

West Bengal Act XLVI of 1974¹

THE WEST BENGAL IRRIGATION (IMPOSITION OF WATER RATE) ACT, 1974.

[11th December, 1974.]

An Act to provide for the imposition of water rate in areas where water supplied from irrigation works executed, maintained or controlled by the State Government is available for irrigation and for certain matters ancillary thereto and connected therewith.

WHEREAS it is expedient to provide for the imposition of water rate in areas where water supplied from irrigation works executed, maintained or controlled by the State Government is available for irrigation and for certain matters ancillary thereto and connected therewith;

It is hereby enacted in the Twenty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

CHAPTER I

Preliminary

1. (1) This Act may be called the West Bengal Irrigation (Imposition of water rate) Act, 1974.

Short title and extent.

(2) It extends to the whole of West Bengal, except the areas to which the West Bengal Irrigation (Imposition of water rate for Damodar Valley Corporation Water) Act, 1958, applies.

West Ben.
Act XXVI of
1958.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) "canal" means any river, stream, distributory, reservoir, dam, weir, pond, tank, pool or sheet of water, worked, improved, maintained or constructed by the State Government or by any agency under arrangement with the State Government in connection with the promotion and operation of any scheme for irrigation or drainage, and includes—

(i) any supply or escape channel, conduit, sluice, groin or other inlet into or outlet from such canal, and

(ii) any land on the bank of the canal which may or may not be covered by water;

(2) "Canal Revenue Officer" means an officer appointed by the State Government to perform the functions of a Canal Revenue Officer under this Act;

¹For statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, Part IV, of the 16th November, 1974, pages 1975-1976; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 28th November, 1974.

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- (3) "Collector" includes an Additional Collector and any other officer not below the rank of a Deputy Collector, appointed by the State Government to perform all or any of the functions of a Collector under this Act;
- (4) "field channel" means a channel constructed and maintained by owners or occupiers of lands within a notified area or by the State Government under section 12 for leading water from the outlet of a canal or from a water course to such lands;
- (5) "irrigation work" means any work or system of works executed, maintained or controlled by the State Government in connection with the promotion and operation of any scheme for irrigation or drainage and includes a canal and a water course;
- (6) "kharif season" means the part of the year from July to October;
- (7) "land" means land ordinarily used for purposes of agriculture or horticulture, and includes such land notwithstanding that it may be lying fallow for the time being and also includes tank in which water from any canal is stored;
- (8) "notification" means a notification published in the *Official Gazette*;
- (9) "notified area" means any area in respect of which the State Government has by a notification issued under sub-section (2) of section 5, declared its intention to impose a water rate and includes any part of such area;
- (10) "prescribed" means prescribed by rules made under this Act;
- (11) "public demand" means a public demand as defined in the Bengal Public Demands Recovery Act, 1913;
- (12) "rabi season" means the part of the year from November to February;
- (13) "season" means month or months of the year when cultivation is carried on;
- (14) "summer season" means the part of the year from March to April;
- (15) "year" means a period of twelve months commencing from July.

Ben. Act III
of 1913.

Act to
override
other laws.

3. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in

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(Chapter II.—Imposition and assessment of water rate.—
Sections 4-6.)

CHAPTER II

Imposition and assessment of water rate

4. (1) Whenever the State Government is of opinion that lands in any area are benefited or are likely to be benefited by irrigation during *kharif* season, *rabi* season or summer season by water supplied from any irrigation work, the State Government may, by notification, declare its intention to impose in such area a water rate for every *kharif* season, *rabi* season or summer season, as the case may be.

Preliminary notification for imposition of water rate.

(2) Such notification shall contain as full a description of the irrigation work as, in the opinion of the State Government, may be practicable and the boundaries of the area within which the State Government intends to impose the water rate.

5. (1) On the publication of a notification under section 4, any person interested in any land likely to be affected by the imposition of the water rate may, within a period of thirty days from the date of publication of the said notification, prefer objection to the State Government against the intended imposition of the water rate or the inclusion of such land in the area in respect of which the declaration has been made under section 4.

Notified area for imposition of water rate.

(2) On the expiry of the period referred to in sub-section (1), the State Government may, after considering the objections, if any, declare its intention either wholly to refrain from imposing the water rate or to impose the same in the area in respect of which the declaration under section 4 was made or in a specified part thereof, whereupon the said area or the specified part thereof shall be deemed and shall continue to be deemed for the purposes of this Act, to be a notified area for every *kharif* season, *rabi* season or summer season, as the case may be:

Provided that the State Government may, so far as may be in the manner hereinbefore provided, from time to time, include in or exclude from any notified area any area which was benefited or was not benefited, as the case may be, by water supplied from the irrigation work.

6. In respect of any notified area, the State Government may issue a notification proposing to impose water rate at such rates not exceeding,—

Imposition of water rate.

- (a) rupees thirty-two for an area of .4047 hectares for *kharif* season,
- (b) rupees forty-eight for an area of .4047 hectares for *rabi* season,
- (c) rupees one hundred and sixty for an area of 4047 hectares

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*(Chapter II.—Imposition and assessment of water rate.—
Sections 7, 8.)*

as may be specified in the notification and the water rate so imposed shall remain effective until revised by the State Government by a similar notification issued under this section.

Liability for
payment of
water rate.

7. Notwithstanding anything to the contrary contained in any other law for the time being in force or in any custom, usage or contract, the liability for payment of water rate shall be on the occupiers of lands included in the notified area in which the water rate is imposed:

Provided that where any such land is cultivated by a *bargadar* as defined in clause (2) of section 2 of the West Bengal Land Reforms Act, 1955, the liability for payment of the water rate shall be on the owner of such land:

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Act X of
1956.

Provided further that when water rate is paid by the owner of any land cultivated by a *bargadar*, the owner shall be entitled to recover from the *bargadar* half of the amount paid by him as water rate.

Assessment
of water
rate.

8. (1) As soon as possible after a notification under section 6 imposing or revising a water rate in any notified area is published, the Canal Revenue Officer shall prepare and publish in the prescribed manner an assessment list containing the names of all persons who are liable to pay the water rate and the amount of such water rate payable for the *kharif* season, *rabi* season or summer season, as the case may be.

(2) Any person on whom the water rate has been assessed under sub-section (1) may, within thirty days from the date of publication of such assessment list, prefer before the Canal Revenue Officer, in such manner as may be prescribed, an appeal against the inclusion of his name in the assessment list or against the amount assessed.

(3) The Canal Revenue Officer shall, after considering the objection, if any, publish in such manner as may be prescribed a final assessment list indicating the amount of water rate assessed.

(4) An assessment list as finally published under sub-section (3) shall not be altered or modified except when the rate at which water rate is to be imposed in any notified area is revised under section 6:

Provided that the Canal Revenue Officer may, on his own motion or on application made to him in this behalf, make any correction in the assessment list by adding names of new assesses or the successors-in-interest of persons who were previously recorded as assesses and the provisions of sub-sections (1) to (4) shall apply *mutatis mutandis* to any

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(5) An assessee shall be liable to pay up the water rate first time within three months from the date of publication of the final assessment list and thereafter within fifteen days from the date of commencement of the particular season for which such water rate is payable.

(6) An arrear of water rate shall bear interest at the rate of six *per cent. per annum.*

9. (1) If in any season there is failure of supply of water in respect of any land, the assessee may apply within ten days of the end of the season before the Canal Revenue Officer, for remission of water rate and the Canal Revenue Officer may, in the prescribed manner, grant such remission as he considers justifiable after holding such enquiries as he considers necessary.

Power to grant remission.

(2) Excess realisation of water rate in any season may, on application by the assessee, be adjusted against the water rate for the next season.

10. Copies of entries in an assessment list published under sub-section (1) of section 8 shall be made available in the prescribed manner on payment of the prescribed fee.

Copies of entries in assessment list.

11. All arrears of water rate together with interest, if any, shall be recoverable as public demand.

Arrears of water rate recoverable as public demand.

12. (1) The owners or occupiers of all lands in a notified area shall be bound to afford free passage to water from the outlet of a canal through or over lands in their possession or under their control and for that purpose to allow, when so required by the Collector by order made in this behalf, the construction and maintenance of such field channels as may be necessary.

Field channels for free passage of water for irrigation or drainage through or over all lands.

(2) If any person refuses to comply with an order made under sub-section (1), the Collector may cause the field channels to be constructed or maintained and may recover the cost thereof from such person as public demand.

(3) Notwithstanding anything contained in any other law for the time being in force, no person shall be entitled to claim any compensation for any damage or loss which may be caused as a result of the construction or maintenance of any field channel over his land under this section.

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Penalty for diversion of normal flow of water from field channel or canal by obstruction, etc.

13. (1) If any obstruction is caused in any field channel or canal or any cut is made on the bank thereof as a result of which the normal flow of water through such field channel or canal is diverted for the purpose of irrigating any particular land, the Collector may—

- (a) take such measures as he considers necessary to remove such obstruction or close such cut, and
- (b) without prejudice to the provisions of section 8, impose a penalty, which may extend to ten times the water rate assessed for the *kharif* season, *rabi* season or summer season, as the case may be, having regard to the time when the obstruction is put or the cut is made, on the person who is the owner or occupier of the land sought to be irrigated by the water so diverted, after giving him an opportunity of showing cause against the imposition of such penalty:

Provided that no such penalty shall be imposed on any person who proves to the satisfaction of the Collector that such obstruction was put or such cut was made without his knowledge or consent.

(2) Any penalty imposed under this section shall be recoverable as public demand.

(3) Any person aggrieved by an order imposing a penalty on him under this section may, within thirty days from the date of the order, appeal to such appellate authority as may be prescribed and the decision of the appellate authority in such appeal shall be final.

Indemnity.

14. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or any rule or order made thereunder.

Power to make rules.

15. (1) The State Government may make rules for carrying out the purposes of this Act.

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

- (a) the manner of publication of notifications issued under this Act;
- (b) the form and manner of preparation and publication of assessment list under sub-section (1) of section 13.

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- (c) the contents of a petition of appeal under section 8 and the fees, if any, to be paid on such petition and the procedure to be followed in such appeal;
- (d) the manner of remission of water rate under section 9;
- (e) the manner of, and the amount of fees payable for, supplying copies under section 10;
- (f) the appellate authority to whom appeals under sub-section (3) of section 13 shall lie and the procedure to be followed by the appellate authority; and
- (g) any other matter which may be or is require to be prescribed under this Act.

West Ben.
Ord. VII of
1974.

16. (1) The West Bengal Irrigation (Imposition of water rate) Ordinance, 1974, is hereby repealed.

Repeal and
savings.

(2) Anything done or any action taken under the West Bengal Irrigation (Imposition of water rate) Ordinance, 1974, shall be deemed to have been validly done or taken under this Act as if this Act had commenced on the 1st day of July, 1974.
