2005)

**An Act to unify and amend the Law relating to irrigation in the
State of Maharashtra.**

WHEREAS it is expedient to unify and amend the law relating to irrigation in the State of Maharashtra, to provide for charging water rates on lands under the irrigable command of canals and to provide for matters connected therewith ; It is hereby enacted in the Twenty-seventh Year of the Republic of India as follows :—

PART I

PRELIMINARY

1. (1) This Act may be called the Maharashtra Irrigation Act, 1976. Short title,
extent and
commence-
ment.
- (2) It extends to the whole of the State of Maharashtra.
- (3) It shall come into force on such date² as the State Government may, by notification in the *Official Gazette*, appoint.
2. In this Act, unless the context otherwise requires,— Definitions.
 - (1) “alienated” means transferred in so far as the rights of the State Government to payment of rent of land revenue are concerned, wholly or partially to the ownership of any person and the expressions “alienated land” and “unalienated land” shall be construed accordingly ;
 - (2) “Appropriate Authority”, in relation to a canal constructed, maintained, controlled or managed by the State Government or the Company or a *Zilla Parishad*, means the State Government, the Company or the *Zilla Parishad* respectively ;
 - (3) “canal” includes—
 - (a) all canals, channels, pipes, tube-wells, domestic water-supply works and reservoirs constructed, maintained or controlled by the Appropriate Authority for the supply or storage of water ;
 - (b) all works, embankments, structures and supply and escape channels connected with such canals, channels, pipes, tube-wells, domestic water-supply works and reservoirs, and all roads constructed for the purpose of facilitating the construction or maintenance of such canals, channels, pipes, tube-wells domestic water-supply works and reservoirs ;
 - (c) all fields-channels, water courses, drainage-works and flood embankments as hereinafter respectively defined or explained in this Act;
 - (d) any part of a river (including its tributaries), stream, lake, natural collection of water or natural drainage-channel, to which the State Government may apply the provisions of section 11, or of which the water has been applied or used before the commencement of this Act for the purpose of any existing canal ;

¹ For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1976. Part V., Pages 115-123.

² 1st January 1977, vide G.N.,I.D., No. MIA. 1076-MIG-1, dated 1st January 1977.

* This indicates the date of commencement of the Act.

(e) all land belonging to, or held by, or entrusted to, the Appropriate Authority which is situate on a bank of any canal as hereinbefore defined, and which has been appropriated under the orders of such Appropriate Authority for the purposes of such canal ;

(f) all lift irrigation works constructed, maintained or controlled by the Appropriate Authority ;

(4) "Canal Officer" means any officer duly appointed by the State Government by an order in writing for all or any of the purposes of this Act specified in the order, and includes in relation to a canal constructed, maintained, controlled or managed by the Company, a Company Officer, and by a *Zilla Parishad*, a Parishad Officer ; and the expression "Canal Officer duly empowered in this behalf" or any like expression means a Canal Officer empowered by the Appropriate Authority by an order in writing for all or any of the purposes of this Act specified in the order and also includes a person acting under the general or special order of such Canal Officer ;

(5) "canal revenue" includes all sums payable to the Appropriate Authority for the use, right to use, or waste, of water from a canal ;

(6) "Collector" includes any officer appointed by the State Government to exercise all or any of the powers of a Collector under this Act ;

(7) "Company" means a company owned or controlled by the State which is set up for the purpose among other things of promoting, investigating, establishing, executing, installing, maintaining, managing or administering schemes for the purpose of irrigation or in relation to any irrigation project, in order to effect increase in irrigation potential and agricultural production in the State ¹[and shall also include a private developer or a co-operative society registered under the Maharashtra Mah. Co-operative Societies Act 1960, who has entered into an agreement XXIV of with the State Government, for any of the said purposes] ; and the of 1961. Company shall, for the purposes of this Act, function as the agent of the State Government ;

(8) "Company Officer" means any Officer of the Company duly appointed by the Company by an order in writing for all or any of the purposes of this Act specified in the order ;

(9) "drainage work" includes—

(a) channels, either natural or artificial, for all the discharge of waste or surplus water and all works connected with or auxiliary to such channels ;

(b) escape channels from a canal dams, weirs, embankments, sluices, groins and other works connected therewith ; and

(c) any work in connection with a system of irrigation or reclamation made or improved by the Appropriate Authority for the purpose of drainage of any area including works for the disposal of effluent from the sewage disposal schemes within the command of a canal undertaken by any person duly authorised in this behalf, but does not include works for the removal of sewage from any area within the limits of any local authority ;

(10) "field-channel" means a channel beyond an outlet from a point from where it runs in its own command, either constructed by the holders or occupiers or constructed by the Appropriate Authority on their behalf and maintained by such holders or occupiers beyond the outlet ;

¹ These words, figure and letters were inserted by Mah. 19 of 2005, s. 2.

(11) "flood embankment" means any embankment constructed or maintained by an Appropriate Authority in connection with any system of irrigation or reclamation works for the protection of lands from inundation or which may be declared by the Appropriate Authority to be maintained in connection with any such system, and includes all groins, spurs, dams and other protective works connected with such embankments ;

(12) "holder", in relation to land, means the person who is lawfully in actual possession of land as owner or tenant and includes a Government lessee ;

(13) "irrigation agreement" has the meaning assigned to it by section 61 ;

(14) "land under the irrigable command of a canal" has the meaning assigned to it by section 3 ;

(15) "occupant" means a holder in actual possession of unalienated land, other than a tenant or Government lessee; provided that, where a holder in actual possession is a tenant, the land holder or the superior landlord, as the case may be, shall be deemed to be occupant ;

(16) "occupier" in relation to land, means any person holding or professing to hold the right to cultivate such land for the time being ;

(17) "outlet" means an opening of a capacity not exceeding 30 litres per second to serve a block of land of approximately 40 hectares and which is constructed by the Appropriate Authority in a canal through which water is delivered into a field-channel or directly on to any land ;

(18) "owner" includes every person having a joint interest in the ownership of the thing specified, and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership ;

(19) "Parishad Officer" means any officer of *Zilla Parishad* duly appointed with the previous approval of State Government by the *Zilla Parishad* by an order in writing for all or any of the purposes of this Act specified in the order ;

(20) "prescribed" means prescribed by rules made by the State Government under this Act ;

(21) "Second Class Irrigation Works" means the canals, channels, streams, rivers, wells, tube-wells, artesian wells, pipes, reservoirs, artificial or natural, or *bandharas* or any part thereof which have been declared under the Bombay Irrigation Act, 1879, to be Second Class Irrigation Works before the commencement of this Act ;

(22) "Superior holder" means a land-holder entitled to receive rent or land revenue from other land-holders (called "Inferior holders") whether he is accountable or not for such rent or land revenue, or any part thereof, to the State Government :

Provided that, where land has been granted free of rent or revenue, subject to the right of resumption in certain specified contingencies by a holder of alienated land whose name is authorisedly entered as such in the land records, such holder shall, with reference to the grantee, be deemed to the superior holder of land so granted by him, and the grantee shall, with reference to the grantor be deemed to be the inferior holder of such land ;

(23) the expression "supply of water" with its grammatical variations includes the expression "water made available from any canal" with its grammatical variations ;

(24) "water rate" means payment to be made in the prescribed manner for a supply of facility of water from a canal for irrigation or any purpose provided by or under this Act at the rate determined under this Act ;

(25) "wet land" has the meaning assigned to it by section 4 ;

(26) "Zilla Parishad" means a Zilla Parishad constituted under the Maharashtra Zilla Parishad and Panchayat Samitis Act, 1961 ;

Mah.
V of
1962.

(27) words and expressions used in this Act but not defined shall have the meanings respectively assigned to them in the Maharashtra Land Revenue Code, 1966.

Mah.
XLI
of
1966.

Lands
under
irrigable
command
of canal.

3. (1) Lands under the irrigable command of canal means all those cultivable lands which are or can be irrigated from a canal by the flow of water under gravity without the need of lifting or pumping water (or in case of lift irrigation work, which after water is lifted, are or can be irrigated by the flow of water under gravity), and which a Canal Officer not below the rank of an Executive Engineer may, by notification in the *Official Gazette*, declare to be so in relation to such canal. Such lands may include lands as are or may be deemed to be irrigated from a canal within the meaning of section 55. The lands may be specified or described in the notification in such manner as the Canal Officer may think fit.

(2) The notification may also be published in such other manner in or in the vicinity of such lands as the Canal Officer may think fit. The Canal Officer shall also serve individual notices on all the holders and occupiers of lands situated within the irrigable command of the canal declared under sub-section (1).

(3) A Canal Officer not below the rank of an Executive Engineer may, with the previous sanction of a Canal Officer not below the rank of a Superintending Engineer, declare any land to be "not commanded" if it can be irrigated only by such use of water which in the opinion of the Canal Officer is excessive or by means of a field channel which passes through an area which the Canal Officer considers it desirable to avoid.

(4) Land which would otherwise be not under the irrigable command of a canal may come under the irrigable command of such canal by construction of a crossing for the passage of water across a natural drainage channel or ridge.

(5) Any person aggrieved by any notification or part thereof under sub-section (1), may, within thirty days from the date of publication of such notification in the *Official Gazette*, file an appeal before such Officer not below the rank of a Chief Engineer as the Appropriate Authority may appoint. The Appellate Officer may pass such order in the appeal as he thinks fit, and thereupon, the notification shall stand unmodified or modified to the extent and from the date specified in the order :

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

Wet land.

4. Land is said to be wet,—

(a) when it is classed in the village record under any description which the State Government may, by rules made under this Act, declare to have the meaning of 'wet' for the purposes of this section ; or

(b) when it has been declared by a Canal Officer, duly empowered by the Appropriate Authority, to be wet.

Irrigation areas

5. For the purposes of this Act, the Appropriate Authority may divide the area within its jurisdiction into regions, circles, division, sub-divisions and sections in such manner as it deems fit and may, from time to time, alter their limits.

Divisions of State into irrigation areas.

PART II

CANAL OFFICERS, THEIR CHARGES AND POWERS

6. (1) There may be the following classes of Canal Officers appointed by the State Government, with the following designations, or such other designations as the State Government may, by an order in writing from time to time, determine, namely :—

Canal Officers.

- (1) The Chief Engineers,
- (2) Additional Chief Engineers,
- (3) Superintending Engineers,
- (4) Executive Engineers,
- (5) Sub-divisional Officers, that is to say, the following officers holding charge of a sub-division :—

- (a) Assistant Engineer, Class I ;
- (b) Assistant Engineer, Class II ;
- (c) Deputy Engineer ;
- (d) Sub-Divisional Engineer ;
- (e) Sub-divisional Officer ;

- (6) Sectional Officers.

(2) For the purposes of Part XIII of this Act, the Canal Officer shall be a Revenue Officer not below the rank of a Tahsildar.

(3) The Canal Officers appointed by the Company or a *Zilla Parishad* may bear such designations referred to in sub-section (1) as it thinks fit, and in doing so, their rank corresponding to the rank of Canal Officers appointed by the State Government shall be indicated in their order of appointment, and the provisions of this Part shall be construed accordingly.

7. The chief controlling authority in all matters connected with the construction, maintenance and managements of canal and matters incidental or supplemental thereto, in his region or regions, shall, in relation to canals of the State Government vest in the Additional Chief Engineer or an officer bearing any other designation, if any, specified in this behalf, and in relation to canals of the Company or a *Zilla Parishad* vest in such Canal Officer appointed by it as may be specified by it ; subject to the superintendance, direction and control of the Chief Engineer and the State Government.

Chief controlling authority in irrigation matters.

8. (1) The Appropriate Authority may, by notification in the *Official Gazette*, either prospectively or retrospectively, appoint the Chief Engineer to be in-charge of the irrigation generally, an Additional Chief Engineer to be in-charge of a region or regions, a Superintending Engineer to be in-charge of a circle, an Executive Engineer to be in-charge of a division, a Sub-Divisional Officer to be in-charge of a sub-division, and a Sectional Officer to be in-charge of a section, specified in the notification.

Appointment of Canal Officers.

(2) The Appropriate Authority may, by notification in the *Official Gazette*, either prospectively or retrospectively, appoint persons to be additional Canal Officers in any section, sub-division, circle or region and may invest them with all any of the powers of a Sectional Officer, Sub-Divisional Officer, Executive Engineer or Superintending Engineer, respectively, specified in the notification.

Subordina-
tion of
Canal
Officers.

9. (1) All Canal Officers shall be subordinate to the Appropriate Authority and all Canal Officers (other than the Chief Engineer) shall be subordinate to the Chief Engineer.

(2) All Canal Officers in a region shall be subordinate to the Additional Chief Engineer.

(3) All Canal Officers in a circle shall be subordinate to the Superintending Engineer.

(4) All Canal Officers in a division shall be subordinate to the Executive Engineer.

(5) All Canal Officers in a sub-division shall be subordinate to the Sub-divisional Officer.

(6) All employees below the rank of Sectional Officer shall be subordinate to the Sectional Officer.

Power to
allot duties
among
Canal
Officers.

10. (1) When under this Act, any duty is to be performed or power is to be exercised by a Canal Officer, and the class of Canal Officer is not specified, rules made under this Act regulating the performance of such duty or exercise of such power may specify the class of Canal Officers by which it is to be performed or exercised.

(2) Rules may also be made under this Act prescribing generally the class of Canal Officers which is to perform any duty or exercise any power which, under this Act, is to be performed or exercised by a Canal Officer.

(3) When the class of Canal Officers which is to perform any duty or exercise any power under this Act is not prescribed under sub-section (1) or sub-section (2), such duty shall be performed or such power shall be exercised by the Sub-divisional Officer.

PART III

CONSTRUCTION AND MAINTENANCE OF CANALS

Application of water for purposes of canal.

Notifica-
tion when
water-
supply to
be applied
for
purposes
of canal or
for
regulation,
supply or
storage of
water.

11. (1) Whenever it appears expedient to the Appropriate Authority that the water of any river (including its tributaries) or stream flowing in a natural channel or of any lake or any other natural collection of still water or water flowing in a channel where such water or part thereof, is received from any canal constructed by the Appropriate Authority or by any person who has been duly authorised by the State Government, whether by percolation, regeneration, release or otherwise should be applied or used by the Appropriate Authority for the purpose of any existing or projected canal, or for the regulation, supply or storage of water, the State Government may, by notification in the *Official Gazette*, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof ; and thereupon the Collector shall cause notice to be given as provided in section 80.

(2) The application or use of the said water or the application or use of water of any canal under the management or control of any Appropriate Authority shall be regulated according to the provisions of this Act.

(3) Save as provided by sub-sections (1) and (2), no person (other than the State Government) shall apply or use the water of any river (including its tributaries) or stream flowing in a natural channel or of any lake or any other natural collection of still water or water flowing in a channel for any projected canal to be constructed by him, except with the previous permission in writing of the State Government and it shall be lawful for the State Government to grant such permission subject to such terms and conditions as it may deem fit in the circumstances of each case.

Powers of entry on land, etc.

12. At any time after the day named in the notification under section 11, any Canal Officer duly empowered in this behalf, may enter on any land, remove any obstruction, close any channel and do any other thing necessary for such application or use of the said water and for such purpose may take with him, or depute or employ, such subordinates and other persons including Police Officers as he thinks fit.

Powers of Canal Officers for purpose of so applying water.

13. Whenever it shall be necessary to make an enquiry or examination in connection with a projected canal, or with the maintenance of an existing canal or with the application or use of the water of any canal for the purpose of regulation, supply or storage of water, any Canal Officer duly empowered in this behalf may—

Entry for enquiry.

(a) enter upon such land as he may think necessary for the purpose,

(b) undertake surveys or take levels thereon,

(c) dig and bore into the sub-soil,

(d) where otherwise such inquiry cannot be completed, cut down and clear away any part of any standing crop, fence or jungle,

(e) exercise all powers and do all things in respect of such land as he might exercise and do if the State Government had issued a notification under the provisions of section 4 of the Land Acquisition Act, 1894, to the effect that land in that locality is likely to be needed for a public purpose, and

1 of 1894.

(f) set up and maintain water-gauges and do all other things necessary for the prosecution of such inquiry and examination.

14. (1) Any Canal Officer duly empowered in this behalf may enter upon any land, building or field-channel on account of which any water rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the land irrigated thereby or chargeable with a water rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to inspect and regulate water supply.

(2) Where the flow of water supplied to any land from a canal from field to field is obstructed, then with a view to regulating supply of water, the Canal Officer may require such obstruction to be removed and for that purpose he shall, if necessary, take or cause to be taken such steps or use or cause to be used such force as may be reasonably necessary for securing the removal of such obstruction from the supply of water.

Power to enter for repairs and to prevent accidents.

15. In case of any accident being apprehended or happening to a canal, any Canal Officer duly empowered in this behalf may enter upon any land adjacent to such canal, and may take trees and other materials, and execute all works which may be necessary for the purpose of preventing such accident or repairing any damage done.

Power to Canal Officer to operate gates in order to regulate floods.

16. Where any dam is being damaged or damage to any dam is apprehended due to floods, any Canal Officer duly empowered in this behalf may, in the interest of the safety of the dam, regulate the floods by operating gates or gated waste weir on the dam.

Notice to occupier of building, etc.

17. Where a Canal Officer proposes under the provisions of section 13, 14 or 15 to enter into any building or enclosed court or garden attached to a dwelling house, not supplied with water from a canal, and not adjacent to a flood embankment, he shall give to the occupier of such building, court or garden such reasonable prior notice as the urgency of the case will allow.

Canal crossings

Means of crossing canals to be provided and obstruction to drainage to be avoided.

18. Suitable means of crossing canal shall be provided at such places as the Appropriate Authority thinks necessary for the reasonable convenience of the inhabitants of the adjacent land ; and suitable bridges, culverts or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal. Road bridges shall, as far as possible, be provided on all roads crossing a canal, including certified village roads shown by two dotted lines on a village plan. In case of dispute on the question of providing such crossing and of constructing bridges, culverts and other works the matter shall be referred to the State Government and the decision of the State Government on the question shall be final and conclusive, and shall not be called in question in any civil court.

Removal of obstructions to drainage

Appropriate Authority may prohibit formation of obstructions of rivers, etc. within certain limits.

19. Whenever it appears to the Appropriate Authority that injury to the public health or public convenience or to any canal or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream or natural drainage-course, the Appropriate Authority may, by notification in the *Official Gazette*, prohibit within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction. The contents of the notification shall also be published in a newspaper having wide circulation within such limits.

Thereupon, so much of the said river, stream or natural drainage-channel, as is comprised within such limits, shall be held to be a drainage work as defined in section 2.

20. Any Canal Officer duly empowered in this behalf may, after such publication of the notification under section 19, issue an order to any person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in such order.

Canal Officer may issue order to any person causing obstruction.

21. (1) If, within the time so fixed, such person does not comply with the order, the Canal Officer may cause the obstruction to be removed or modified, and if the person to whom the order is issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable as an arrear of land revenue.

Canal Officer may cause obstruction to be removed.

(2) The Canal Officer may, in cases of emergency, after recording his reasons in writing, remove the obstruction before the publication of the notification under section 19, and the expenses incurred for such removal shall be recoverable in the same manner. The judgement of the Canal Officer whether or not there is an emergency shall be final, and shall not be called in question in any civil court.

Construction of drainage works

22. Wherever it appears to the Appropriate Authority that any drainage work is necessary for the public health or for reclamation of land, or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by any river, is required for any land (or that a sewage disposal scheme is required for disposal of effluent from any sewage scheme), the Appropriate Authority may cause a scheme for such work to be drawn up and carried into execution ; and the person authorised by the Appropriate Authority may exercise in connection therewith the powers conferred on Canal Officers by sections 13, 14 and 15 and shall be liable to the obligations imposed upon Canal Officers by section 17 and section 77.

When drainage works are necessary Appropriate Authority may order scheme to be carried out.

PART IV

FIELD- CHANNELS

Construction of field- channels

23. Field-channels (except the water-course) shall be constructed by the holders or occupiers of land at their cost but subject to the direction of a Canal Officer. The water-course shall be constructed by the Appropriate Authority, but maintained by such holders or occupiers of land ; and the provisions of this Act in so far as they relate to maintenance of field-channels shall *mutais mutandis* apply in relation to such water-course.

Construction of field-channels.

Explanation.—(1) For the purposes of this Act, water-course means the idle length of a channel between an outlet and a field-channel.

(2) If any question arises as to what is the idle length of any channel constituting a water-course, the question shall be referred to the Canal Officer duly empowered in this behalf, and his decision on the question shall be final and conclusive.

Applica-
tion to
Canal
Officer for
construc-
tion of
new field-
channels.

24. Any person desiring to construct a new field-channel, but being unable or unwilling to construct it under a private arrangement with the holder of the land required for the same, may apply in writing to any Canal Officer duly empowered to receive such applications, stating—

(1) that he is ready to defray all the expenses necessary for acquiring the land and constructing such field-channel ;

(2) that he desires the said Canal Officer on his behalf and at his cost to do all things necessary for constructing such field-channel.

Procedure
for con-
structing
field-
channels.

25. (1) If the Canal Officer considers the construction of such field-channel expedient, he may call upon the applicant to deposit any part of the expense, such officer may consider necessary.

(2) Upon such deposit being made, the Canal Officer shall cause inquiry to be made into the most suitable alignment for the field-channel and shall mark out the land, which in his opinion, it will be necessary to occupy for the construction thereof. Thereafter, he shall forthwith publish a notification in every village through which the field-channel is proposed to be taken, that so much of such land as is situated, within such village has been so marked out. Such notification shall state that suggestions or objections received by the Canal Officer within thirty days of the publication of such notification shall be duly considered after hearing the parties, if necessary.

(3) The Canal Officer shall send a copy of such notification to the Collector of every district in which such land is situated for publication on such land.

(4) Such notification shall also call upon any person who wishes to share in the ownership of such field-channel to make his application in that respect to the Canal Officer within thirty days of the publication of such notification.

(5) If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such field-channel and his share in the cost of acquiring the land for such field-channel. The applicant shall be owner of such field-channel when it is constructed.

Procedure
after
construction
of field-
channels.

26. On being put in possession of the land acquired under Part V of this Act, the Canal Officer shall construct the required field-channel ; and on its completion, shall give to the owner notice thereof, and of any sum payable by him on account of the cost of acquiring the land and constructing the field-channel. On such notice being given, such sum shall be due from the owner to the Canal Officer. On receipt of payment in full of expenses incurred, the Canal Officer shall make over possession of such field-channel to such owner.

Rights and obligations of owners of field-channels

27. (1) Every owner of a field-channel shall be bound—

Obligation
of owner of
field-
channel.

(a) to maintain all works necessary of the passages across such field-channel existing at the time of its construction, and of the drainage intercepted by it and for affording proper communications across it for the convenience of the occupants of neighbouring lands ;

(b) to maintain such field-channel in a fit state of repair for the conveyance of water ;

(c) to allow the use of it to others or to admit other persons as joint owners thereof, on such conditions, as may be provided under the provisions of section 29.

(2) Every owner of a field-channel and every person duly authorised under the provisions hereinafter contained to use a field-channel shall be entitled to have a supply of water by such field-channel at such rates and on such terms as may from time to time be provided under section 59, section 60, section 67 or section 72, as the case may be :

Provided that any owner of field-channel and, subject to the terms of any agreement between the parties, or to any condition imposed under section 29, any such person as aforesaid may, at any time by giving three months' previous notice in writing in this behalf to a Canal Officer duly empowered to receive such notice resign his interest in such field-channel.

28. Any person desiring to have a supply of water through a field-channel of which he is not an owner may make a private arrangement with the owner for permitting the conveyance of water thereby, or may apply to a Canal Officer duly empowered to receive such applications for authority to use such field-channel or to be declared a joint owner thereof.

Arrange-
ment with
owner by
other
person.

29. On receipt of any such application, the Canal Officer shall serve notice on the owner to show cause why such authority should not be granted, or such declaration should not be made, and, if no objection is raised or if any objection is raised and is found to be insufficient or invalid shall, subject to the approval of the next superior Canal Officer, either authorise the applicant to use the field-channel or declare him to be a joint owner thereof on such conditions as to the payment of compensation or rent or otherwise as may appear to him equitable.

Canal
Officer after
enquiry
may
authorise
supply or
declare
applicant
to be joint
owner.

30. (1) No land acquired for a field-channel shall be used for any other purpose without the previous consent of a Canal Officer duly empowered to grant such permission.

Prohibition
of land
acquired
for field-
channel
for other
purpose;
and
prohibition
against
alteration
of field-
channel.

(2) No field-channel shall be altered except with the permission in writing of the Canal Officer especially empowered in this behalf.

If owner fails to execute work or to repair field-channel, Canal Officer may execute the same.

31. If any owner of a field-channel fails to fulfil any obligation imposed upon him by clause (a) or (b) of sub-section (1) of section 27, any Canal Officer duly empowered in this behalf may require him by notice to execute the necessary work or repair within a period, to be specified in such notice, of not less than fifteen days, and, in the event of failure, may execute the same on his behalf, and, except as hereinafter provided in section 33, all expenses incurred in the execution of such work or repair shall be a sum due by such owner to the Appropriate Authority.

Cancellation of sanction to supply of water for failure to maintain field-channels.

32. If a Canal Officer duly empowered in this behalf is satisfied that the owner of a field-channel has persistently failed to repair the field-channel and the Canal Officer accordingly was required to carry out the repairs under section 31, the Canal Officer may by an order in writing with the previous approval of the Officer who is next higher in rank revoke the sanction for the supply of water to the owner of that field-channel :

Provided that no such order shall be made without giving to the owner of the field-channel a reasonable opportunity of being heard.

Person using field-channel to pay share of expenses of repair.

33. Every person other than an owner who uses any field-channel in respect of which any repair has been executed by a Canal Officer under section 31 shall, in the absence of any agreement between the parties or of any condition imposed under section 29, at the time such person was authorised to use such field-channel to the contrary, be liable to pay to the Appropriate Authority such proportion of the expenses incurred in the execution of such repairs as shall be determined by the said Canal Officer.

Schemes for compulsory construction of field-channels

Schemes for compulsory construction of field-channels.

34. (1) Where a Canal Officer especially authorised in this behalf by the Appropriate Authority (hereinafter referred to as the authorised Canal Officer) is of opinion that although water for irrigation is available in any area, but nevertheless lands capable of being irrigated therefrom, are not being irrigated, or are being prevented from being irrigated for any reason, and he is further of opinion that in the interest of the general public it is necessary so to do, he may prepare a draft scheme providing for the construction of field-channels for the supply of irrigation water to the best advantage in such area :

Provided that, no scheme shall be prepared unless at least fifty-one per cent. of the holders or occupiers of the land or holders or occupiers of at least fifty-one per cent. of the land give a consent in writing to the preparation of such a scheme.

(2) The draft scheme shall contain the following particulars, that is to say—

- (i) the area to which scheme applies ;
- (ii) the proposed field-channels, and the most suitable alignment thereof ;
- (iii) the approximate area which is likely to be needed for the construction of the field-channel and appurtenant works, the land which it is necessary to occupy for the construction of the field-channel and the area mentioned in clause (i) ;

- (iv) the survey numbers and the area of each of the lands to be benefited by the field-channel ; and the names of the holders or occupiers thereof ;
- (v) the canal from which water is to be carried to the field-channel ;
- (vi) the period within which each holder or occupier of land in the area mentioned in clause (iv) may construct either jointly or severally a field-channel for carrying water from the canal to his land ;
- (vii) the approximate cost of construction of the field-channel ;
- (viii) the extent of the liability of each holder or occupier of land for the construction of the field-channel ;
- (ix) such other particulars as may be prescribed.

(3) The authorised Canal Officer shall publish the draft scheme in the *Official Gazette*, and shall also publish it in the manner prescribed in every village through which the field-channel is proposed to be taken together with a notice calling upon the holders or occupiers of the lands, and all persons affected by the scheme, to submit to him in writing their suggestions or objections within such period as may be specified in the notice.

(4) As soon as may be after the expiry of the period specified in the notice, the authorised Canal Officer shall, after considering the suggestions and objections, if any, received under sub-section (3)—

- (a) sanction the draft scheme with or without modifications ;
- (b) publish the sanctioned scheme (to be called the “final scheme”) by notification in the *Official Gazette* and in such other manner as may be prescribed ; and
- (c) send a copy of the notification so published to the Appropriate Authority.

35. Upon the publication of the final scheme, it shall be binding on all the holders and occupiers of lands mentioned therein, and it shall be their duty to construct in the prescribed manner the field-channels under the scheme.

Obligation on holders to construct field-channels under final scheme.

36. Whenever it shall be necessary to make any inquiry or examination in connection with the construction of a field-channel under section 34, the provisions of section 13 shall apply in relation to such inquiry or examination in connection with the field-channel.

Provisions of section 13 to apply.

37. (1) The authorised Canal Officer shall by notice in writing require each holder and occupier to construct the field-channel as provided by the final scheme.

Notice to holders and occupiers of land to construct field-channels.

(2) The notice under sub-section (1) shall be given in such form and in such manner as may be prescribed.

38. If any holder or occupier of land fails to construct the field-channel as required by notice aforesaid within the period specified in the final scheme, the authorised Canal Officer may construct the same at the cost of that holder or occupier or of both, as the case may be.

Power to authorise Canal Officer to construct field-channels.

Consequences of completion of construction of field-channels.

39. (1) When the construction of a field-channel as provided in the final scheme is duly completed,—

(a) the authorised Canal Officer shall issue a certificate to that effect in the prescribed form, and

(b) the Appropriate Authority or the authorised Canal Officer, if so empowered by the Appropriate Authority, shall by order in writing transfer the land occupied by the field-channel to all holders or occupiers of land benefitted by the field-channel ; and thereupon, the land so transferred together with the field-channel shall vest in such holders or occupiers and the provisions of sections 27 to 33 (both inclusive) shall apply to such holders or occupiers as they apply in relation to an owner of a field-channel.

(2) Nothing in sub-section (1) shall affect the right of the Appropriate Authority to recover the cost of land and the cost of the construction of the field-channel payable by any holder or occupier of land under the final scheme.

Mode of payment of cost of construction of field channels, etc.

40. (1) Subject to the provisions of sub-section (2), the cost of any land and of the construction of the field-channel payable under the final scheme shall be paid by each holder either in lump sum within such period, or in such instalments not exceeding five with simple interest at such rate as may be fixed by the Appropriate Authority from time to time.

(2) Where any holder or occupier of land has constructed a field-channel at his own cost or made available any part of his land for its construction, the authorised Canal Officer shall determine the value of the construction, or as the case may be, the value of the land so made available, and the value so determined shall be deducted from the cost payable by the holder or occupier under sub-section (1).

Power of Appropriate Authority to direct preparation of scheme in public interest.

41. Notwithstanding anything contained in section 34, the Appropriate Authority may direct a Canal Officer to prepare a scheme providing for the construction of field-channels for the supply of irrigation water to the best of advantage of any area specified in the direction, if in the opinion of the Appropriate Authority such scheme is necessary in the interest of the public ; and thereupon, the provisions of sections 34 to 40 (both inclusive) shall apply as they apply in relation to a scheme prepared under section 34.

Settlement of disputes concerning field-channels

Settlement of disputes as to mutual rights and liabilities of persons interested in field-channels.

42. (1) Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a field-channel, or among joint owners of a field-channel, as to their respective shares of the expense of constructing or maintaining such field-channel, or as to the amounts severally contributed by them towards such expense, or as to failure on the part of any owner to contribute his share, a person interested in the matter of such dispute may apply in writing to a Canal Officer duly empowered to receive such application, stating the matter in dispute.

(2) The Canal Officer shall thereupon give notice to the other persons interested that on a day to be named in such, he will proceed to inquire into the said matter.

(3) If all the persons interested consent in writing to his being the arbitrator, the Canal Officer may pass such order thereon as he thinks fit.

(4) Failing such consent, the Canal Officer shall transfer the matter to the next superior Canal Officer who shall enquire into it and pass such order thereon as he thinks fit.

(5) No order which adversely affects the interests of any party to the dispute shall be made unless such party is given a reasonable opportunity of being heard.

Bom. XXVIII of 1942. **43.** Except as otherwise provided in the Bombay Land Improvement Schemes Act, 1942, nothing in this Part shall apply to field-channels constructed in pursuance of the provisions of that Act.

Provisions of this Part not to apply to field-channels constructed under Bom. XXVIII of 1942.

PART V

ACQUISITION OF LAND

44. (1) If at any time on an application of a Canal Officer not lower in rank than an Executive Engineer, the Appropriate Authority is satisfied that any land, or any right or interest of any person in any land required for the construction of a new canal, or a new field-channel under section 24, or for the maintenance, improvement or extension of an existing canal should be compulsorily acquired or extinguished, the Appropriate Authority may acquire the land, right or interest by agreement or the State Government may acquire the land under the Land Acquisition Act, 1894, or the *Zilla Parishad* or the Company may make an application to the State Government for acquiring such land under that Act.

Acquisition of land for canals and field-channels.

(2) On receipt of such application from the *Zilla Parishad* or Company, if the State Government is satisfied that the land specified in the application is needed for the public purpose therein specified or if the State Government decides to acquire the land under sub-section (1), it may make a declaration to that effect in the *Official Gazette*, in the manner provided in section 6 of the Land Acquisition Act, 1894, in respect of the said land, right or interest. The declaration so published shall, notwithstanding anything contained in the said Act, be deemed to be a declaration duly made under the said section :

¹Provided that, if the land proposed to be acquired falls within the Scheduled Area then the State Government shall, before such acquisition or before re-settling or rehabilitating the persons affected by such projects in such Scheduled Areas consult,—

(i) the *Gram Sabha* and *Panchayat* concerned, if the land is falling within the area of one *Panchayat* ;

(ii) the concerned *Gram Sabhas* and *Panchayat Samitti* , if the land is falling within the area of more than one *Panchayats* in the Block concerned ;

(iii) concerned *Gram Sabhas* and *Zilla Parishad* , if the land is falling within the area of more than one Blocks in the District concerned ;

Such consultation shall be done in the manner as may be laid down by the State Government, by issuing a general or a special order in this behalf :

Provided that, the decision taken by majority of *Gram Sabhas* concerned by passing a resolution in the above matter shall be binding on the concerned *Panchayat Samiti* or the *Zilla Parishad*, as the case may be.

1. These provisos were added by Mah. 46 of 1997, s. 11.

Explanation.—For the purpose of this proviso,—

(i) the expressions ‘Gram Sabha’, ‘Panchayat’ and ‘Scheduled Areas’ shall have the meanings respectively, assigned to them in the Bombay Village Panchayats Act, 1958 ; Bom.
III of
1959.

(ii) the expression “Panchayat Samiti”, and “Zilla Parishad” shall have the meaning respectively, assigned to them in the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.] Mah.
V of
1962.

(3) On the publication of a declaration under the said section 6, the Collector shall proceed to take order for the acquisition of land under the said Act ; and the provisions of the said Act shall apply to the determination of the amount of compensation, appointment of the compensation and other matters relating to the acquisition of the said land, right or interest. The State Government may make rules in all matters connected with the enforcement of the said provisions in so far as they are applicable to the acquisition of such land or the extinguishment of such right or interest.

(4) Notwithstanding anything to the contrary in this Act or in the Land Acquisition Act, 1894 within not less than fifteen days (excepts by private negotiations) after the publication of the declaration under sub-section (2) or the publication of the notification under sub-section (2) of section 25, the State Government may direct that any land in respect of which a notification has been issued shall be taken possession of by the Canal Officer, duly authorised in this behalf by it, and the right, and interest in land specified in the notification shall be extinguished from the date specified in the direction, and on such possession being taken, the said land shall vest absolutely in the State Government free from all encumbrances: I of
1894.

Provided that, before or at the time of taking possession of any land under this sub-section, the Collector shall offer to the person interested compensation for the standing crops, trees and structures, if any, on such land and for any damage sustained by him which is caused by such sudden dispossession, and not except in section 24 of the Land Acquisition Act, 1894, and if such offer is not accepted, the value of such crops, trees and structures and the amount of such other damage shall be allowed in awarding compensation for the land under the provisions of the said Act. I of
1894.

(5) For the purposes of acquisition of any land, right or interest under this section the Land Acquisition Act, 1894, shall have effect subject to the modification that the market value of the land shall be deemed to be the market value on the date on which the declaration is published under sub-section (2) of this section or the notification is published under sub-section (2) of section 25, as the case may be. I of
1894.

PART VI

SUPPLY OF WATER

CHAPTER I

GENERAL PROVISIONS FOR SUPPLY OF WATER

Application
of this
Chapter for
supply of
water under
Chapters II
to V.

45. The provisions of this Chapter shall apply in respect of water from a canal supplied under Chapters II, III, IV and V of this Part.

46. (1) Water from a canal may be supplied,—

(a) on an application for irrigation or non-irrigation purposes as provided in Chapter II of this Part;

(b) on volumetric basis as provided in Chapter III of this Part;

(c) under an irrigation agreement as provided in Chapter IV of this Part; or

(d) under scheme in accordance with the provisions of Chapter V of this Part.

Modes of supply of canal water, power to charge minimum rate.

(2) Water rates for the supply of water under clause (a), (b), (c) or (d) of sub-section (1), shall be paid according to the rates provided in Chapter II, III, IV or V of this Part.

(3) Notwithstanding anything contained in sub-section (2), there shall be levied on all those holders or occupiers of lands within the irrigable command of a canal (not being land irrigated on wells within irrigable command) who do not avail of the facility of water supply during *kharif* and *rabi* seasons (being seasons determined as such by an order of the State Government) from such canal a water rate equal to fifty per cent. of the seasonal water rate applicable and in force in that season :

Provided that no such water rate shall be levied if on demand water is not made available.

47. (1) Where the Appropriate Authority is satisfied that, for the better cultivation of lands, and production of crops and due preservation and proper utilisation of water resources of any canal, it is expedient in the public interest to regulate the kind of crops that should be sown, planted or grown on lands under the irrigable command of a canal or any part thereof (not being lands irrigated on wells within such irrigable command), and the period during which such crops should be sown, planted or grown on such lands, the Appropriate Authority may, having regard to the soil characteristics, climate, rainfall and water available, by order in writing, make a declaration to that effect. Such order shall be given wide publicity in such manner as the Appropriate Authority may think fit.

Power of Appropriate Authority to regulate sowing, planting or growing of crops during specified period on lands under irrigable command of canal.

(2) On making such declaration, the Canal Officer, with the previous approval of the superior officer authorised by the Appropriate Authority, may specify by notice published in such manner as may be determined by him, the kind of crops that shall be sown, planted or grown on the lands under the irrigable command of the canal or any part thereof, specified in such notice, and the period or periods during which such crops shall be sown, planted and grown. The Canal Officer shall, subject to the provisions of section 50 and of sub-section (3) of this section, thereupon by order regulate the supply of water from the canal for sowing, planting and growing such crops during the period or periods specified in the order.

(3) The State Government may, in consultation with the Company, and the *Zilla Parishads* concerned, by notification in the *Official Gazette*, make rules for determining the crops, and the period or periods during which such crops may be sown, planted and grown and for regulating supply of water for the purpose. Such rules may provide for fixing the extent of irrigation and for sowing, planting or growing different crops on the land under the irrigable command of a canal and the factors which may be considered for fixing such extent, for giving publicity to such scheme and for inviting objections and suggestions including provision for calling a meeting of the persons affected by the scheme, and all matters incidental or supplemental as may be necessary for giving effect to the provisions of this section.

(4) On the publication of the notice under sub-section (2) of this section, no person shall sow, plant or grow or allow any crop (other than the crop or crops specified in such notice) to be sown, planted or grown on any land under the irrigable command of the canal or any part thereof, specified in such notice and during the period specified therein.

(5) Any person aggrieved by any notice given under sub-section (2) of this section may, within thirty days from the date of publication of such notice, file an appeal before such officer not below the rank of Superintending Engineer (or such officer of the Company or *Zilla Parishad* declared to be of equivalent rank) as the Appropriate Authority may appoint. The appellate officer may on hearing the parties pass such order as he thinks fit and thereupon, the notice shall stand unmodified or modified to such extent as may be specified in the order.

Power to
fix ceiling
on area of
crops.

48. The Appropriate Authority may by an order in writing fix a ceiling on the area of crops which may be grown in the lands under the irrigable command of a canal with water from such canal, and on the area of cash crops specified in such order which may be grown with water from wells situated under the irrigable command of such canal.

Explanation.—In this section “cash crops” means sugarcane, irrigated cotton, irrigated ground-nut, betel leaves, citrus fruits, bananas, grapes, chikus, turmeric, arcanut, tobacco (irrigated) and such other crop as the State Government may, by notification in the *Official Gazette*, from time to time specify.

Provisions as to supply

Power to
stop
water.

49. The supply of water to any field-channel or to any person who is entitled to such supply shall not be stopped except—

(a) whenever and so long as it is necessary to stop supply for the purpose of executing any work ordered by the Canal Officer duly empowered by the Appropriate Authority in this behalf ;

(b) whenever and so long as any field-channel by which such supply is received is not maintained in such repair as to prevent the wasteful escape of water therefrom ;

(c) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water ;

(d) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water ;

(e) within periods fixed from time to time by a Canal Officer duly empowered in this behalf, of which due notice shall be given ;

(f) whenever and so long as it is necessary to stop such supply pending a change in source thereof by a Canal Officer ;

(g) whenever and so long as it is necessary to stop or regulate such supply for the purpose of conservation of the canal water ;

(h) whenever and so long as canal water is used for sowing, planting or growing crops in contravention of the provisions of the notice under sub-section (2) of section 47 ;

(i) whenever and so long as stoppage is necessitated due to any cause beyond the control of the Appropriate Authority ;

(j) whenever and so long as such person does not pay arrears of water rate even after requiring him to pay such arrears by a notice duly served on him.

50. When canal water is supplied for the irrigation of one or more crops only, the permission to use such water shall be held to continue only until such crop or crops shall come to maturity, and to apply only to such crop or crops. Duration of supply.

51. (1) Every agreement for the supply of canal water to any land, building or other immovable property shall be transferable therewith and shall be presumed to have been so transferred whenever a transfer of such land, building or other immovable property takes place : Agreement for supply of water transferable with property in respect of which supply is given, etc.

Provided that an agreement for the supply of canal water to any leased land made in favour of a lessee after the land is leased to him shall, on transfer of such land, not be so transferable therewith, and shall stand revoked; and the Appropriate Authority may thereafter sanction supply of such canal water either in full or in part to any land or lands as the circumstances of the case may require.

(2) No person entitled to the use of any work or land appertaining to any canal, and except in the case of any agreement referred to in such-section (1), no person entitled to use the water of any canal, shall sell or sublet or otherwise transfer, his right to such use without the permission in writing of a Canal Officer duly empowered to grant such permission.

¹[(3) (a) Notwithstanding anything contained in this Act or in any agreement for the supply of canal water to any land, building or other immovable property or in any law for the time being in force or in any agreement for the supply of electricity for operating any machine, contrivance or equipment or other apparatus whatsoever for lifting water, in the public interest, for reasons to be recorded in writing, it shall be lawful for the Appropriate Authority to stop the supply of water, or reduce the area of such supply to such extent, as the circumstances of the case may require, and for the purpose, it shall be lawful for the Canal Officer duly empowered in that behalf to remove or cause to be removed any machine, contrivance, equipment or apparatus used or likely to be used for lifting water and to stop or reduce supply of electricity himself or by order direct the licensee or other authority to stop or reduce the supply of electricity to the consumer to such extent as may be specified in the direction. It shall be obligatory on the licensee or other authority to comply forthwith with any direction issued by the Canal Officer under this sub-section.

(b) The Appropriate Authority and the Canal Officer shall give publicity to such stoppage or reduction in supply of water or electricity, as the case may be, in such manner as they, in the circumstances of each case, may think fit.]

Occasional rates

52. If water supplied through a field-channel is used in an unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be identified— Liability when person using water unauthorisedly cannot be identified.

(a) the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom, or

(b) the person or all the persons chargeable in respect of the water supplied through such field-channel, if no land derived benefit therefrom,

shall be liable, or jointly liable, as the case may be, for the charges which shall be made for such use under the rules made in that behalf.

¹ This sub-section was substituted for the original by Mah. 3 of 1984, s. 2.

- Liability when water runs to waste. **53.** (1) If water supplied through a canal is suffered to run to waste, and if, after inquiry, the person through whose act or neglect such water is suffered to run to waste cannot be discovered, the person or all the persons chargeable in respect of the water supplied through such canal shall be liable or jointly liable, as the case may be, for the charges which shall be made in respect of the water so wasted, under a rule made in that behalf under section 114.
- (2) All questions arising under this and the last preceding section shall, subject to the provisions of section 104, be decided by a Canal Officer duly empowered in this behalf.
- Charges recoverable in addition to penalties. **54.** All charges for the unauthorised use or for waste of water may be recovered as water rates, in addition to any penalty incurred on account of such use or waste.

Percolation and leakage rates

- Land deriving benefit from percolation liable to water rate. **55.** (a) Any cultivated land receiving by percolation or leakage from a canal or deriving by surface flow, an advantage equivalent to that which would be given by a direct supply of canal water for irrigation, or
- (b) any cultivated land irrigated by means of ¹[a well situated on either side of a canal, within a distance of 35 metres from the nearest boundary of the canal], shall be charged in respect of cultivated land falling under clause (a) a water rate not exceeding that which would ordinarily have been charged for a similar direct supply for the crop or the season during which the water is admitted in the canal, and in respect of cultivated land falling under clause (b), a water rate not exceeding one-half of such rate as may be determined by the Appropriate Authority.

Explanation.—For the purposes of this section, land charged under this section shall be deemed to be land irrigated from a canal.

- Levy of water rate for use of percolation water for non-irrigation purposes. **56.** (1) Water used for purposes other than those of irrigation from any natural stream or artificial drain receiving percolation water from a canal shall be charged a water-rate not exceeding that as would ordinarily have been charged if the supply had been made from the canal for such purposes; and water used for such purposes from ²[a well situated on either side of a canal, within a distance of 35 metres from the nearest boundary canal] shall be charged a water rate not exceeding one-half of such rate, as may be determined by the Appropriate Authority.

(2) The provisions of sub-section (1) shall not apply to water from such stream, drain or well used exclusively for domestic purposes by the residents of any village.

CHAPTER II

Supply of Water on an Application

- Regulation of supply of water. **57.** (1) Supply of water from any canal shall be regulated according to rules made in that behalf. Such rules may provide for calling for application for supply of water before the prescribed dates and for sanctioning supply, regard being had to the availability of water, the total area of the land for which water is to be supplied, the regularity in pay-

¹ Substituted for the words "a well sunk within the irrigable command of a canal or within 35 metres on either side of the canal" by Mah. 52 of 1981, s. 2.

² Substituted for the words "any well sunk within the irrigable command of a canal" *ibid.*, s. 3.

ment of water rates by the applicants, the crops to be grown on the lands from canals and other relevant factors, if any, which may be prescribed.

(2) The sanctioned supply may either be on area basis as provided in this Chapter or on volumetric basis as provided in Chapter III of this Part.

58. (1) Every person desiring to have a supply of water from a canal shall submit a written application to that effect to a Canal Officer duly empowered in this behalf to receive such applications in such form as shall from time to time be prescribed by the State Government in this behalf. Such applications shall be submitted before such date as the Canal Officer shall duly notify in such manner as he thinks best for the information of all such persons interested in making such applications.

Applica-
tion for
supply of
water.

(2) On receipt of an application for supply of water on yearly or seasonal basis under sub-section (1), a Canal Officer shall acknowledge the same forthwith. If the application is not in accordance with the prescribed form, the Canal Officer may return it to the applicant and direct the applicant to submit it again in the prescribed form duly completed before the date notified under sub-section (1). The application duly completed which is submitted before the date aforesaid shall also be duly acknowledged.

(3) Every such application shall be disposed of by the Canal Officer within fifteen days from the last date notified as aforesaid and the decision of the Canal Officer notified on the notice board in the office of the Canal Officer and at such other place or places as the Canal Officer may direct and the decision so notified shall be deemed to be notice of such decision to all the applicants.

(4) If the Canal Officer fails to notify his decision on the notice board in his office as aforesaid, then the applicant shall be deemed to have been permitted to take water from the canal specified in the application, but subject to the same conditions on which supply of water from the canal is sanctioned to other applicants.

(5) On receipt of an application for supply of water otherwise than on yearly or seasonal basis, the Canal Officer shall deal with the application in such manner as may be prescribed.

(6) Where an application is made for a supply of water to be used for purposes other than those of irrigation, the Canal Officer may, with the sanction of the Appropriate Authority, give permission for water to be taken for such purposes under such special conditions and restrictions, as to the limitation, control and measurement of the supply, as he may be empowered by the Appropriate Authority to impose in each case.

Supply rates

59. (1) Such rates shall be liviable for canal water supplied for purposes of irrigation, or for any other purpose under this Chapter as shall from time to time be determined by the Appropriate Authority :

Determina-
tion of
rates for
supply of
canal
water.

Provided that the water rates levied by the Company or the *Zilla Parishad* shall be determined with the previous approval of the State Government.

(2) The rates shall be payable by the person on whose application the supply is granted, or by any person who uses the water so supplied.

CHAPTER III

SUPPLY OF WATER ON VOLUMETRIC BASIS

Supply of water on volumetric basis and formation of water Committee.

60. (1) Where the holders or occupiers of not less than fifty-one per cent of the lands or not less than fifty-one per cent of the holders or occupiers of the lands to which supply of water under Chapter II is sanctioned from a canal which is provided with a device for measuring water distributed therefrom give their consent in writing to the Canal Officer duly empowered in this behalf to take water on payment on volumetric basis and to form a Water Committee of all such holders or occupiers for distribution of water on that canal in accordance with the provisions of this Chapter. Such consent shall be binding on all the holders or occupiers who will be supplied with water on that canal.

(2) The Canal Officer shall, thereupon by order in writing, require all the holders and occupiers of such lands to take water from such canal on payment on volumetric basis, and direct such holders and occupiers to form the Water Committee within the period specified in the order.

(3) If the holders and occupiers fail to form the Water Committee, the Canal Officer shall, after consulting such holders and occupiers, form the Water committee.

(4) The Water Committee shall consist of five persons, one of whom shall be a Sectional Officer or his nominee and the remaining four may be appointed from time to time by the holders and occupiers of the lands referred to in sub-section (1) from amongst themselves. The Sectional Officer or his nominee shall give guidance or assistance—technical or otherwise—to the Committee, and guide it in its deliberations with a view to securing proper apportionment and distribution of water to all the holders and occupiers.

(5) The Water Committee may meet from time to time and may follow such procedure as it deems fit for the transaction of the business.

(6) Such water rates shall be levied for canal water supplied to the holders and occupiers for the purposes of irrigation as may be determined by the Appropriate Authority :

Provided that, no such water rates shall be determined by any *Zilla Parishad* or by the Company except with the previous approval of the State Government.

(7) The functions of the Water Committee shall be—

(i) to measure and receive the quantity of water at measuring device and to ensure proper apportionment and distribution of the same among its members ;

(ii) to receive and enquire into complaints regarding distribution of water and take immediate necessary action to set them right ;

(iii) to make all efforts to prevent unauthorised use or waste of water;

(iv) to assist the Canal Officer in discharging his duties and in detecting unauthorised use of water ;

(v) to ensure that only sanctioned crops and areas are brought under irrigation according to the provisions of this Act.

(8) If any holder or occupier is aggrieved by any order or decision of the Water Committee, then such holder or occupier may submit an appeal to the Executive Engineer within thirty days from the date of receipt of such order or decision. The decision of the Executive Engineer in such appeal shall be final and conclusive, and shall not be called in question in any court.

CHAPTER IV

SUPPLY OF WATER UNDER IRRIGATION AGREEMENTS

61. Subject to the provisions of Chapter I of Part VI, agreements may be made in accordance with the provisions of this Chapter, between the Appropriate Authority and the holders and occupiers for the supply of water for irrigation for a period of years specified in the agreements.

Power to make irrigation agreements.

Such agreements are called "irrigation agreement".

62. An irrigation agreement—

Scope of irrigation agreement.

(a) shall be for the irrigation of one or more specified crops which are called "crops under agreement" ;

(b) shall be made with the holders and occupiers of all the lands under the irrigable command of a canal in a village or in any other specified area cultivated with the crops under agreement ; and

(c) when duly made in accordance with the provisions of this Chapter shall be binding according to the terms of the agreement, on the holders and occupiers of—

(i) all the lands within the irrigable command of a canal (including wet lands) in the village or in other specified area cultivated with the crops under agreement at the time from which the agreement has effect :

Provided that, where a scheme of consolidation has been confirmed in respect of any land under the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, the irrigation agreement shall, from the year in which the holders and occupiers, if any, are put into possession of the holdings,—

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(a) be binding on the holders and occupiers, if any, of all cultivable land newly received in exchange for land which has ceased to be under cultivation ;

(b) cease to be binding on the holders and occupiers, if any, of all land which has ceased to be under cultivation ;

(ii) all the lands described in sub-clause (i) together with such lands as may be cultivated with the crops under agreement at any time during the period of the agreement.

Explanation.—The land of the holders and occupiers whereof an agreement is binding is called "land under agreement".

63. Where either the holders and occupiers of not less than two-thirds of, or not less than ninety-five per cent. of the holders and occupiers of, all the land under the irrigable command of a canal in village or in any other specified area cultivated with crops under agreement have given their consent to a proposed irrigation agreement in accordance with the provisions of this Chapter, then the proposed agreement, if accepted by a Canal Officer duly empowered in this behalf, shall be deemed to be an irrigation agreement binding on the holders and occupiers of all land in the irrigable command of a canal in such village or in any other specified area cultivated with the crops under agreement.

When agreement can be made.

Consent to agreement necessary where land is in possession of occupier other than holder.

64. (1) Where the title of an occupier of any land who is not holder thereof, is such that it will lapse on or before the expiry of the agricultural year next following the date of an irrigation agreement applicable to such land, the consent of the holder to such agreement shall be binding on such occupier in respect of such land.

(2) Where the title of an occupier of any land who is not the holder thereof, is such that it will continue after the expiry of the agricultural year next following the date of an irrigation agreement applicable to such land, the consent of such occupier shall be necessary to the validity of the consent of the holder.

Publication of notice before agreement is made.

65. (1) The provisions of section 63 shall not apply unless a notice has been published in the village or in any other specified area concerned by a Canal Officer that he proposes to take an irrigation agreement in that village.

(2) Such notice shall be published in writing in some prominent place in the village, or as the case may be, in such specified area, and shall be proclaimed by beat of drum at least fourteen clear days before the agreement is finally made.

Inclusion of land irrigated by lift.

66. The holder of a land which is not under the irrigable command of a canal but is capable of being irrigated from a canal or field-channel by means of any mechanical contrivance designed to lift the water therein may apply to a Canal Officer to have such land included in an irrigation agreement, and if his application is granted, he shall be entitled to the supply of water in accordance with the terms of such agreement in so far as they may be applicable.

Charges for supply of water.

67. The charges for the supply of water under irrigation agreement shall be levied at such water rates as may be fixed by the Appropriate Authority:

Provided that, no such water rates shall be fixed by any *Zilla Parishad* or the company except with the previous approval of the State Government.

Liability due to irrigation agreement.

68. In addition to any incident applying generally to liability for payment of water rates, all irrigation agreement shall be subject to the following incidents, namely :—

(a) the canal revenue payable thereunder shall be payable—

(i) if the case falls under clause (c) (i) of section 62 for every year on all land under agreement, whether it has been sown or not and irrigated or not, and

(ii) if the case falls under clause (c) (ii) of section 62 for any year on all land under agreement, which has been sown that year with any of the crops under agreement, whether it has been irrigated or not;

(b) the canal revenue payable on any land for any year shall be collected from the occupier or on his default, from the holder of such land;

(c) at any time when the amount of water available is deficient, or when damage is anticipated to the canal if a full discharge of water is delivered, its supply may be regulated in such manner as any Canal Officer duly empowered in this behalf may determine;

(d) no claim shall arise against the Appropriate Authority for compensation for any loss arising from a failure or shortage in the supply of water for irrigation or from an excess of such supply :

Provided that, rules may be made under this Act providing for remission of rates charged for supply of water under an irrigation agreement where there has been a failure of crops or a failure to deliver water owing to a defect in the head works or distribution system of a canal; and

(e) the holder of wet land under the irrigable command of a canal in an irrigation agreement relating to the village or any other specified area in which such land is situated shall be entitled to such deduction, if any, from the rates charged for the supply of water under an irrigation agreement as may be provided by rules made under this Act.

69. (1) An irrigation agreement may be cancelled by mutual consent between the Appropriate Authority and holders and occupiers of not less than two-thirds of, or not less than ninety-five per cent. of the holders and occupiers of, the land under agreement at the time of such cancellation. Cancellation of agreement by mutual consent.

(2) The provisions of sections 64 and 65 shall apply to the cancellation of an irrigation agreement as if consent to the cancellation were consent to the making of such agreement.

70. (1) If, in the opinion of a Canal Officer duly empowered in that behalf, the holders and occupiers, under an irrigation agreement, fail to maintain their field-channels, then provisions of section 31 shall apply as they apply in relation to a field-channel under that section. If the holders and occupiers fail to maintain their field-channels on two or more such occasions, the Canal Officer duly empowered in this behalf may, at any time after giving notice, cancel, with the previous approval of the Appropriate Authority, the irrigation agreement. Cancellation of agreement for failure to maintain field-channels.

(2) An order of the Canal Officer under this section shall be in writing and shall be published in some prominent place in the village or in any specified area concerned and shall be proclaimed by beat of drum; and thereupon the irrigation agreement shall cease to have effect.

71. With the previous sanction of the Appropriate Authority, a Canal Officer duly empowered in this behalf may at any time cancel any irrigation agreement and in such case, the compensation for damages in respect of any land under agreement shall be equal to the amount of the canal revenue which would have been payable in respect of such land for the remainder of the period of the agreement. The distribution and payment of such compensation shall be made according to rules made under section 114. General power to cancel agreement.

CHAPTER V

SUPPLY OF WATER UNDER SCHEME

Supply of
water
under
scheme.

72. (1) Where, in the opinion of the Appropriate Authority, a canal is likely to irrigate lands not exceeding 200 hectares (500 acres) in area, then with a view to providing supply of water from such canal more economically in the public interest, the Appropriate Authority may, by notification in the *Official Gazette*, prepare a draft scheme for supply of water from such canal to such lands. The draft scheme shall provide for handing over the management of the canal and distribution of water therefrom to the Water Committee appointed under section 74.

(2) The draft scheme shall contain the following particulars, that is to say :—

- (a) the area to which the scheme applies ;
- (b) the survey numbers of lands included in such area and the names of holders and occupiers thereof ;
- (c) the period or periods during which water will be supplied to such lands ;
- (d) the crop or crops which will be permitted to be grown thereon ;
- (e) the water rate at which water may be supplied to each land included in the scheme :

Provided that, no water rate shall be determined by any *Zilla Parishad* or the company except with the previous approval of the State Government ;

- (f) the amount to be paid by the Appropriate Authority for the management of the canal to the Water Committee ;
- (g) for the publication of the scheme in the *Official Gazette*; and
- (h) fixing the period of not less than three months from the date of receipt of the individual notice under sub-section (3) for submission of objections or suggestions to such scheme.

(3) After the publication of such notification in the *Official Gazette*, the Canal Officer shall as soon as practicable serve individual notice on the holders and occupiers who are likely to be affected by such notification.

(4) After considering such objections and suggestions, if any, as may have been received within the period fixed as aforesaid, the Appropriate Authority may, after making due inquiries, sanction the draft scheme with or without any modifications or may reject it.

(5) The scheme as sanctioned under sub-section (4) shall be published in the *Official Gazette*, and in the village and at the headquarters of the taluka and of the district in which the lands included in the scheme are situate and shall, on such publication, be final.

Effect of
scheme ;
power to
vary
scheme.

73. (1) The Scheme shall come into force on such date as the Appropriate Authority may, by notification in the *Official Gazette*, appoint and shall have effect as if it were enacted in this Act.

(2) Notwithstanding anything contained in sub-section (1), the scheme may at any time be varied by a subsequent scheme made, published and sanctioned in accordance with the provisions of section 72; and the provisions of this Part shall apply in relation to such varied scheme.

74. (1) After a scheme has come into force under section 73, the Appropriate Authority shall appoint a Water Committee to execute the scheme, subject to the superintendence, direction and control of the Canal Officer appointed by the Appropriate Authority for the purpose.

(2) The Water Committee shall consist of five persons of whom one shall be the Sectional Officer or his nominee and the remaining four persons may be appointed from amongst the holders or occupiers of land included in the scheme by the Appropriate Authority or any officer thereof duly empowered in that behalf.

The members of the Committee shall hold office for a period of two years from the date of their appointment. It shall be lawful for the Appropriate Authority to terminate the appointment of all or any members of the Committee at any time by an order in writing without assigning any reasons.

The Water Committee may meet from time to time, and may follow such procedure as it deems fit for the transaction of its business. The Sectional Officer or his nominee shall give all assistance, technical or otherwise, to the Committee, and guide it in its deliberations with a view to securing proper apportionment and distribution of water to all the holders and occupiers.

(3) The Water Committee shall—

(a) manage the canal and ensure proper distribution of water to the lands included in the scheme ;

(b) decide the crops to be grown during any period or periods according to the provisions of the scheme ;

(c) carry out day-to-day maintenance and repairs of the canal ;

(d) maintain the irrigation system of the canal beyond the outlet in a fit state of supply of water ;

(e) assist the Canal Officer—

(i) in detecting and preventing encroachment on the canal and on the lands appertaining thereto ;

(ii) for preventing damage to the canal ; and

(iii) for repairing any damage caused to the canal ;

(f) have power to impose a penalty for unauthorised use of water, or use of water out of turn or for growing crops contrary to the provisions of the scheme ;

(g) maintain accounts of the amount paid to it in such manner as may be prescribed.

(4) The penalty may consist of a fine not exceeding two hundred rupees, and it shall be liable to be recovered as an arrear of land revenue.

(5) Any person aggrieved by the decision of the Water Committee may within forty-five days from the date of receipt of the decision of the Water Committee make an appeal to the Canal Officer or any officer duly empowered by the Appropriate Authority for the purpose.

(6) The Appropriate Authority may, not later than two years from the date of the order, call for and examine the record of any inquiry or proceeding underlying such order of the Water Committee, or of the officer appointed by it, for the purpose of satisfying itself as to the legality or propriety of any decision or order, passed or as to the regularity of the proceeding, and it may pass any order upholding, annulling, modifying or reversing the order of the Water Committee or of any such officer :

Provided that, no order affecting any person shall be made unless such person is given a reasonable opportunity of being heard.

Appoint-
ment of
Water
Commit-
tee to
execute
scheme
and its
powers.

PART VII**AWARD OF COMPENSATION***Compensation when claimable*

Compensation in cases of ascertainable substantial damage. **75.** (1) Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained before exercising of such powers, and in all other cases, ascertained and estimated at the time when the damage is caused :

Provided that, no compensation shall be so awarded in respect of any damage arising from—

(a) deterioration of climate, or

(b) stoppage of navigation or the means of rafting timber or of watering cattle, or

(c) stoppage or diminution of any supply of water in consequence of the exercise of the power conferred by section 11, if no use have been made of such supply, within the five years next before the date of issue of the notice under section 80, or

(d) failure or stoppage or diminution of the water in a canal when such failure or stoppage or diminution is due to—

(i) any cause beyond the control of the Appropriate Authority ;

(ii) the execution of repairs, alterations or additions to the canal ; or

(iii) any measures considered necessary by any Canal Officer duly empowered in this behalf for regulating the proper flow of water in the canal, or for maintaining the established course of irrigation or for conserving supply of water under clause (g) of section 49.

(2) Any person, who suffers loss from any stoppage or diminution of his water-supply due to any of the causes specified in clause (d) of the proviso to sub-section (1), shall be entitled to such remission of the water rate payable by him as may be authorised by the Appropriate Authority.

Limitation of claims. **76.** No claim for compensation under this Act shall be entertained after the expiration of twelve months from the time when the damage complained of commenced, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Summary decisions

Compensation for damage caused by entry on land, etc. **77.** (1) In every case of entry upon any land or building under section 12, section 13, section 14 or section 15 or section 22 or section 36, the Canal Officer or person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building or other property.

(2) Within one month from the date of such entry referred to in sub-section (1), compensation shall be tendered by a Canal Officer duly empowered in this behalf to the holder or owner of the property damaged.

(3) If such tender is not accepted, the Canal Officer shall forthwith refer the matter to the Collector for the purpose of making inquiry as to the amount of compensation and deciding the same.

78. If the supply of water to any land irrigated from the canal is interrupted otherwise than in the manner described in clause (d) of the proviso to sub-section (1) of section 75, the holder of such land may present a petition for compensation to the Collector, for any loss arising from such interruption, and the Collector, after consulting the Canal Officer, shall award to the petitioner reasonable compensation for such loss.

Compensation on account of interruption of water-supply.

79. The decision of the Collector under either of the last two preceding sections as to the amount of compensation to be awarded shall, subject to an appeal which may be provided by rules made under section 114, be conclusive. Where any such appeal is provided, then the decision of the Appellate Authority shall also be conclusive.

Decision as to amount of compensation under either of last two sections to be conclusive.

Formal adjudications

80. As soon as practicable after the issue of a notification under section 11, the Collector shall cause public notice to be given at convenient places, stating that the Appropriate Authority intends to apply or use the water referred to in that section, that the claims for compensation may be made before him.

Notice as to claims for compensation in certain cases.

A copy of sections 75 and 76 shall be annexed to every such notice.

81. All claims for compensation under this Act, other than claims of the nature provided for in section 77 and section 78 shall be made before the Collector of the district in which such claim arises.

Claims to be preferred to Collector.

82. The Collector shall inquire into every such claim and determine the amount of compensation, if any, which should in his opinion be given to the claimant ; and sections 11, 12, 12A, 13, 14, 15, 15A, 18 to 31, 45 and 52 of the Land Acquisition Act, 1894 shall apply to such inquiries.

I of 1894.

Collector to be guided by provisions of Land Acquisition Act, 1894.

83. (1) In determining the amount of compensation under the last preceding section, regard shall be had to the diminution in the market value, at the time of awarding compensation, of the property in respect of which compensation is claimed.

Diminution in market value to be considered in fixing compensation.

(2) Where such market value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

84. All sums of money payable for compensation awarded under section 82 shall become due three months after the claim for such compensation is made ; and simple interest at such rate as may be fixed from time to time shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to receive the same.

Compensation when due.

Abatement of land revenue and rent

Abatement of revenue demand on interruption of water supply. **85.** If compensation is awarded under section 82 on account of a stoppage or diminution of supply of water in respect of any land paying revenue to the State Government, and the amount of the revenue payable on account of such land has been fixed with reference to the water advantages appertaining thereto, the holder of the said land shall be entitled to an abatement of the amount of revenue payable to such extent as shall be determined by the Collector.

Abatement of inferior holder's rent on interruption of water supply ; and enhancement of such rent on restoration of supply. **86.** (1) Every inferior holder of any land in respect of which such compensation has been paid shall, if he receives no part of the said compensation, be entitled to an abatement of the rent previously payable by him to the superior holder thereof in proportion to the reduced value of the holding.

(2) But if water supply which increases the value of the holding is afterwards restored to the said land otherwise than at the cost of the inferior holder, the superior holder shall be entitled to enhance the rent in proportion to such increased value :

Provided that the enhanced rent shall not in any case exceed the rent payable by the inferior holder before the abatement, unless the superior holder shall, independently of the provisions of this section, be entitled so to enhance the previous rent.

Provisions of this part not to apply to acquisition under section 44. **87.** The provisions in relation to compensation in this Part shall not apply to compensation claimed or awarded under the provisions of section 44.

PART VIII
RECOVERY OF WATER RATE

Payment and recovery of water rate. **88.** (1) Every water rate leviable or charged under this Act shall be payable on such dates and to such officers as shall from time to time be determined under the orders of the Appropriate Authority. If the water rate is not paid on or before the due date, then there shall be paid an extra charge not exceeding ten per cent. of the amount due as may be prescribed.

(2) Any such water rate or instalment thereof which is not paid on the date when it becomes due shall be deemed an arrear of land revenue due on account of the land, being either land under the irrigable command of a canal or land for the use of which canal water was supplied or which is benefited by percolation or leakage from any canal and shall be recoverable as such arrear by any of the process specified in section 176 of the Maharashtra Land Revenue Code, 1966, including the forfeiture of the said land.

(3) Any rent payable to the owner of a field-channel by a person authorised to use such field-channel may be paid in such instalments and on such dates as the Canal Officer duly empowered to act under section 29 shall direct and no more of such rent shall at any time be payable to the owner thereof than is actually recovered from the person liable to pay.

(4) (a) Any other sum due to the State Government or to Canal Officer under the provisions of this Act whether on behalf of the State Government or any other person under Part IV of this Act which is not paid when demanded shall, and

(b) any rent or instalment thereof payable to the owner of the field-channel which is not paid when it becomes due may, on behalf of the owner,

Mah. be recoverable as an arrear of land revenue in accordance with the provisions of the Maharashtra Land Revenue Code, 1966.
XLI of 1966.

89. (1) When the amount of water rate or instalment thereof or any other sum due in respect of any land payable to the Company or *Zilla Parishad* or to the Canal Officer on behalf of the Company or *Zilla Parishad* under the provisions of this Act is not paid to the Company or *Zilla Parishad* or to such Canal Officer on the date when it becomes due or when demanded after it has become due, such amount or sum may be recovered according to the provisions of sub-section (2) of this section.

Recovery of water rate etc., payable to Company, *Zilla Parishad*, etc.

(2) Where any amount or sum or any instalment thereof payable to the Company, *Zilla Parishad* or to any Canal Officer on behalf of the Company or *Zilla Parishad* by or under this Act is not paid on the date when it becomes due—

(a) and the claim is not disputed, or the amount in dispute does not exceed Rs. 100, the Canal Officer duly empowered to enforce the provisions of this section may send to the Collector a certificate under his hand indicating therein the sum which is due to, or claimed by, the Company, *Zilla Parishad* or Canal Officer, as the case may be, and thereupon, the Collector shall recover the sum due or claimed as arrear of land revenue ;

(b) and the claim is disputed, and the amount in dispute exceeds Rs. 100, then it shall be referred to the Tribunal consisting of one person constituted by the State Government for the purpose ; and the Tribunal shall, after making such inquiry as it deems fit, and after giving to the persons by whom the amount is alleged to be payable, an opportunity of being heard, decide the question. The decision of the Tribunal shall be final, and thereupon, the Collector shall recover the amount determined to be due as an arrear of land revenue.

(3) Subject to the provisions of this Act and to the previous approval of the State Government, the President of the Tribunal may make regulations for regulating the practice and procedure of the Tribunal, including the award of costs by the Tribunal, the levy of any process fee, provisions for recovery thereof in the form of court-fee stamps, the right of appearance before the Tribunal, the place or places of its sitting, the disposal by the Tribunal of any proceedings before it notwithstanding that in the course thereof there has been a change in the person sitting as member of the Tribunal and generally, for the effective exercise of its powers and discharge of its functions under this Act.

(4) The regulations made under this section shall be published in the *Official Gazette*.

PART IX

OBTAINING LABOUR FOR CANALS ON EMERGENCIES

Procedure for obtaining labour for works or repairs urgently required.

90. (1) Whenever it appears to a Canal Officer duly empowered to Act under this section that—

(a) unless some work or repair is immediately executed such serious damage will happen to any canal as to cause sudden and extensive public injury ;

(b) unless some clearance of a canal or other work which is necessary in order to maintain the established course of irrigation is immediately executed, serious public loss will occur ; and

(c) the labourers necessary for the proper execution of such repair, clearance or work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of the same so as to prevent such injury or loss ;

the said Canal Officer may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such repairs, clearance or work ; and thereupon every able-bodied person, who holds land or resides in the vicinity of the locality where such repair, clearance or work has to be executed and whose name appears in the list hereinafter mentioned shall, if required to do so by such officer or by any person authorised by him in this behalf, be bound to assist in the execution of such repair, clearance or work by labouring thereat as such officer or any person authorised by him in this behalf may direct.

(2) All persons so labouring shall be entitled to payment at rates which shall not be less than the highest rates for the time being paid in the neighbourhood for similar labour.

List of Labourers.

91. Subject to such rules as may from time to time be prescribed under section 114 in this behalf, the Collector shall prepare a list of persons liable to be required to assist as aforesaid, and may from time to time add to or alter such list or any part thereof.

Reports to be made by Canal Officer.

92. All orders made under section 90 shall forthwith be reported to the Collector and the Appropriate Authority.

PART X

PENALTIES

93. (1) Whoever voluntarily and without proper authority—

Penalty for
damaging
canal, etc.

(a) damages, alters, enlarges or obstructs any canal ;

(b) interferes with, or increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal, or by any means raises or lowers the level of the water in any canal ;

(c) pollutes or fouls the water of any canal so as to render it less fit for the purposes of which it is ordinarily used ;

(d) destroys, defaces or removes any land or level mark or water guage fixed by the authority of a public servant;

(e) destroys, tampers with, or removes, any apparatus, or part of any apparatus, for controlling, regulating or measuring the flow of water in any canal ;

(f) passes, or causes animals or vehicles to pass in or across any of the works, banks or channels of a canal contrary to rules made under section 114 after he has been directed to desist therefrom ;

(g) causes or knowingly and wilfully permits cattle to graze upon any canal or flood embankment, or tethers or causes, or knowingly and wilfully permits cattle to be tethered, upon any such canal or embankment, or roots up any grass or other vegetation growing on any such canal or embankment, or removes, cuts or in any way injures or causes to be removed, cut, or otherwise injured any tree, bush, grass or hedge intended for the protection of such canal or embankment ;

(h) neglects, without reasonable cause, to assist or to continue to assist in the execution of any repair, clearance or work, when lawfully bound so to do under section 90 ;

(i) eases oneself on the banks, or in the channel, of a canal ;

(j) damages, alters or obliterates boundaries of areas in which irrigation from a canal is authorised by a Canal Officer ;

(k) fails to close the temporary channels dug out for supply on a temporary basis after the period of sanction is over ;

(l) fails to assist a Canal Officer in the discharge of his duties whenever called for ;

(m) violates any rules made under section 114 for breach whereof the State Government shall, in such rules, direct that a penalty may be incurred ;

(2) without prejudice to the provision of section 19, whoever obstructs the field to field irrigation from any canal ;

(3) whoever contravenes the provisions of this Act or any rules made thereunder ;

(4) whoever uses water from the canal in an unauthorised manner ; or

(5) whoever being responsible for the maintenance of a field-channel, or using a field-channel, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorised distribution of the water therefrom, or uses such water in an unauthorised manner or prevents or interferes with the lawful use of such field-channel by any person authorised to use the same or declared to be joint owner thereof under section 29 ;

shall, when such act does not amount to an offence of committing mischief within the meaning of the Indian Penal Code, on conviction, be punished for each such offence with fine which may extend to five hundred rupees or with imprisonment for a term which may extend to six months or with both, and in the case of a continuing offence with an additional fine which may extend to fifty rupees for every day during which such offence continues after conviction for the first such offence. XLV
of
1860.

Penalty for endangering stability of canal, etc.

94. Whoever without proper authority—

(1) pierces or cuts through or attempts to pierce or cut through, or otherwise to damage, destroy or endanger the stability of any canal ;

(2) opens, shuts or obstructs or attempts to open, shut or obstruct any sluice in any canal ;

(3) makes any dam or obstruction for the purpose of diverting or opposing the current of a river or canal on the bank whereof there is a flood-embankment or refuses or neglects to remove any such dam or obstruction when lawfully required so to do ;

shall, when such act shall not amount to an offence of committing mischief within the meaning of the Indian Penal Code, on conviction, be punished for each such offence with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to one year or with both, and in the case of a continuing offence, with an additional fine which may extend to fifty rupees for every day during which such offence continues after conviction for the first such offence. XLV
of
1860.

Obstruction to be removed and damage repaired.

95. Whenever any person is convicted under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction or repair the damage in respect of which the conviction is held within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, any Canal Officer duly empowered in this behalf may remove such obstruction, or repair such damage, and the cost of such removal or repair as certified by the said officer, shall be leviable from such person by the Collector as an arrear of land revenue.

96. Any person in charge of, or employed upon any canal, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant, and take forthwith before a Magistrate or to the nearest police station, to be dealt with according to law, any person who within his view—

(1) wilfully damages, obstructs or fouls any canal ; or

(2) without proper authority interferes with the supply or flow of water, in or from any canal, or in any river or stream so as to endanger, damage, make dangerous or render less useful any canal.

97. (1) Notwithstanding anything contained in the foregoing provision of this Part, where a Canal Officer duly empowered in this behalf is of opinion that water in any canal is being used unauthorisedly, the Canal Officer may, with a view to preventing such use, direct any person to desist immediately on the issue of such direction from using water on such canal unauthorisedly. ¹[On his failure to comply with the direction, notwithstanding anything contained in this Act or in any law for the time being in force or in any agreement for the supply of water or electricity, it shall be lawful for the Canal Officer, with the assistance of the police and the licensee or other authority supplying electricity, by order to direct the seizure and removal of the machine, contrivance, equipment or any other apparatus whatsoever, with which water was or is being lifted or used unauthorisedly from such canal or the discontinuance or reduction of the supply of electricity to the consumer by the licensee or other authority ²[for such period as may be specified in the order and such period shall not be beyond the 30th day of June next following the order. Any machine, contrivance, equipment or apparatus so seized shall be kept in safe custody, till the period specified by the Canal Officer in his order.] It shall be obligatory on the licensee or other authority to comply forthwith with any direction issued by the Canal Officer under this sub-section.]

The machine, contrivance, equipment or apparatus removed as aforesaid shall be restored to the person from whose custody it was removed after the expiry of the period specified in the order :

Provided that if the Canal Officer is of opinion that water in any canal is being persistently used by any person unauthorisedly, the Canal Officer may, after giving such person a reasonable opportunity of being heard, direct that the machine, contrivance, equipment or apparatus removed as aforesaid be forfeited to the Appropriate Authority.

(2) Any person aggrieved by the order of the Canal Officer under sub-section (1) may, within 15 days of the date of receipt of such order by him, appeal to the Appropriate Authority, and that Authority may, with the least possible delay, pass such order as it may deem fit in the circumstances of the case. The decision of the Appropriate Authority in appeal and subject thereto, the decision of the Canal Officer shall be final.

98. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under sections 93 and 94 shall be cognizable and bailable.

99. Whoever abets any offence punishable under this Act, or attempts to commit any such offence shall be punished with the punishment provided in this Act for such offence.

¹ This portion was substituted for the original by Mah. 31 of 1984, s. 3.

² This portion was substituted by Mah. 24 of 1989, s. 2.

reward to
infor-
mants.

100. If a person notices an unauthorised use of canal water for which punishment has been provided in this Act and the rules made thereunder and if he informs a Canal Officer in writing of such use and if this information leads to the detection of the offence and of the person responsible for the offence, the Appropriate Authority may grant him such reward as it may deem fit.

Compen-
sation to
private
persons
injured.

101. Whenever any person is fined for an offence under this Act, the court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms part, may direct that the whole or any part of such fine may be paid by way of compensation to any person injured by such offence.

Com-
pounding
of
offences.

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

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

PART XI

APPEAL AND REVISION

Appeal and
revision.

103. (1) Every order passed by a Canal Officer under sections 20, 25, 31, 33, 51, 52, 53, 55 and 56 and every order made by an authorised Canal Officer in relation to the provisions of section 34 or section 40 shall be appealable to the Canal Officer who is next higher in rank. If the order is passed by a Canal Officer who is a Chief Engineer, then the order shall be appealable to the Appropriate Authority.

(2) Every order passed under any provision of this Act for which no specific provision has been made shall be appealable to such officer as may be prescribed.

(3) Every appeal shall be presented within thirty days of the date of receipt of the order by the appellant.

(4) The Appropriate Authority may call for and examine the record of any decision, order, or proceedings of any Canal Officer under this Act for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such Canal Officer. If in any case it appears to the Appropriate Authority that any decision, order or proceedings so called for should be modified, annulled, or reversed, it may pass such order thereon as it deems fit:

Provided that the Appropriate Authority shall not modify, annul or reverse any decision or order without giving to the persons affected thereby a reasonable opportunity of being heard.

PART XII

MISCELLANEOUS

104. No suit shall lie in any civil court contesting the validity of Canal Officer's order, under section 32, 70 or 71; and no claim whatsoever made against the Appropriate Authority for approving or sanctioning any such order shall entertained by any civil court.

suits
barred in
certain
cases.

105. (1) On the publication of a notification in the *Official Gazette* under section 3 of this Act or from the date of modification of that notification under that section, any person desiring to construct a well in his land in the irrigable command of the canal referred to in such notification, shall inform the Canal Officer of his intention to do so.

Excavation
of wells in
lands
under
irrigable
command of
canal to be
intimated.

(2) If such person constructs any well without informing the Canal Officer, then the Canal Officer may impose on him a fine of a sum not exceeding one hundred rupees.

106. All rights to cut grass, to graze cattle, to cultivate land or to do other acts on land in the bed of or on the bank of any canal and to fish or ply a vessel in a reservoir or tank on, across or along a canal or channel maintained or controlled by the Appropriate Authority shall vest in the Appropriate Authority and the Appropriate Authority may dispose of any such rights in such manner as may be prescribed.

Rights in
tank bed
lands, fish-
ing and
plying of
vessels in
tanks etc.,
controlled
or main-
tained by
Appropriate
Authority
to vest in
Appropriate
Authority.

107. No person shall conduct mining or quarrying operations requiring the use of explosive within a distance of 200 metres from the boundaries of a canal, without the written permission of the Canal Officer duly empowered in this behalf.

Prohibition
of mining,
or quarry-
ing
operations.

108. When a person damaging, altering, enlarging or obstructing any canal or causing damage or obstruction to, or alteration or enlargement of such canal without proper authority cannot, after such enquiry as the Canal Officer may deem fit, be identified, the Canal Officer, after giving not less than one month's notice in writing to the holders and occupiers of all lands benefited thereby and after hearing their representations, if any, recover from them in such proportion as he thinks fit the cost of repair of such damage or removal of such alteration or obstruction or of enlargement of such canal, as the case may be.

Recovery
of cost of
repairing
damage
when
offender is
unascertainable.

109. Any Canal Officer empowered under this Act to conduct any inquiry may exercise all such powers connected with summoning and examining of witnesses and the production of documents as are conferred on civil courts by the Code of Civil Procedure, 1908; and every such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

Power to
summon
and
examine
witnesses.

Delegation
of powers
and duties.

110. The Appropriate Authority, and subject to the previous approval of the Appropriate Authority, any Canal Officer may, by notification in the *Official Gazette*, direct that all or any of the powers conferred or duties imposed on it or him by or under this Act may, subject to such restrictions and conditions, if any, be exercised also by such officer not below such rank, as may be specified in the notification.

Service of
notices.

111. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned. Whenever it may be practicable, the service of the notice shall be made on the person therein named. When such person cannot be found, service may be made on any adult male member of his family residing with him, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and, if such person has no ordinary place of residence within the district, service of any notice may be made by sending a copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

Power of
State
Government
to give
directions to
Company
and *Zilla
Parishads*
regarding
mainte-
nance of
their
canals.

112. (1) The State government may, by an order in writing, give to the Company or any *Zilla Parishad* such instructions or directions for the maintenance or administration of the canals constructed, controlled or managed by it in such manner and within such period as may be specified in the order; and it shall be duty of the Company or the *Zilla Parishad* to give effect to such instructions or directions.

(2) If the Company or a *Zilla Parishad* fails to give effect to such instructions or directions within the period specified in the order, the State Government may carry out the repairs or maintain the canal at its own expense in the manner indicated in the order made under sub-section (1); and the expenses of such repairs or maintenance of the canal shall forthwith be paid by the Company or the *Zilla Parishad* to the State Government.

(3) If the expenses of such repairs or maintenance are not so paid, the Canal Officer duly empowered in this behalf may direct the officer-in-charge of the treasury or bank in which the Company has its account or in which the district fund of the *Zilla Parishad* is kept, to pay the expenses of repairs or maintenance or as much portion thereof as is possible, from the balance of such account, or such fund, as the case may be.

Public
servant and
some other
persons
protected
from legal
proceed-
ings.

113. No suit, prosecution, or other legal proceedings shall be maintained against any public servant or persons appointed under this Act in respect of anything in good faith done or purporting to be done under the provision thereof or the rules made thereunder.

Rules.

114. (1) The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), such rules may provide for all or any of the following matters, namely :—

(i) under clause (24) of section 2, the manner in which payment shall be made for supply or facility of water from a canal;

(ii) under clause (a) of section 4, declaring the meaning of 'wet' in relation to lands;

(iii) under section 10, specifying the class of Canal Officers by whom the duties shall be performed or power exercised;

(iv) (a) under clause (ix) of section (2) of section 34, prescribing the other particulars which the draft scheme for compulsory constructions of field channels shall contain;

(b) under sub-sections (3) and (4) of section 34, prescribing the manner of publishing the draft scheme and the final scheme;

(v) under section 35, prescribing the manner of construction of field channels under the final scheme ;

(vi) under sub-section (2) of section 37, prescribing the form of, and the manner in which, the notice to holders and occupiers of land to construct field channels shall be given;

(vii) under clause (a) of sub-section (1) of section 39, prescribing the form of certificate of completion of field-channel to be issued by an authorised Canal Officer;

I of
1894.

(viii) under sub-section (3) of section 44, all matters connected with the enforcement of the provisions of the Land Acquisition Act, 1894 in so far as they are applicable to the acquisition of land or extinguishment of the right or interest;

(ix) under sub-section (3) of section 47, determining the crops, and the period or periods during which such crops may be sown, planted and grown and for regulating supply of water for the purpose and for matters referred to in that sub-section;

(x) under section 52, fixing charges for unauthorised use of water;

(xi) under sub-section (1) of section 53, fixing charges in respect of water suffered to run to waste;

(xii) under sub-section (1) of section 57, regulating the supply of water from any canal and also prescribing dates before which applications for supply of water shall be made and for sanctioning supply;

(xiii) under sub-section (1) of section 58, prescribing the form of application for supply of water from a canal; and under sub-section (5), the manner in which the application for supply of water shall be dealt with;

(xiv) under section 68, providing for remission of rates charged for supply of water under an irrigation agreement, where there has been a failure of crops or failure to deliver water owing to a defect in the head works or distribution system of a canal; and for deduction from rates under clause (e) of that section;

(xv) under section 71, providing for distribution and payment of compensation for damages in respect of any land under any irrigation agreement when such agreement is cancelled;

(xvi) under section (3) (g) of section 74, prescribing the manner in which the accounts of the amounts paid to the Water Committee shall be maintained by it;

(xvii) under sub-section (1) of section 88, rules for determining the amount of extra charge;

(xviii) under section 91, the guidelines subject to which the Collector shall prepare, add to or alter a list of persons liable to be required to assist on works or repairs urgently required;

(xix) under section 93, regulating the animals or vehicles to pass in or across any of the works, banks or channels of a canal and also for directing that a penalty may be incurred for breach of any rule;

(xx) under sub-section (2) of section 103, prescribing the officers to whom appeals against orders passed under any provisions of the Act shall be made in cases where there is no specific provision;

(xxi) under section 105, prescribing the manner in which a person desiring to construct a well in his land under the irrigable command of a canal is required to inform the Canal Officer;

(xxii) under section 106, prescribing the manner in which the Appropriate Authority may dispose of the rights in tank, bed-lands, fishing and plying of vessels in tanks, *etc.*;

(xxiii) under section 120, the guide lines subject to which the Canal Officer may commute any right contained in the record of rights which in his opinion cannot be continued having regard to the maintenance or management of any Second Class Irrigation Works;

(xxiv) under sub-section (1) of section 129, prescribing the guidelines for construction of a Water Committee for each village in which a Second Class Irrigation Work is situated;

(xxv) for any other matter for which rules are required to be made under this Act, or generally for carrying out the purposes thereof.

(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 the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

115. Nothing in this Act shall be deemed to apply to any canal, channel, reservoir, lake or other collection of water belonging to, or vesting, or under the control of any local authority other than *Zilla Parishad*. Savings of certain water works.

116. (1) Notwithstanding anything contained in this Act, where a lift irrigation work has been constructed, maintained or controlled by a society before the commencement of the Act or any society desires after such commencement to construct, maintain or control any such work, and the society desires that certain provisions of this Act and rules made thereunder should apply to such work or all the lands within the irrigable command of the work or the lands adjoining thereto, the society shall make an application to the Canal Officer duly empowered by the Government in this behalf stating therein the location of the work, the area within the irrigable command of the work and the provisions of the Act and the rules made thereunder which should apply to such work or the lands aforesaid and such other particulars as the Canal Officer may require. Applications of certain provisions of Act to lift Irrigation Works of Co-operative Societies.

(2) On receipt of the application under sub-section (1), the Canal Officer shall verify the contents of the application and shall forward the application to the State Government with his own remarks thereon. In forwarding the remarks, the Canal Officer shall in particular examine the provisions of the Act and the rules which the society desires should be made applicable to the lift irrigation work and the aforesaid lands and offer his remarks on the extent of protection the society is likely to receive in relation to such work or lands whether or not it is necessary to extend any other provisions of the Act or rules or whether or not provisions of the Act or rules specified by him should not be applied to such work and lands and the consequences flowing from the application of such provisions to the lift irrigation work and lands.

(3) The State Government on receipt of the application and remarks of the Canal Officer may, by a notification in the *Official Gazette*, direct that such provisions of the Act and the rules thereunder, if any, shall apply to such irrigation work and lands subject to such conditions, if any, as may be specified in the notification; and thereupon, the provisions of the Act and the rules, if any, specified in the notification shall take effect in relation to such lift irrigation work and lands as they take effect in relation to a canal of an Appropriate Authority :

Provided that no notification, which does not provide for complying with the request of the society contained in the application made under sub-section (1), shall be made unless the persons affected and the society have been given reasonable opportunity to be heard.

Mah. XXIV of 1961. *Explanation.*—In this section “society” means a lift irrigation society registered or deemed to be registered under the Maharashtra Co-operative Societies Act, 1960.

PART XIII

SECOND CLASS IRRIGATION WORKS

Application
of this Part
to Second
Class
Irrigation
Works.

117. This Part shall apply to the Second Class Irrigation Works only, existing immediately before the commencement of this Act.

Application
of certain
sections
and Parts
of this Act
to Second
Class
Irrigation
Works.

118. (1) A Second Class Irrigation Work shall be deemed to be a canal within the meaning of clause (2) of section 2 and to such work, the following sections and Parts only shall, so far as may be, apply, namely:—

Section 2, Part II, sections 11, 14, 15, 17 to 21, and 23 to 30 (both inclusive), Part V, sections 49, 51, Part VII and Parts X to XII (both inclusive).

(2) The aforesaid sections and Parts shall, for the purposes of this Part, be subject to the following modifications, namely:—

(i) in section 23, for the words “Field-channels” the words “Subject to any rights recorded in the record-of-rights already prepared before the commencement of this Act or revised as hereinafter provided, field channels” shall be substituted ;

(ii) in section 24, for the words “Any person” the words “Subject as aforesaid, any person” shall be substituted ;

(iii) in section 27, in sub-section (2) for the portion beginning with the words “by such field channel” and ending with the words “as the case may be” the following shall be substituted, namely:—

“on such terms as may be recorded in the record-of-rights prepared or revised as hereinafter provided”;

(iv) to section 28, the following proviso shall be added, namely:—

“Provided that no such private arrangement shall affect any rights to water recorded in the record-of-rights already prepared or revised as hereinafter provided.”;

(v) in section 51, in sub-section (1), for the words “Every agreement for” the words “All rights to” shall be substituted, and after the words “other immovable property” the words “which have been recorded in the record-of-rights already prepared or revised as hereinafter provided” shall be inserted. Sub-section (2) and (3) of the same section shall be omitted.

(vi) in section 75, in sub-section (1), in the proviso, clause (c) and sub-section (2) shall be omitted ;

(vii) in section 77, in sub-section (1), the words and figures “section 12, section 13,” shall be omitted ;

(viii) in section 93, in clause (1), sub-clause (h) shall be omitted ;

(ix) in section 103, after the figures “56” the words and figures “and every order passed under Part XIII” shall be inserted.

119. (1) The Irrigation Record-of-Rights prepared in respect of any Second Class Irrigation Work and in force immediately before the commencement of this Act in any part of the State shall be deemed to be Irrigation Record-of-Rights for such Second Class Irrigation Work and such Irrigation Record-of-Rights may, from time to time, be revised by a Canal Officer duly empowered in this behalf who shall be a Revenue Officer not below the rank of Tahasildar.

Revision of Irrigation Record-of-Rights.

(2) For settling the claims of any persons during the course of such revision, the Canal Officer may ascertain the nature of the right from the records of Government and the evidence of any person likely to be acquainted with the same and any other documentary or oral evidence which the parties concerned or their witnesses may produce.

(3) For the purposes of revision under sub-section (1), the Canal Officer may enter by himself or through any officer authorised by him for the purpose upon any land adjacent to any work and may survey, demarcate and make a map of the same.

120. Where a Canal Officer duly empowered in this behalf finds that, having due regard to the maintenance or management of any Second Class Irrigation Work, any right contained in the Irrigation Record-of-Rights cannot continue to be exercised to the extent recorded therein, he shall (subject to such rules as the State Government may from time to time prescribe in this behalf) commute such right wholly or in part either by payment to the holder of such right of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he may think fit; and he shall revise the Irrigation Record-of-Rights accordingly.

Commutation of rights.

121. In the event of the State Government undertaking at their own cost any work whereby the supply of water in any Second Class Irrigation Work is increased beyond the amount of such supply at the time the Irrigation Record-of-Rights was prepared or revised, the State Government may, without prejudice to any rights so recorded, direct that the right to such surplus water shall vest in the State Government, and shall be applied as the State Government may deem fit; and Irrigation Record-of-Rights shall be revised in accordance with such direction.

Power of State Government where works are under taken increasing supply.

122. When any Irrigation Record-of-Rights has been revised under this Part, it shall be published in the language of the residents of the area at the office of the Tahsildar of the taluka in which the work is situated and in every town and village which, in the opinion of the Collector, is affected by such Irrigation Record-of-Rights.

Publication of Irrigation Record-of-Rights.

123. An entry made in Irrigation Record-of-Rights 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:

Entries in Irrigation Record-of-Rights to be relevant as evidence.

Provided that no such entry shall be so construed as to limit any of the powers conferred on the State Government by this Part.

Notice of
suit to be
given to
Collector.

124. (1) No suit or proceedings shall lie against the State Government in respect of anything done by the Collector, Canal Officer or any other person acting under the orders of the State Government in the exercise of any power by this Part conferred on such Collector, Canal Officer or other person or on the State Government.

(2) Any suit or proceeding in which an entry made in any Irrigation Record-of-Rights maintained under this Part is directly or indirectly called in question shall be dismissed (although limitation has not been set up as a defence) if it has not been instituted within one year from the date of the commencement of this Act or from the date of publication of the revised record under section 122, and if one or more appeals have been made against any order of a Canal Officer with reference to any entry in such Irrigation Record-of-Rights, then from the date of any order passed by the final appellate authority, as determined according to this Part.

Obligation
to carry out
petty
repairs.

125. In every Second Class Irrigation Work, the following repairs shall be performed by the persons on whom the obligation to perform them is imposed by the next following section, that is to say—

(1) The filling up of fullies, ruts and holes especially at the back of revetments, and all petty repairs of a like nature essential for the safety of bunds, of tanks, channel-banks or other portions of the said Second Class Irrigation Work.

(2) The prevention of the growth on such work of prickly pear, young trees and other vegetation endangering the safety or concealing the condition of such work.

(3) The preservation of such bushes and grasses as have been planted for the protection of the interior water slopes of such work.

(4) The clearance of silt from sluices, canals, masonry or concrete works, supply and distributing channels.

(5) The clearance of waste weirs and waste-channels.

Incidence
of obliga-
tions to
carry out
petty
repairs.

126. The obligation to perform the repairs provided by the last proceeding section shall with reference to any land irrigated from such work, be deemed to be imposed jointly and severally, in the case of unalienated land, on the occupants of the land, and, in the case of all other lands, on the holders of the land.

Power to
enforce
rights and
obligations.

127. If any person, on whom any obligation is imposed with reference to any Second Class Irrigation Work by any of the provisions of this Part, fails to fulfil the obligation so imposed, or if any person infringes any right recorded in the Irrigation Record-of-Rights, the Canal Officer duly empowered in this behalf may require him by notice to fulfil such obligation or to desist from infringing such right within a period to be specified in the notice of not less than fifteen days, and in the event of failure may take such steps as may be necessary for the discharge of the said obligation, or the enforcement of the said right, and the amount of any expense so incurred shall be a sum due to the State Government and recoverable as an arrear of land revenue.

128. It shall be the duty of the Talathi of any village or any officer appointed for the purpose within the limits of which any Second Class Irrigation Work or portion of such work is situated, to report to the Tahsildar without delay any failure or neglect to carry out any of the repairs specified in section 125.

Duty of Talathi to report failure to effect repairs.

129. (1) In accordance with the rules made under this Act, there shall be constituted a Water Committee for each village in which a Second Class Irrigation Work is situated for the purpose of regulating distribution of water from such work.

Constitution of Water Committee for each village and its power.

(2) Such Committee shall consist of five members of whom, one shall be the Talathi and the remaining four members shall be nominated by the Canal Officer not below the rank of a Superintending Engineer, from the irrigators who have got right to take water as provided in the Irrigation Record-of-Rights. The members of the Committee shall hold office for a period of two years from the date of their nomination, made by an order duly made in that behalf. It shall be lawful for the State Government, or as the case may be, the Zilla Parishad, to terminate the appointment of all or any of the members of the committee at any time by an order in writing without assigning any reasons.

(3) The Water Committee may meet from time to time, and may follow such procedure as it deems fit for the transaction of its business.

(4) The Water Committee shall—

(a) assist the Canal Officer in detecting and preventing encroachment on the lands appertaining to any such work, prevent damage to such work and report to the Canal Officer any wilful damage caused thereto ;

(b) be responsible for the distribution of water according to regulations made in that behalf with the previous approval of the State Government or any officer authorised in that behalf ;

(c) decide the crops to be grown in phase and other system ;

(d) ensure that the persons responsible to carry out the repairs referred to in section 125, are responsible for the proper up-keep of the said work ;

(e) report to the Canal Officer duly empowered in that behalf the names of persons who neglect or avoid to carry out the repairs referred to in section 125; or who use water from any canal whether or not situated in the village unauthorisedly ;

(f) have the power to levy fine for unauthorised use of water, or for any out of turn or irregular methods adopted for irrigation.

(5) The penalty may consist of a fine not exceeding two hundred rupees.

(6) The amount of fine if not paid shall be recoverable as an arrear of land revenue and the amount of fine paid shall be credited to the Consolidated Fund of the State.

(7) Any person who is aggrieved by any decision of the Committee may, within 30 days from the date of receipt of such decision, file an appeal before the Canal Officer not below the rank of Superintending Engineer, and the decision of the Committee, subject to the appeal to the Canal Officer, shall be final and conclusive.

Power of State Government to denotify any existing Second Class Irrigation Work.

130. The State Government may, subject to the condition of previous publication, by notification in the *Official Gazette*, direct that any existing Second Class Irrigation Work shall cease to be so, and thereupon, the provisions of this Part shall cease to apply in relation thereto, except as respects any thing done or omitted to be done under this Part.

PART XIV

REPEAL AND SAVING

Repeal and saving.

131. On the commencement of this Act, the following Acts, that is to say—

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| (i) the Bombay Irrigation Act, 1879, | Bom.
VII of
1879. |
| (ii) the central Provinces Irrigation Act, 1931, | C. P.
III of
1931. |
| (iii) the Central Provinces and Berar Regulation of Waters Act, 1949, | C. P.
and
Berar
XXXVII
of
1949. |
| (iv) the Hyderabad Irrigation Act, 1357-F, and | XXIV
of
1357-
F. |
| (v) the Hyderabad Irrigation (Betterment Contribution and Inclusion Fees) Act, 1952, | Hyd.
V of
1952. |

are hereby repealed :

Provided that the repeal shall not affect—

- (a) the previous operation of any law so repealed or anything duly done or suffered thereunder, or
- (b) any right, privilege, obligation, or liability acquired, accrued or incurred under any law so repealed, or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed, or
- (d) any investigation, proceeding, legal proceeding or remedy in respect of any right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, proceeding, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed :

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

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