

THE PUNJAB CANAL AND DRAINAGE BILL, 2023

A
BILL

to regulate irrigation, navigation and drainage in the State of Punjab.

BE it enacted by the Legislature of the State of Punjab in the Seventy-fourth Year of the Republic of India as follows: -

PART I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Punjab Canal and Drainage Act, 2023.

(2) It shall extend to the whole of the State of Punjab.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

Definitions.

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

(1) "canal" includes.-

(a) all canals, channels and reservoirs constructed, maintained or controlled by the State Government for the supply or storage of water;

(b) all works, embankments, structures, including outlets, supply and escape channels connected with such canals, channels or reservoirs;

(c) all water-courses;

(d) all parts of a river, stream, lake or natural collection of water or natural drainage channel, to which the State Government has applied the provisions of Part II of this Act;

(e) all field drains;

(f) all State tubewells; and

(g) all drains, works, embankments and structures, connected with drains, maintained or controlled by the State Government;

(2) "Canal Officer" means an officer appointed under this Act by the State Government, by notification, to exercise control or jurisdiction over a canal or any part thereof;

"Chief Canal Officer" means an officer exercising general control in respect of canals in the State;

"Superintending Canal Officer" means an officer exercising general control over a canal or portion of a canal;

"Divisional Canal Officer" means an officer exercising control over a division of a canal;

"Sub-Divisional Canal Officer" means an officer exercising control over a sub-division of a canal;

"Deputy Collector" means any officer appointed to perform the functions of Deputy Collector under this Act;

(3) "Collector" means a revenue officer as specified as Collector in the Punjab Land Revenue Act 1887, and includes any other officer appointed under this Act by the State Government, by notification, to exercise all or any of the powers of a Collector;

(4) "Commissioner" means a revenue officer as specified as Commissioner in the Punjab Land Revenue Act, 1887, and includes any officer appointed under this Act by the State Government, by notification, to exercise all or any of the powers of a Commissioner;

(5) "culturable command area" means that portion of a culturable irrigable area which is commanded by flow or lift irrigation from an irrigation channel, outlet or State tubewell;

(6) "district" means a revenue district notified by the Department of Revenue;

(7) "drainage work" includes escape channels from canals, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by the State Government under the provisions of Part VII of this Act, but does not

include works for the removal of sewage from towns, villages or any other habitat by whatever name it is known;

(8) "field drain" includes drains and other similar works constructed or maintained by land owners themselves;

(9) "outlet" means a structure along with its appurtenant works fixed or constructed by the State Government on minor, distributary or branch canal or main canal to receive water from canal and to deliver it to fields through water course;

(10) "prescribed" means prescribed by rules made under this Act;

(11) "shareholder" means a person or tenant as defined in the Punjab Tenancy Act, 1887;

(12) "State Government" means the Government of the State of Punjab in Department of Water Resources;

(13) "State tubewell" means a tubewell hitherto constructed, maintained or controlled or which may be hereafter constructed, maintained or controlled by the State Government or the Punjab Water Resources Management and Development Corporation Limited, and includes all mechanical and electrical appliances, tools and structures appertaining to it and necessary for the abstraction of water from it;

(14) "temporary watercourse" means a watercourse which has been supplying canal water and running for a period of not less than six months. but which is not a watercourse as herein defined;

(15) "tubewell" means any device for lifting water either from below the surface of the ground or from canal by mechanical means operated otherwise than by human or animal power;

(16) "watercourse" means any channel or pipeline including all its subsidiary works which is supplied with water from a canal, but not maintained at the cost of the State Government, and is sanctioned under this Act or is in existence under an agreement or by prescription;

(17) "water user" means an individual or body corporate or an association or a group, using water in a command area;

(18) "Water Users' Association" means a body of water users at a particular level of a canal system for flow as well as lift irrigation; and

(19) "vessel" includes boats, rafts, timber and other floating bodies.

Power to appoint officers.

3. (1) The State Government may, from time to time, declare, by notification in the Official Gazette, the officers of the State Government or of the Punjab Water Resources Management and Development Corporation Limited, by whom, the matters in respect of which and the local limits within which all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

(2) All officers mentioned in clause (2) of section 2 shall be subject to the orders of such officers as the State Government may, from time to time, direct.

PART II

OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES

Utilization of water for public purposes.

4. (1) Whenever it appears expedient to the State Government that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection or still water, should be applied or used by the State Government for the purposes of any existing or projected canal or drainage work, 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.

(2) As soon as it is practicable after the issue of such notification, the Collector shall cause public notice to be given in the manner prescribed, stating that the State Government intends to apply or use the said water.

(3) The persons affected by such notification shall be entitled to lodge claims for compensation in respect of matters mentioned in section 7 before the Collector.

Power to prohibit installation of tubewells.

5. The State Government may, by notification in the Official Gazette, prohibit installation of any tubewell other than a State tubewell within a distance of, not exceeding 150 meters from a State tubewell.

Power of Canal Officer.

6. At any time after the day so named, any Canal Officer, acting under the orders of the State Government, may enter on any land and remove any obstruction, close any channel, demolish any tubewell and do any other thing necessary for the application or use of the said water.

7. The compensation may be awarded for any damage caused for the following matters, namely:-

- (a) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or underground, in use at the date of the said notification;
- (b) stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification;
- (c) stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within five years next before the date of the said notification;
- (d) damage done in respect of any right to a water course of the use of any water to which any person is entitled under the Limitation Act, 1963, Part IV; and
- (e) any other substantial damage, not falling under any of the above clauses (a), (b), (c) or (d), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

In determining the amount of such compensation, the procedure as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 shall be followed.

PART III

OF THE CONSTRUCTION AND MAINTENANCE OF WORKS

8. (1) Any Canal Officer, or the person acting under the general or special order of a Canal Officer, may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon; and dig and bore into the sub-soil; and make and set up suitable landmarks, level-marks and water gauges; and do all other acts necessary for the proper prosecution of any enquiry relating to any

-6-

existing or projected canal with the charge of the said Canal officer and where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle; and may also enter upon any land, building or watercourse on account of which any water-rate is chargeable, for the purpose of inspecting and regulating the use of water-supply, or of measuring the lands irrigated thereby or chargeable with water-rate, and of doing all things necessary for the proper regulation and management of such canal:

Provided that if such Canal Officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling-house supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so. However, he may take any person(s) of that very locality along with him, if in any case such person(s) is not available then Canal Officer may proceed forthwith, on his own.

(2) In every case of entry under this section, the Canal Officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section; and, in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision of the Collector and such decision shall be final.

9. (1) In case of any accident happening or being apprehended to a canal, any Canal Officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal and may execute all works which may be necessary for the purposes of repairing or preventing such accident.

(2) In every such case, such Canal Officer or person shall tender compensation to the proprietor(s) or occupier(s) of the said lands for all damage done to the same. If such tender is not accepted by the affected proprietor(s) or occupier(s) then he may apply to the Collector for revision within thirty days. The Collector after getting report from the Canal Officer shall proceed to award compensation as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(3) Any revision against the orders of the Collector under subsection (2) shall lie with the State Government to be filed with ninety days of the order of the Collector. The State Government shall decide the matter within ninety days after receipt of revision application, whose decision shall be final.

State Government to provide means of crossing canals.

10. (1) There shall be provided and maintained, at the cost of the State Government, suitable means of crossing canals at such places as the State Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

(2) On receiving a statement in writing, signed by not less than twenty-five of the owners of such lands adjacent to such canal, to the effect that suitable crossings have not been provided on any canal, the State Government shall cause an enquiry to be made into the circumstances of the case, and if it thinks that the statement is established, the State Government shall cause such measures in reference thereto to be taken as it thinks proper.

(3) The State Government may issue a general policy for bridge or ramps (fields paths, foot bridges etc.) on canal from time to time as and when required.

Liability of persons to construct works for passage of water.

11. (1) The Divisional Canal Officer may issue an order to the persons using any watercourse to construct suitable bridges, culverts or other works for the passage of the water of such water course across any public road, canal or drainage-channel in use before the said watercourse was made, or to repair any such works.

(2) Such order shall specify a reasonable period within which such construction or repairs shall be completed;

and if, after the receipt of such order, the persons to whom it is addressed do not, within the said period, construct or repair such works to the satisfaction of the said Canal Officer, he may, with the previous approval of the Superintending Canal Officer, himself construct or repair the same;

and if, the said persons do not, when so required, pay the cost of such construction or repairs as declared by the Divisional Canal Officer, the amount shall, on the demand of the Divisional Canal Officer, be recoverable from such persons as arrears of land revenue.

Adjustment of claims between persons jointly using water-course and recovery thereof.

12. (1) If any person, jointly responsible with others for the construction or maintenance of a watercourse, or jointly making use of a watercourse with others, neglects or refuses to pay his share of the cost of such construction as maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional Canal Officer, on receiving an application in writing from any person injured by such neglect or refusal, shall serve notice on all the parties concerned that, on the expiration of a fortnight from the service, he shall investigate the case and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as he may deem fit. Such order shall be appealable to the Superintending Canal Officer.

(2) An appeal shall lie to the Superintending Canal Officer within a period of thirty days from the date of passing of the order by the Divisional Canal Officer under sub-section (1) and the order of the Superintending Canal Officer shall be final.

(3) Any sum directed by such order to be paid within a specified period, may, if not paid within such period, and if the order remains in force, be recovered by the Collector, from the persons directed to pay the same, as arrears of land revenue.

Preparation of draft scheme.

13. (1) Notwithstanding anything contained to the contrary in this Act but subject to the rules made and notification issued in this regard, the Divisional Canal Officer may, on his own motion or on the application of a shareholder or water user association, prepare a draft scheme to provide for all or any of the matters, namely:-

- (a) the construction, alteration, extension and alignment of any watercourse or realignment of any existing watercourse;
- (b) allotment of any new areas to a watercourse or an outlet or re-allotment of areas served by one watercourse to another or from one outlet to another, or for exclusion of an area, from an outlet or a watercourse;
- (c) construction of a new outlet, closing of an existing outlet, shifting or modification of an existing outlet;

Explanation:- Any change in the design or size or both of an outlet, whose design or size or both have been changed in an unauthorized manner, for restoring the same to its authorized discharge shall not be deemed to be a modification;

- (d) the lining or relining of any watercourse; and
- (e) any other matter which is necessary for the proper maintenance and distribution of supply of water from a watercourse or an outlet.

(2) Every scheme prepared under sub-section (1) shall, amongst other matters, set out the estimated cost thereof, the alignment of the proposed watercourse or realignment of the existing watercourse, as the case may be, the site of the outlet and a sketch plan of the area proposed to be covered by the scheme.

Publication of scheme.

14. (1) Every scheme under this Part as soon as may be, after its preparation, shall be published in such form and manner as may be prescribed for inviting objections and suggestions in respect thereof within fourteen days of its publication.

(2) After considering such objections and suggestions, if any, the Divisional Canal Officer shall approve, modify or reject the scheme within fourteen days from the date of the receipt of such objections and suggestions, unless this period is extended by the Superintending Canal Officer for good and sufficient reasons:

Provided that in certain cases, the prior approval of the Chief Canal Officer shall be obtained for allowing an outlet with culturable command area (CCA) equal to or less than hundred acres:

Provided further that in certain cases, the prior approval of the State Government shall be obtained for allowing a new outlet on a main canal or branch canal.

Publication of scheme after approval.

15. (1) The Divisional Canal Officer shall, as soon as may be, publish the fact of the rejection of scheme or the particulars of the scheme approved or modified by him under sub-section (2) of section 14 in the prescribed manner and call upon the shareholders or water user association to implement it at their own cost within the period to be specified by him and if the shareholder(s) or water user association fail to implement the same, he

shall undertake the construction or implementation of the scheme himself, and recover the cost thereof from the shareholder(s) or water user association in the manner and period to be specified by him. Any sum which remains unpaid, within the specified period for this purpose, may be recovered by the Collector from the defaulting person(s) as arrears of land revenue.

(2) An officer, not below the rank of Sub-Divisional Canal Officer shall check the implementation of scheme at site.

(3) In case underground pipeline scheme if shareholder(s) or water user association fail to implement the scheme, the Divisional Canal officer may follow the procedure as per section 14-A and 14-B of the Punjab Land Improvement Schemes Act, 1963, and recover the cost thereof from the shareholder(s) or water user association in the manner and period to be specified by him. Any sum which remains unpaid, within the specified period for this purpose, may be recovered by the Collector from the defaulting person(s) as arrears of land revenue.

Appeal
and
revision.

16. An appeal against the decision of the Divisional Canal Officer under sub-section (2) of section 14 shall lie to the Superintending Canal Officer within thirty days from the date of the publication of the scheme under section 15 whose decision shall be final:

Provided that no such order shall be made without affording the person(s) affected an opportunity of being heard and the orders of the Divisional Canal Officer shall not be stayed in ordinary course.

Notice of
acquisition of
land.

17. (1) The Divisional Canal Officer may either of his own motion or on the application of a shareholder, publish in the manner prescribed a notice of his intention to acquire any land required for implementation of the scheme.

(2) Any person interested in the land notified under sub-section (1) may, within twenty-one days from the publication thereof, apply to the Divisional Canal Officer by petition stating his objections to the proposed acquisition of his rights.

(3) After considering the objections, the Divisional Canal Officer may proceed to take the occupation of the land so required on behalf of the shareholders.

(4) The Compensation, to be fixed by the Divisional Canal Officer on the principles set out under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 shall be payable by the shareholders in proportion to the culturable commanded area under the scheme held by each one of them to the owner or occupier of any land for such acquisition and on failure of payment, the amount of compensation shall be recoverable as arrears of land revenue.

(5) Any person aggrieved from the order of the Divisional Canal Officer in respect of compensation may prefer an appeal, within thirty days of the passing of the order to the Superintending Canal Officer whose decision shall be final.

18. On failure of any shareholder or shareholders to execute the work within the period specified in the notice under sub-section (1) of section 15, the Divisional Canal Officer may proceed to carry out the work himself and the cost in proportion to the culturable commanded area under the scheme held by such shareholders shall be recoverable from the shareholders as arrears of land revenue.

19. On execution of the scheme, the Divisional Canal Officer shall by requisition in writing, direct the shareholders to take over and maintain the watercourses and on failure of the shareholders to comply with this direction, he shall, make arrangements for maintenance of watercourse at the shareholders' cost in proportion to the culturable commanded area under the scheme held by them and the same shall be recoverable as arrears of land revenue.

20. (1) If a person demolishes, alters, enlarges or obstructs a watercourse or a temporary watercourse or causes any damage thereto, any person affected thereby may apply to the Sub-Divisional Canal Officer for directing the restoration of the same to its original condition.

(2) On receiving an application or otherwise under sub-section (1), the Sub-Divisional Canal Officer may, after making such enquiry as he may deem fit, require, by a notice in writing served on the person found to be responsible for so demolishing, altering, enlarging, obstructing or causing damage to restore, at his own cost, the watercourse or temporary

Recovery of cost from shareholders.

Direction for maintenance of water course.

Restoration of demolished or altered etc. watercourse.

watercourse to its original condition within such period not exceeding fourteen days, as may be specified in the notice.

(3) If such person fails to the satisfaction of the Sub-Divisional Canal Officer, to restore the watercourse or temporary watercourse to its original condition within the period specified in the notice served on him under sub-section (2), the Sub-Divisional Canal Officer may cause the watercourse or temporary watercourse to be restored to its original condition and recover the cost incurred in respect of such restoration from the defaulting person. The Sub-Divisional Canal Officer may order recovery of a sum not exceeding rupees five thousand from the defaulting person by way of penalty. In case the penalty is not paid, the same shall be recoverable as arrears of land revenue.

(4) Any person aggrieved by the order of the Sub-Divisional Canal Officer, may prefer an appeal, within thirty days of the passing of such order before the Divisional Canal Officer, whose decision on such appeal shall be final.

(5) Any sum which remains unpaid within a period to be specified for this purpose by the Divisional Canal Officer may be recovered as arrears of land revenue.

Bar on jurisdiction of civil court.

21. Notwithstanding anything contained in this Act or any other law for the time being in force, no civil court shall have jurisdiction to entertain or decide any question relating to matters falling under sections 13 to 20.

PART-IV

THE SUPPLY OF WATER

In absence of written contract water supply to be subject to rules.

22. The State Government may allow supply of canal water for purposes other than irrigation. In the absence of a written contract, every supply of canal water shall be deemed to be given at the rates as notified by the Government and subject to the conditions prescribed by the rules.

Power to stop water supply and compensation.

23. (1) The Divisional Canal Officer may stop the supply of water to any watercourse, or to any person(s), within periods fixed from time to time in the following cases, namely:-

- (a) whenever it is necessary to stop such supply for the purpose of executing any work ordered by the competent

authority and with the previous sanction of the Superintending Canal Officer;

(b) whenever and so long as any watercourse is not maintained in such proper customary repair so as to prevent the wasteful escape of water therefrom; and

(c) whenever water is not used for the purpose for which it was being supplied.

(2) No claim shall be made against the State Government for compensation in respect of loss caused by the failure or stoppage or reduction of water in the canal, by reason of any cause beyond the control of the State Government or of any repairs, alterations or additions to the canal, or of any measures taken for the regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal Officer considers necessary; but the person(s) suffering such loss due stoppage of water for irrigation may claim remission of the water cess payable for the use of the water as is authorized by the State Government.

(3) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, but if it is to be supplied for irrigation for two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation and to apply to such crops only as matured within that year.

(4) If any written contract or agreement for the supply of canal water has been made in which the period has not been specifically mentioned, it shall be deemed to have been made for one year unless such contract or agreement is renewed for another year:

Provided that a contract or agreement executed before the commencement of this Act, shall, continue for a period as mentioned in such contract or agreement.

(5) No person, entitled to use the water of any canal or any work, building or land appertaining to any canal, shall sell or sublet or otherwise transfer his right to such use, without the permission of the Superintending Canal Officer:

Provided that the aforesaid provision shall not apply to the use by a cultivating tenant the water supplied to the owner for the irrigation of the land held by such tenant:

Provided further that all contract made between the State Government and the owner or occupier of any immovable property as to the supply of canal water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place.

(6) No right to the use of the water of a canal shall be, or be deemed to have been acquired under the Limitation Act, 1963, Part IV, nor shall the State Government be bound to supply any person with water except in accordance with the terms of a contract in writing.

(7) Where the supplies are made under some contract or agreement for specified purpose, the Divisional Canal Officer may stop such supplies after giving notice to the person concerned and after affording him an opportunity of being heard, on the ground that there is breach of contract or agreement or the water is needed for the public purposes by the State Government.

PART V
WATER RATES

Liability when persons using unauthorisedly cannot be identified.

24. If water supplied through a canal is used in an unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person who has derived or may derive benefit therefrom, shall be liable to the charges prescribed for such use.

Liability when water runs to waste.

25. If water supplied through a watercourse or an outlet be suffered to run to waste and if, after enquiry by the Sub-Divisional Canal Officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of water supplied through such watercourse or an outlet shall be jointly liable for the charges made in respect of water so wasted.

Charges recoverable in addition to penalties.

26. (1) All charges for the unauthorised use or waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

(2) All questions, under sections 24 and 25, including questions pending for disposal on the commencement of this Act shall be decided by the Divisional Canal Officer.

(3) An appeal shall lie to the Superintending Canal Officer against the decision of the Divisional Canal Officer empowered under sub-section (2) within a period of thirty days from the date of such decision.

Water supplied to cantonments, towns, industry, bulk water supplier, commercial users etc.

27. When canal or river water is supplied to forts or other military buildings, cantonment, civil station, cities, towns, railway, public garden or other places of public resort, industrial units, power plants and bulk users, beverages and bolted water industry, drinking water supply (including Railways and Army), fish pond and brick making and water construction work or any other non-irrigation use either by filing of tanks or by direct flow, contracts at special rates may be accepted by the Divisional Canal Officer with the previous sanction of the State Government.

Water supplied for irrigation.

28. (1) The State Government may levy a water cess on the occupiers of land, who use canal water for the purposes of irrigation at the rate to be determined by the State Government from time to time and such occupiers, as accept the water, shall pay for water cess accordingly. Such water cess shall be payable within such time and in such manner, as may be prescribed. The water cess so collected, shall be used by the State Government for maintenance and development of irrigation infrastructure.

(2) The rules hereinbefore referred to may prescribe and determine what persons or classes of persons are to be deemed to be occupiers for the purposes of this section and may also determine the several liabilities, in respect of the payment of water cess of tenants and of persons to whom tenants may have sublet their lands or of proprietors and of persons to whom proprietors may have let the lands held by them in cultivating occupancy.

Water cess by whom payable.

29. Where a water-cess is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land and may be deducted by him from such rents or profits before division, or may be recovered by him from the persons liable to such rate in the manner customary for the recovery of other charges on such rents or profits.

Certified dues recoverable as land revenue.

30. Any sum lawfully due under this Part, and certified by the Divisional Canal Officer to be so due, which remains unpaid after the day on which it becomes due, shall be recoverable from the person liable for the same as arrears of land revenue.

Fines not included in certified dues.

31. Except as otherwise provided, nothing in sections 30 applies to fines.

PART VI
CANAL NAVIGATION

Detention of vessels violating rules.

32. (1) Any vessel entering or navigating any canal contrary to the rules made in that behalf by the State Government, or so as to cause danger to the canal or the other vessels therein, may be removed or detained, or both removed and detained, by the Divisional Canal Officer, or by any other person duly authorised in this behalf.

(2) The owner of any vessel causing damage to a canal, or whose vessel has been removed or detained under this section, shall be liable to pay to the State Government such sum as the Divisional Canal Officer, with the approval of the Superintending Canal Officer, determines to be necessary to defray the expenses of repairing such damage or of such removal or detention, as the case may be.

Recovery of fines for offences in navigating canals.

33. Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner or other person incharge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure, 1973 or if the Magistrate imposing the fine so directs, as though it were a charge on such vessel.

Power to seize and detain vessel on failure to pay charges.

34. If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal Officer may seize and detain such vessel and the furniture thereof, until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to seize cargo or goods, if charges due thereon are not paid.

35. If any charge due under the provision of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal is not paid on

demand to the person authorized to collect the same, the Divisional Canal Officer may seize such cargo or goods and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

36. (1) Within a reasonable time after any seizure under section 34 or section 35, the said Canal Officer shall give notice to the owner or person incharge of the property seized that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named. If such claim be not so discharged, the said Canal Officer, may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale:

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo or goods.

(2) The residue of such furniture, cargo or goods, and of the proceeds of the sale, shall be made over to the owner or person incharge of the property seized.

37. (1) If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purpose of canal, be left unclaimed for a period of two months, the Divisional Canal Officer may take possession of the same. The Officer so taking possession may publish a notice, in the manner prescribed, that, if such vessel and its contents, or such cargo or goods, are not claimed on or before the day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel, contents, cargo or goods be not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

(2) The said vessel and its contents and the said cargo or goods if unsold, or, if a sale has taken a place, the proceeds of the sale, after paying all tolls, charges and expenses incurred by the Divisional Canal Officer, on

Procedure for recovery of such charges after seizure.

Procedure in respect of vessels abandoned and goods unclaimed.

account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal Officer.

(3) If the Divisional Canal Officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid, and the proceeds to be paid into the district treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction.

PART VII
DRAINAGE

Powers to prohibit obstructions or order of their removal.

38. Whenever it appears to the State Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage-channel, the State Government may, by notification published in the Official Gazette, prohibit within limit to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or other modification of such obstruction. On the issue of such notification, so much of the said river, stream or drainage-channel as is comprised within such limits shall be held to be a drainage-work as defined in section 2.

Power to remove obstructions after prohibition.

39. (1) The Divisional Canal Officer, or other person authorized by the State Government in that behalf, may, after such publication issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

(2) If within the time so fixed, such person does not comply with the order, the said Canal Officer may himself remove or modify the obstruction; and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable from him or his representative in interest as arrears of land revenue.

Provisions regarding field drains.

40. The provisions contained in sections 13 to 21 shall apply mutatis mutandis to field drains.

Preparation of schemes for works of improvement.

41. Whenever it appears to the State Government that any drainage works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof or that protection from floods or other

accumulations of water or from erosion by a river is required for any lands, it may cause a scheme for such drainage works to be drawn up and published by the Divisional Canal Officer, together with an estimate of its cost which the State Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

Powers of persons employed on such schemes.

42. The persons authorized by the State Government to draw up such schemes may exercise all or any powers conferred upon the Canal Officers under section 8.

Rate on lands benefited by works.

43. The cost, other than that which is to be defrayed by the State Government, in respect of such scheme, may be charged from the owners of all lands made chargeable under section 41 in accordance with rules made by the State Government in this behalf. Such cost either wholly or in part, may be recovered in kind of land or labour in the manner prescribed by rules made in this behalf.

Recovery of rate.

44. Any sum certified by the Divisional Canal Officer to be due under section 43 and which remain unpaid after the expiry of the period during which it was payable, shall be recoverable from the owner liable for the same as if it were an arrear of land revenue.

Disposal of claims to compensation.

45. Whenever, in pursuance of a notification made under section 38, any obstruction is removed or modified or whenever any drainage-work is carried out under section 41, all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work may be made before the Collector and he shall deal with the same in the manner provided in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013. However, no compensation shall be paid to any illegal structure which is constructed without any approval from any competent authority of the State Government.

Limitation of such claims.

46. No such claim shall be entertained after the expiry of one year from the occurrence of the loss complained of, or unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

PART VIII JURISDICTION

Power of Deputy Collector to order use or distribution of water and settlement of differences.

47. (1) The Deputy Collector may, if in his opinion it is necessary so to do, pass an order as to the use or distribution of water from a watercourse amongst persons in any estate or a group of estates or in any holding or group of holdings in such estate or estates:

Provided that no such order shall be passed by the Deputy Collector without making an inquiry into the matter and without giving a notice to the persons interested that, on a day to be named in such notice, he shall proceed to inquire into the said matter.

(2) Whenever a dispute or difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a watercourse, any such person may apply in writing to the Deputy Collector stating the matter in dispute.

(3) On receipt of an application under sub-section (2), the Deputy Collector shall give notice to the other persons interested that, on a day to be named in such notice, he shall proceed to enquire into the said matter, and after the inquiry he shall pass an order thereon.

(4) An order passed under sub-section (1) or sub-section (3) as to the use or distribution of water for any crop sown or growing at the time when such order is made or with regard to the construction or maintenance of a watercourse shall, subject to an order passed on appeal or revision under sub-sections (5) and (6), be final.

(5) An appeal shall lie to the Divisional Canal Officer against an order referred to in sub-section (4) within a period of thirty days from the date of such order.

(6) The Superintending Canal Officer, within whose jurisdiction the watercourse is situated, may, suo motu or on an application made in this behalf by an aggrieved person, revise an order passed in appeal by a Divisional Canal Officer under sub-section (5) :

Provided that no such application shall lie unless it is made within a period of thirty days from the date of such order.

(7) No order passed under this section shall be liable to be called in question in any civil court.

Correction of clerical error.

48. The clerical or arithmetical mistakes in an order passed by an officer under this Act arising from any accidental slip or omission may, at

any time, be corrected by the authority concerned either of its own motion or on the application of any of the parties.

49. Any officer empowered under this Act to conduct any enquiry may exercise all such powers connected with the summoning and examining of witnesses as are conferred on civil courts by the Code of Civil Procedure and every such enquiry shall be deemed to be a judicial proceeding.

50. Except as otherwise provided, all claims against the State Government in respect of anything done under this Act may be tried by the Civil Courts, but no such court shall, in any case pass an order as to the supply of canal water to any crop sown or growing at the time of such order.

PART IX

FORMATION OF WATER USER ASSOCIATION

51. The State Government may, by notification published in the Official Gazette, establish water user associations (WUAs) to inculcate a sense of ownership amongst stakeholders. The water user associations may assist Canal Officers for the following purposes, namely:-

- (a) resolution of disputes amongst shareholders;
- (b) preparing water conservation plans and promote efficient use of surface water;
- (c) preparation of demand and collection of water cess.;
- (d) recommending maintenance schedule for water bodies;
- (e) removing encroachment from the canal infrastructure;
- (f) schedule of releasing waters in canals;
- (g) use of village ponds and drains for irrigation purposes;
- (h) identifying the sources of pollution and taking appropriate action; and
- (i) preparation and implementation of warabandi.

Power to summon and examine witnesses.

Jurisdiction under this Act of Civil Courts.

Water user association.

PART X

OFFENCES AND PENALTIES

Offences under
the Act.

52. Whoever, without proper authority, does any of the following acts, namely:-

- (a) damages, alters, enlarges or constructs any canal or drainage work;
- (b) interferes with, increases or diminishes the supply of water in or flow of water from, through, over or under any canal or drainage work;
- (c) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work;
- (d) being responsible for the maintenance of a watercourse, or using a watercourse, neglects to take proper precautions for the prevention of waste of a water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner;
- (e) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the State Government for entering or navigating such canal;
- (f) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessel thereon;
- (g) corrupts or fouls the water of any canal;
- (h) destroys or moves any level mark or water gauge fixed by the authority of a public servant;
- (i) passes, or causes animals or vehicles, to pass, on or across any of the works, banks or channels of a canal or drainage work contrary to rules made under this Act, after he has been desired to desist therefrom;

- (j) violates any rule made under this Act for breach whereof a penalty may be incurred; and
- (k) disobeys any order passed under section 47.

shall, in respect of offences under clauses (a) to (j) are cognizable and be liable, on conviction to a minimum fine of five thousand rupees but not exceeding fifty thousand rupees or to imprisonment not exceeding six months or to both.

Order of the
Divisional Canal
Officer.

53. (1) Whenever water for irrigation is used by any person in an unauthorized manner and in respect of offences under clause (k) of section 52, the Divisional Canal Officer, by an order, shall stop the supply thereof to such person for full turns during the crop season. In case, any person still continues to use water in an unauthorized manner, he shall be excluded from the command area of the canal for a period of two years.

(2) An appeal against every order passed by the Divisional Canal Officer shall lie to the Superintending Canal Officer. No appeal shall be entertained, unless it is filed within a period of thirty days from the date of communication of such order.

(3) When supply of water of the person who violates as per subsection (1) is stopped, his share of canal water shall be distributed equitably and proportionately amongst the other shareholders falling in the cultural commanded area of the canal from where offender is drawing canal water.

Saving of
prosecution
under other laws.

54. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act.

Protection of
action taken in
good faith.

55. (1) No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

(2) No suit or other legal proceedings shall lie against the State Government or any other person in respect of any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or rules or orders made thereunder.

56. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

Compensation
to the persons
injured.

Power to arrest
without warrant.

-24-

57. Any person in charge of or employed upon any canal or drainage-work 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, commits any of the following offences:-

- (a) willfully damages or obstructs any canal or drainage work; and
- (b) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger damage or render less useful any canal or drainage-work.

Definition of
canal.

58. In this Part, the word 'canal' shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied by the State Government for the purpose of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce occupied by or belonging to the State Government upon such lands.

PART XI

SUBSIDIARY RULES

Power to
remove
difficulties.

59. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions or give such directions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.

Power to make
rules.

60. (1) The State Government may, by notification published in the Official Gazette, from time to time, make rules for carrying out all or any of the purposes of this Act.

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

- (a) distribution and regulation of supply of water;
- (b) construction of new channels, extension of existing channels, and abandonment of old channels;

- (c) assessment and realization of water cess;
- (d) utilization of water for purposes other than irrigation; and
- (e) any other matter which has been or may be prescribed.

Repeal and saving.

61. (1) The Northern India Canal and Drainage Act, 1873 (Central Act VIII of 1873), in its application to the State of Punjab, is hereby repealed.

(2) Save as provided in sub-section (2) of section 13 of this Act, such repeal shall not affect-

- (a) any application, appeal or revision pending before the commencement of this Act or filed thereafter against any order passed before the commencement of this Act; and
- (b) any right of appeal or revision, if any, in respect of an order passed under clause (a), and such application, appeal or revision shall be continued and disposed of by the competent authority under the provisions of the repealed Act as if this Act had not been passed.

STATEMENT OF OBJECTS AND REASONS

1.0 At present the activities relating to irrigation, navigation and drainages in the State are regulated by an Act namely the Northern India Canal and Drainage Act, 1873. The said Act was enacted by the Government of India in British era. With the passage of time and Re-organization of the State, a number of provisions contained in the said Act have become outlived.

2.0 The State of Punjab has not enacted any separate legislation to manage and control the aforesaid activities. The Department of Water Resources is currently administering the Punjab Canal and Drainage Act, 1873 only. The said Act was enacted by the Government of India in British era and is meant for the five States namely, Uttar Pradesh, Uttrakhand, Punjab, Haryana and Delhi. Moreover, the Govt. of India, Ministry of Jal Shakti has been emphasizing to enact separate State Act and is in process to repeal the said Act of 1873. All other States are also in the process enacting their own Act.

3.0 Therefore, in the changed scenario and requirement of farmers, general public and other stake holders i.e. industry, which uses canal water for commercial purposes, a need has arisen to enact a separate and distinct legislation to regulate Canals, Drainages and other related activities thereto.

4.0 The main objective and salient feature to enact the said legislation is to ensure hindrance free canal waters to farmers and land owners for irrigation purposes, maintenance, repair and timely cleanliness of canals, drainages and natural water courses, a fair and transparent mechanism for redressal of grievances of water users and other regulatory restrictions against unnecessary wastage of water. Hence, proposed draft legislation namely the Punjab Canal and Drainage Act, 2023.

CHETAN SINGH JAURAMAJRA,
Water Resources Minister, Punjab.

FINANCIAL MEMORANDUM

The Act empowers the Canal Officers to carry out various functions under the Act including collection of rates to be charged for canal water supply, penalties and payments under various provisions of the Act. In case of canal/river water is supplied to forts or other military buildings, cantonment, civil station, cities, towns, railway, public garden or other places of public resort, industrial units, power plants and bulk users, beverages and bottled water industry, drinking water supply (including Railways and Army), fish pond and brick making and water construction work or any other non-irrigation use either by filling of tanks or by direct flow, contracts at special rates may be accepted by the Divisional Canal Officer with the previous sanction of the State Government.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 60 of the Punjab Canal and Drainage Act empowers the State Government to make rules for carrying out all or any of the purposes of this Act. Such rules may provide for all or any the following matter, namely:-

- a) Distribution and regulation or supply of water;
- b) Construction of new channels, extension of existing channels, and abandonment of old channels;
- c) Assessment and realization of water cess;
- d) Utilization of water for purposes other than irrigation;
- e) Any other matter which has been or may be prescribed.

The Powers sought are necessary for the proper implementation of the provisions of the Act.

The Governor has, in pursuance of clause (1) and (3) of Article 207 of the Constitution of India, recommended to the Punjab Legislative Assembly, the introduction and consideration of the Bill.

CHANDIGARH:
THE 28TH NOVEMBER, 2023

R. L. KHATANA
SECRETARY.

N.B. - The above Bill was published in the Punjab Government Gazette (Extraordinary), dated the 28th November, 2023 under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly).