

KARNATAKA LAND IMPROVEMENT ACT, 1961

6 of 1962

[7th APRIL, 1960]

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KARNATAKA LAND IMPROVEMENT ACT, 1961

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An Act to provide for the preparation and execution of schemes relating to the construction of embankments and other works, the prohibition and control of grazing for the purposes of preservation of soil, prevention of soil erosion, conservation of water resources, reclamation of tidal lands and other matters in order thereby to protect and improve lands including khar lands and crops in the State of Karnataka and for charging certain expenditure on the Consolidated Fund of the State. Whereas, it is expedient to provide for the preparation and execution of schemes relating to the construction of embankments and other works, the prohibition and control of grazing for the purposes of preservation of soil,

prevention of soil erosion, conservation of water resources, reclamation of tidal lands and other matters in order thereby to protect and improve lands including khar lands and crops in the State of Karnataka and for charging certain expenditure on the Consolidated Fund of the State; Be it enacted by the Karnataka State Legislature in the Twelfth Year of the Republic of India as follows.

CHAPTER 1
Preliminary

1. Short title, extent and commencement :-

- (1) This Act may be called the Karnataka Land Improvement Act, 1961.
- (2) It shall extend to the whole of the State of Karnataka.
- (3) It shall come into force in such area and on such date as the State Government may, by notification, specify.

2. Definitions :-

In this Act, unless the context otherwise requires.

- (a) "Board" means a District Land Improvement Board constituted under Section 3;
- (b) "Director of Agriculture" means the officer appointed for the time being to be the Director of Agriculture and includes any officer authorised by the State Government by notification to perform the functions of such officer under this Act;
- (c) "Divisional Soil Conservation Officer" means the officer appointed to be the Divisional Soil Conservation Officer or any other officer authorised by the State Government by notification to perform the functions of such officer under this Act;
- (d) "District Agricultural Officer" means the officer appointed to be the District Agriculture Officer, or any officer authorised by the State Government by notification to perform the functions of such officer under this Act;
- (e) "Embankment" includes.
 - (i) every bank, dam, wall and dyke made or used for excluding water from, or retaining water upon, any tidal or khar land or for excluding salt water from entering into any adjoining sweet water nallas;

(ii) every sluice, spur, groyne, training-wall, berm or other work annexed to, or portion of, any such embankment;

(iii) every bank, dam, dyke, wall, groyne or spur made or erected for the protection of any such embankment or of any tidal or khar land from erosion or overflow by or of tides, waves or waters;

(iv) all buildings intended for inspection and supervision of any of the aforesaid works;

(f) "Executive Officer" means an officer appointed by the Board under sub-section (1) of Section 11;

(g) "Inquiry Officer" means an officer appointed as such by the Board;

(h) "khar land" means such tidal land as is made cultivable by protecting it by means of an embankment from the sea or tidal river, and includes all such land in whatever manner described, whether as khar, khajan, kharepat, gazni or otherwise;

(i) "Notification" means a notification published in the Official Gazette;

(j) "Owner" includes an owner in severally, in common or joint, a holder in actual possession of land other than a tenant, a mortgagee vested with a right to possession, any person liable to the payment of revenue direct to the Government or competent to collect rent from any person in actual possession of land;

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

(1) "Scheme" means a land improvement scheme prepared under this Act;

(m) "Sea" includes bay, inlet, creek, or an arm of the sea;

(n) "Tenant" means an agriculturist who holds land on lease and includes a person lawfully cultivating any land belonging to another person if such land is not cultivated personally by the owner and if such person is not.

(i) a member of the owner's family; or

(ii) a servant on wages payable in cash or kind but not crop share; or

(iii) a hired labourer cultivating the land under the personal

supervision of the owner or any member of the owner's family; and also includes a person who is deemed to be a tenant or cultivating tenant under any tenancy law in force;

(o) "Tidal land" means such parts of bed or shore of the tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides together with the adjoining bed or shore not exceeding two furlongs in distance from the spring tide mark;

(p) "Tidal water" means any part of the sea or river within the flow and ebb of the tide at ordinary spring tides.

CHAPTER 2

Constitution of Boards and Preparation of Land Improvement Schemes

3. Constitution of the District Land Improvement Board :-

(1) The State Government may constitute for each District a Land Improvement Board consisting of.

(i) the Deputy Commissioner of the District;

(ii) the District Agricultural Officer of the District;

(iii) the Sub-Divisional Soil Conservation Officers having jurisdiction in the District;

(iv) the Divisional or District Forest Officer of the District;

(v) the Executive Engineer of the District;

¹[(vi) the Administrator of the Command Area Development Authority operating in the district or any of the Land Development Officers of the said Authority nominated by him;]

² [(vii)] such non-official persons not exceeding two as may be nominated by the State Government. The District Land Improvement Board for the Districts of North Kanara and South Kanara shall also consist of an officer of the State Port Department and an officer of the Department of Fisheries nominated by the State Government. The term of a non-official member shall be such as may be fixed by the State Government in the notification nominating such member.

(2) The Deputy Commissioner shall be the President of the Board.

(3) The Headquarters Sub-Divisional Soil Conservation Officer having jurisdiction over the Headquarters of the District shall ex

officio be the Secretary of the Board.

1. Clause (iv) inserted by Act No. 24 of 1981, w.e.f. 8-4-1981

2. Existing clause (iv) renumbered as clause (v) by Act No. 24 of 1981, w.e.f. 8-4-1981

4. Conduct of business of the Board :-

(1) The Board shall conduct its business at the place and time and in the manner prescribed.

(2) All questions before the Board shall be decided according to the opinion of the majority of the members present and voting. In case of equality of votes, the President shall have a second or casting vote.

(3) Four members shall form the quorum for a meeting of the Board.

5. Power of Boards to direct preparation of Land Improvement Schemes and matters for which scheme may be prepared :-

(1) The Board may direct the preparation of a land improvement scheme for any area within its jurisdiction. A scheme may make provision for any of the following matters, namely.

(i) Preservation and improvement of soil.

(ii) Prevention of erosion of soil,

(iii) Conservation of water resources,

(iv) Introduction of dry farming methods.

(v) Improvement in the methods of cultivation.

(vi) Reclamation of waste, saline or waterlogged land or of land from the sea.

(vii) Prohibition or control of grazing, or reservation of land for pasture.

(viii) Planting, maintenance and control of tree growth by.

(a) regulation or prohibition of firing of vegetation;

(b) cultivation of waste or fallow land;

(c) eradication of hariyali or any other kind of weed or vegetation

which is likely to affect injuriously, or interfere with, cultivation.

(ix) Construction of earth and masonry works in fields, gullies and ravines.

(x) Development of khar lands by.

(a) construction, maintenance and preservation of embankments and other prescribed objects;

(b) removal of encroachments on inland waterways;

(c) reclaiming tidal lands for the purpose of bringing them under cultivation.

¹[(xi) Land development works like land shaping, farm irrigation and drainage ditches in the lands included in an irrigation scheme or project;]

² [(xii)] Such other matters not inconsistent with the object of this Act as may be prescribed.

(2) On a direction under sub-section (1) being issued by the Board, the Board shall appoint an officer to prepare in accordance with such instructions as it may issue, a draft scheme containing the following particulars, namely.

(i) the objects of the scheme;

(ii) the approximate area of the lands and the boundaries thereof, to be included in the scheme together with a plan of such area;

(iii) the names of persons, including the Government, who will be affected by the scheme;

(iv) the work or kind of work to be carried out under the scheme and its estimated cost, the proportion of such cost to be borne by owners and tenants of the land and the manner of apportionment thereof;

(v) the agency through which the work shall be carried out;

(vi) such other particulars as may be prescribed.

1. Clause (iv) inserted by Act No. 24 of 1981, w.e.f. 8-4-1981

2. Existing clause (iv) renumbered as clause (v) by Act No. 24 of 1981, w.e.f. 8-4-1981

6. Publication of scheme and inviting objections :-

(1) The draft scheme prepared under Section 5 shall be submitted to the Board which shall either approve the scheme with or without modifications, in which case, an Inquiry Officer shall be appointed, or reject the scheme.

(2) The scheme approved by the Board under sub-section (1) shall be published in the Official Gazette and in the village and at the headquarters of the Taluk of Mahal and of the District in which lands proposed to be included in the scheme are situated.

(3) The Board shall simultaneously with the publication of the scheme in the Official Gazette under sub-section (2) require by service of notice or in other manner prescribed, all persons affected by the scheme, who wish to make any objections to the scheme or part thereof, to submit their objections in writing to the Inquiry Officer, or appear before him, within thirty days of such publication.

(4) Notices shall be served in the prescribed manner on all owners of the lands affected by the draft scheme and on all persons shown in the village records as interested in such lands so far as such service may be practicable.

7. Report of Inquiry Officer :-

(1) The Inquiry Officer, shall hear all objections made to him in writing or orally in person under Section 6, and submit his report together with the objections received.

(2) The Inquiry Officer, may, while submitting his report under sub-section (1), recommend any modifications which in his opinion are required in any of the particulars contained in the scheme approved under sub-section (1) of Section 6.

8. Power of Board to sanction scheme with or without modifications :-

(1) After consideration of the objections and the report submitted under sub-section (1) of Section 7, and of any further report which the Board may require the Inquiry Officer to submit, the Board may sanction the scheme with or without modifications, or reject it:

Provided that if not less than thirty-three per cent of the total number of the owners of the land included in the scheme other than the Government, or owners other than Government owning in the aggregate not less than thirty-three per cent of the land included in the scheme have made objections to the scheme or part

thereof, the Board shall submit the scheme with its comments to the State Government for orders. The State Government may thereafter sanction the scheme with or without modifications or reject it, and direct that in lieu thereof, a fresh draft scheme be prepared and submitted for its sanction.

(2) The scheme as sanctioned under sub-section (1) shall be published in the Official Gazette, and in the village and at the headquarters of the Taluk or Mahal and of the District in which the lands included in the scheme are situate and shall on such publication be final.

(3) In the case of a scheme published under sub-section (2) of Section 6, if all the owners of the lands included in the scheme give their unanimous consent in writing for taking up the scheme and agree to abide by all terms and conditions regarding payment of dues, and other matters in respect of land improvement works, the Board shall sanction the scheme and publish it as prescribed in sub-section (2) of this section and on such publication, the scheme shall be final.

9. Effect of scheme :-

On the date on which the scheme is published in the Official Gazette under sub-section (2) of Section 8, it shall come into force and shall have effect as if it were enacted in this Act.

10. Power of State Government to make regulations :-

For the purpose of carrying out the objects of a scheme which has come into force under Section 9, the State Government may make regulations requiring any person or persons or the public generally to do certain acts or to refrain from doing certain acts in respect of any matters supplementary and incidental to the scheme.

CHAPTER 3

Execution of the Scheme

11. Power to enforce scheme :-

(1) After a scheme has come into force under Section 9, the Board shall appoint an officer called an Executive Officer to execute it.

(2) Every owner of the land included in the scheme shall pay the cost or part of the cost, as the case may be, of the works which under the scheme are carried out by the Government in his land at the cost or part of the cost of the owner.

(3) If any owner of the land included in the scheme desires to carry out himself any Works which under the scheme are to be carried out in his lands by the Government at the cost or part of the cost of the owner, he shall give notice in writing to that effect to the Executive Officer within thirty days of the publication of the scheme in the Official Gazette under Section 8.

(4) On receipt of such notice, the Executive Officer shall inform the owner of the works which are to be carried out in his lands, and shall fix the date before which the owner shall carry out the works.

(5) If such owner fails to carry out any work to the satisfaction of the Executive Officer, before the date fixed by him or within such further time as may be allowed by the Executive Officer, or at any time expresses in writing to the Executive Officer his inability to do so, the Executive Officer may himself get the work carried out and the expenses incurred by the Executive Officer for the purpose shall be recovered from the owner.

(6) Where the owner of any land included in the scheme is the Government, the Department of Government which has the control or management of such land, or the Executive Officer directed in this behalf by the Board, as the case may be, shall carry out the works which the Government is liable to carry out under the scheme.

12. Liability of persons whose lands are not included in scheme to contribution :-

(1) If, in consequence of any work carried out under the scheme, any person (including the Government) other than the owner of the land in which the work is done is likely to be benefited, he shall pay such amount as the State Government may determine as contribution to the owner of the land, if the work has been carried out by the owner, or to the State Government, if the work has been carried out by the Executive Officer:

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

Provided further that the State Government may excuse payment of such contribution in whole or in part in respect of any work carried out by it in land belonging to it.

(2) The amount of contribution payable under sub-section (1), shall be paid within such time as may be specified by the State Government.

CHAPTER 4

Maintenance, Repair and use of Works carried out under the Scheme

13. Preparation of statement :-

(1) The Executive Officer shall on completion of the work prepare a statement giving for any specified area the following particulars.

(a)

(i) the work done;

(ii) the cost thereof;

(iii) the total amount to be recovered from the owner;

(iv) the general rate per acre or per rupee of assessment per annum at which such amount is to be recovered from the owner;

(v) the period within which such amount is to be recovered;

(vi) the persons who in his opinion, are liable individually or jointly to maintain and repair the work;

(b) if in the case of any survey number or a sub-division of a survey number, the owner is not liable to repair or maintain works therein, or if the cost is to be recovered from an owner at a rate other than the general rate, a list of such survey numbers or sub-divisions and the rate at which the cost is to be recovered from the owners of such survey numbers or sub-divisions;

(c) a map showing the work carried out in the village;

(d) such other matters as may be prescribed.

(2) When a statement is prepared under this section, any rights and liabilities shown therein shall be entered in the record of rights or where there is no record of rights, in such village record and in such manner as may be prescribed and shall thereupon form part of such record of rights or such village record.

14. Obligations of persons to maintain and repair works :-

(1) Every person shown in the statement prepared under Section 13 as liable to maintain and repair a work shall, to the satisfaction

of the Divisional Soil Conservation Officer, and within such time as the said officer may fix, maintain and repair the work in his own land and in any other land in respect of which he is shown as liable in the said statement.

(2) If such person fails to maintain or repair the work within the time fixed by the Divisional Soil Conservation Officer under sub-section (1), the Divisional Soil Conservation Officer shall himself get the work maintained or repaired and the cost of so doing shall be recovered from such person.

(3) If the Divisional Soil Conservation Officer is of the opinion that an emergency has arisen and that the immediate repair of any work referred to in sub-section (1) is necessary in the general interest, he shall carry out such repair and the cost of such repair shall be paid by the owner of the land in which the repair has been carried out.

(4) The Divisional Soil Conservation Officer, shall, as soon as practicable, make a report to the State Government regarding such repair.

(5) Any dispute as to the amount of the expenses shall be decided by the Board and its decision shall be final.

CHAPTER 5

Special Provisions Regarding khar Lands in the North and South Kanara Districts

15. Application of the Chapter :-

The provisions of this Chapter shall be applicable only in respect of khar lands in the North and South Kanara Districts.

16. Duty of the Board :-

(1) It shall be the duty of the Boards constituted for the North Kanara District and South Kanara District to promote the development of khar lands in the most efficient and economical manner.

(2) Without prejudice to the generality of the foregoing power, the Board (which in this Chapter means the Board constituted for the South Kanara District or North Kanara District under Section 3, may.

(a) cause a survey to be made of all the khar and tidal lands in the District;

(b) prepare a list of (i) all embankments, (ii) the lands benefited or to be protected by such embankment, (iii) the names of landlords and tenants of such lands;

(c) form units having regard to the contours of embankments constructed or to be constructed for the protection of lands and the homogeneity of the plots of lands protected or to be protected thereby;

(d) prepare schemes for the construction, maintenance and preservation of embankments and other prescribed objects;

(e) remove encroachments on inland waterways;

(f) supervise all work in connection with the better cultivation of khar lands;

(g) reclaim tidal lands for the purpose of bringing them under cultivation; and

(h) generally do all that is necessary for carrying out the objects of this Chapter.

(3) The Board may prepare schemes for each unit for the purpose of carrying out its duties under this section.

(4) The provisions of Sections 6 to 14 shall apply mutatis mutandis to a scheme prepared under this section.

17. Acquisition of land, right or interest :-

If at any time, on an application of the Board it appears to the State Government that any land or the right or the interest of any person in any land should for the purposes of any scheme for khar land development, be compulsorily acquired it shall be lawful for the State Government to publish a notification to that effect in the Official Gazette. The notification so published shall be deemed to be a declaration under Section 6 of the Land Acquisition Act, 1894, and shall be conclusive as if it was made under the said provision and the land, right or interest in the land shall be deemed to be needed for a public purpose within the meaning of the said Act. On publication of the notification, the Deputy Commissioner shall proceed to take order for the acquisition of the land, right or interest, as the case may be, and the provisions of the said Act shall mutatis mutandis apply to the determination of the amount of compensation, the apportionment 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 insofar as they are applicable to the acquisition of such land, right or interest:

Provided that where any land which is acquired has remained fallow for three successive years immediately preceding the date of the notification, the market value of such land shall not be assessed to be more than twice the amount of the annual assessment payable in respect thereof.

18. Claim for compensation for consequential damage :-

Subject to the provisions of Section 20 whenever any land other than the land acquired under Section 17 or any right of fishery, right of drainage, right of the use of water or other right of property, shall have been injuriously affected by any act done or any scheme for khar land development executed under the provisions of this Act, the person in whom such property or right is vested may prefer a claim in writing to the Deputy Commissioner for compensation and thereupon the provisions of the Land Acquisition Act, 1894, shall so far as may be, mutatis mutandis, apply for the determination of the compensation, apportionment and payment thereof.

19. Limitation of claim for compensation :-

No claim under Section 18 shall be entertained if it is made later than two years next after the completion of the work by which such right is injuriously affected.

20. No compensation in certain cases for use or removal of earth :-

Any land, which before the commencement of this Act has been used for the purpose of obtaining earth or other materials for construction or repair of any embankment shall be deemed to be at the disposal of the Board for such purpose without the payment of compensation for use or removal of such earth or other materials.

21. Power of Board to regulate fishing rights :-

(1) Notwithstanding any custom, usage, law or contract to the contrary, no person shall fish or exercise the right of fishery in any water or any tidal or khar land to which the provisions of this Chapter apply, except under a licence granted by the Board in this behalf.

(2) The licence granted under sub-section (1) shall be granted on

payment of such fees and subject to such restrictions and such other conditions and shall be in such form and contain such particulars as may be prescribed.

22. Contribution towards cost of the scheme :-

The cost of the scheme which has come into force under Section 9 shall be met by contribution between the State Government and the landlords and the tenants thereof, in accordance with the following rules.

Rule 1. The State Government shall contribute 50 per cent of the cost and if lands included in the scheme are not leased, 50 per cent of the cost shall be borne by the landlords.

Rule 2. If all or any of the lands included in the scheme are leased, 10 per cent of the cost shall be borne by the landlords, notwithstanding anything to the contrary contained in any agreement, custom or usage relating to the liability of the tenants to pay such costs and 40 per cent of the cost shall be borne by the tenants.

Rule 3. If any land included in a scheme is held on a mulgeni or any other kind of permanent tenancy, the contribution payable by the landlords or tenants shall be as follows.

(i) if the landlord or any intermediate tenure holder receives a fixed rent, in respect of such land payable in cash or in kind, the amount or quantity of rent not being variable in proportion to the yield of the land.

(a) the landlord or any of the intermediate tenure holders who receives such fixed rent shall not be liable to pay any part of the contribution;

(b) if neither the landlord nor any of the intermediate tenure holders is liable to pay any part of the contribution under sub-clause (a) the tenant shall pay 50 per cent of the cost;

(ii) if the landlord and any intermediate tenure holder do not receive a fixed rent as specified in clause (i).

(a) the 10 per cent of the contribution payable by the landlord shall be paid by the landlord and the intermediate tenure holder, who do not receive a fixed rent, in proportion to the amount of rent received by each of them in respect of the land;

(b) the tenant in actual occupation shall pay 40 per cent of the cost.

Rule 4. If the lands included in a scheme are held by more than one landlord, intermediate tenure holder or a tenant, and if any question arises as to the amount of contribution to be paid by such landlord, intermediate tenure holder or tenant, the question shall be referred to the decision of such officer as the State Government may appoint in this behalf and the decision of such officer shall be final.

Explanation.

(1) For the purposes of these rules, in relation to the land held on mulgeni tenure, an intermediate tenure holder shall include a mulgenigar and a pot-mulgenigar.

(2) The State Government may prescribe by rules made in this behalf the manner in which, and the extent to which, the contribution payable by landlords, intermediate tenure holders and tenants under this section may be levied in lieu of cash payment.

(3) The contribution payable by the landlords, intermediate tenure holders and the tenants, in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on such land, or the interest in such land, as the case may be, held by the person, liable to pay such contribution.

23. Forfeiture of lease of land for failure to pay contribution

:-

If any person holding any land on lease from the State Government fails to pay his share of the contribution under Section 22 in respect of such land, within such time as the State Government may fix, the Deputy Commissioner may dispose of the land in accordance with the rules made in this behalf under Section 35. Such lease shall be determined by forfeiture to the State Government, notwithstanding anything contained in any law for the time being in force and unless the Deputy Commissioner otherwise directs, be freed from all rights, incumbrances and equities theretofore created in favour of any person other than the Government in respect of such land.

24. Levy of annual contribution :-

(1) All landlords, intermediate tenure holders and tenants and all owners of lands benefited or protected by embankments included in a scheme under this Act, shall pay to the Board an annual contribution which shall be levied and paid in such manner and at such rate and subject to such conditions, if any, as may be prescribed.

(2) The decision of the Board on the question whether any land is benefited or protected by an embankment under this Act shall be conclusive evidence on such question.

(3) Notwithstanding anything contained in sub-section (1), the Board may, in such circumstances as may be prescribed, suspend or remit wholly or partially the payment of the annual contribution by such landlords, intermediate tenure holders, tenants or owners as it may specify in this behalf.

(4) The contribution payable under this section shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on such land or the interest in such land, as the case may be, held by the person liable to pay such contribution.

Explanation. For the purpose of this section in relation to land held in mulgeni tenure, an intermediate tenure holder shall include a mulgenigar and a pot-mulgenigar.

25. Liability of person in possession of land to pay contribution or loan :-

When any person primarily liable to pay any contribution under Section 22 or 24 makes a default, the amount of such contribution which may be due, shall be recoverable from any person in possession of the land: Provided that where any amount is recovered under this section from a person, who is not primarily liable for the same, such person shall be allowed credit for any payments which he may have duly made to the person who is primarily liable and shall be entitled to credit for the amount recovered from him, in account with the person who is primarily liable.

CHAPTER 6
Miscellaneous

26. Payment and recovery of amount :-

Any amount or instalment thereof payable under this Act which is

not paid on the date when it becomes due, shall be deemed to be an arrear of land revenue due on account of the land for the benefit of which the scheme has been sanctioned or the work is or repairs are carried out under this Act and shall be recoverable as an arrear of land revenue.

27. Right of entry :-

For the purpose of preparing, sanctioning or executing any scheme, repairing or maintaining any works under any scheme, any person authorised by the Board, the Deputy Commissioner or the Divisional Soil Conservation Officer may, after giving such notice as may be prescribed to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land, and do all acts necessary for such purpose.

28. Inquiries to be held summarily :-

(1) An authority other than a Board empowered under this Act, to make an inquiry shall make it in the manner provided for holding a summary inquiry under the land revenue law in force and all the provisions relating to the holding of a summary inquiry shall so far as may be, apply.

(2) Such authority as well as a Board shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the revenue officers under such land revenue law.

29. Permission to owners to increase rent on account of improvements effected :-

Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the owner of any land included in a scheme, to enhance the rent payable by a tenant of the land subject to such limits and conditions as may be prescribed.

30. Registration of document, plan or map in connection with land improvement scheme not required :-

(1) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any document, plan, or map prepared, made or sanctioned in connection with the scheme which has come into force.

(2) All such documents, plans and maps shall, for the purpose of

Sections 48 and 49 of the Indian Registration Act, 1908, be deemed to be registered in accordance with the provisions of that Act:

Provided that the documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

31. Delegation :-

Subject to the approval of the State Government, the Deputy Commissioner or the Divisional Soil Conservation Officer, may by notification and subject to such conditions as may be specified in such notification delegate to any officer subordinate to him any of the powers conferred on or any of the functions to be performed by or under this Act by him.

32. Certain officers to be public servants :-

The members and the Secretary of a Board, the Inquiry Officer and any officer or person authorised or appointed by the Board, the Deputy Commissioner, the Divisional Soil Conservation Officer, while acting or purporting to act under any provision of this Act or any rule or regulation made thereunder, shall be deemed to be public servants within the meaning of the Indian Penal Code.

33. Protection of persons acting in good faith and limitation of suits and prosecution :-

(1) No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

(2) No suit or prosecution shall be instituted against any public servant or person duly authorised under this Act in respect of anything done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

34. Penalty :-

Any person who contravenes or causes any contravention of any of the provisions of a scheme which has come into force under Section 9 or any of the regulations made under Section 10 or does any act which causes damage to any of the works carried out under the scheme, or fails to fulfil any liability imposed upon him under

Section 14 or sub-section (4) of Section 36, shall, on conviction, be punishable with fine which may extend to fifty rupees or simple imprisonment for a period which may extend to one month, or with both.

35. Power to make rules :-

(1) The State Government may by notification 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 foregoing power, such rules may be made to determine the following matters, namely.

(i) the matters to be prescribed under clause (xi) of sub-section (1) and clause (vi) of sub-section (2) of Section 5;

(ii) the matters allowed or required by this Act to be prescribed;

(iii) the manner in which the rights and liabilities shown in the statement prepared under Section 13 shall be entered in the record of rights and in the village accounts under sub-section (2) of Section 13;

(iv) the manner of giving and serving notices under this Act;

(v) disposal of lands under Section 23;

(vi) the annual instalments payable under sub-section (1) of Section 24;

(vii) the manner in which documents, plans and maps shall be made accessible to the public under Section 30.

(3) The rules made under this section shall be subject to the condition of previous publication.

(4) 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, the rule shall thereafter 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 under that rule.

36. Power of State Government to direct preparation of scheme in certain circumstances :-

(1) Notwithstanding anything contained in this Act, the State Government may direct the preparation of a scheme providing for any of the matters specified in sub-section (1) of Section 5 in any area in the following cases, namely.

(i) Where the State Government or any trust contributes not less than 25 per cent of the cost of the scheme.

(ii) If any person or authority is willing to contribute not less than 25 per cent of the estimated cost of the scheme.

(iii) If in the opinion of the State Government, land improvement is necessary in the interest of any persons who are members of the armed forces of the Union or who were such members and have retired or the dependants of such persons.

¹[(iv) If in the opinion of the State Government, land improvement is necessary for the proper utilisation of any irrigation potential created;]

²[(v)] If in the opinion of the State Government the scheme is necessary in the interest of the public.

(2) Along with such direction or any time thereafter, the State Government may authorise the Board to appoint an officer to prepare, in accordance with such instructions as the Board may issue, a draft scheme containing the particulars specified in sub-section (2) of Section 5. The officer so appointed shall prepare a draft scheme accordingly and submit it to the Board for approval.

³ [(3)

(A) After the scheme is submitted to the Board for approval under sub-section (2), the Board shall, publish the scheme in the Official Gazette inviting objections and suggestions if any, from all persons likely to be affected, within thirty days from the date of such publication. The scheme shall also be published in the village chavadies, the notice boards of the concerned village panchayats and taluk offices and the office of the Deputy Commissioner of the district in which the lands proposed to be included in the scheme are situate.

(B) After considering the objections, the Board may sanction the scheme with or without modifications. The scheme so sanctioned by the Board shall be published in the Official Gazette. It shall also be published in the village chavadies, the notice boards of the concerned village panchayats and taluk offices and the office of the Deputy Commissioner of the district in which the lands included in the scheme are situate.

(C)

(a) The Board may require every owner of the land included in the scheme to intimate the Board within one month of the publication of the scheme in the Official Gazette whether he decides to carry out the work according to the scheme by himself and, if so, his agreement to complete the work within such time as may be fixed by the Board and he shall also be liable to pay proportionate cost of survey, supervision and establishment charges as may be determined by the Board;

(b) if the owner of the land fails to carry out the work as provided in sub-clause (i), the Board shall carry out or get carried out the work under the scheme, and

(i) the work so carried out under the scheme shall be deemed to have been done with the consent of the owner of the land for whose benefit it is intended; and

(ii) subject to such rules as may be prescribed, the proportionate cost of the work including survey supervision and establishment charges leviable on each owner of land included in the scheme, as certified by the Board shall be a charge on the land and shall be recovered with interest at such rate and in such instalments as may be fixed by the Board and if not recovered in the usual course shall be recovered as arrears of land revenue.

(c) Owners of the land included in the scheme may deposit with the Board the amount required to carry out the work included in such scheme as determined by the Board.]

(4) Notwithstanding anything contained in sub-section (3), the owner of the land in which any work has been carried out for the purposes of a scheme under this section shall be liable, pending the preparation of the statement under Section 13, to maintain the work to the satisfaction of the Divisional Soil Conservation Officer, and repair it to his satisfaction within such time as he may fix. The

provisions of sub-section (2) of Section 14 shall apply in respect of liabilities of the owners under this sub-section.

1. Clause (iv) inserted by Act No. 24 of 1981, w.e.f. 8-4-1981
2. Existing clause (iv) renumbered as clause (v) by Act No. 24 of 1981, w.e.f. 8-4-1981
3. Sub-section (3) substituted by Act No. 24 of 1981, w.e.f. 8-4-1981

37. Power of State Government to direct preparation and execution of scheme in area declared to be famine or scarcity area :-

(1) Notwithstanding anything contained in this Act, if the State Government is of opinion that a state of famine or scarcity prevails or is likely to prevail in any area, or it is considered necessary to remove rural unemployment in any area, it may make a declaration to that effect. Such declaration shall be published in the Official Gazette. On the publication of such declaration, the State Government may direct the Deputy Commissioner to appoint an officer as an Executive Officer. Such Executive Officer shall immediately take up execution of such works in such villages as the State Government may specify, and such works may include construction of embankments, desilting of tanks and improvement of tanks in such villages. Such direction shall also require the Board to prepare a scheme providing for matters specified in clauses (i) and (ii) of sub-section (1) of Section 5, or any other matters specified under sub-section (1) of that section in such villages.

(2) On a direction under sub-section (1) being issued by the Board, the Board shall ask the Executive Officer, to prepare a draft scheme, including therein all the works undertaken by him under sub-section (1), and other works in accordance with such instructions as the Board may issue, containing the particulars specified in sub-section (2) of Section 5. Such Executive Officer shall prepare a draft scheme accordingly and submit it to the Board for its approval.

(3) The draft scheme submitted to the Board may be approved by it without modifications or with such modifications as shall not affect the work carried out by the Executive Officer under sub-section (1). The scheme so approved by the Board shall be published in the Official Gazette and in the village in which the lands included in the scheme are situate. On the date on which the scheme is published in the village, it shall come into force and shall

have effect as if it were enacted in this Act. The provisions of Section 10 and sections following the said section and rules made under Section 35 shall so far as they can be made applicable, apply in respect of such scheme as if it were a scheme which has come into force under Section 9.

(4) Notwithstanding anything contained in sub-section (3), the owner of the land in which any work has been carried out for the purposes of a scheme under this section shall be liable pending the preparation of the statement under Section 13 to maintain the work to the satisfaction of the Divisional Soil Conservation Officer and to repair to his satisfaction within such time as he may fix and the provisions of sub-section (2) of Section 14, shall apply in respect of the liability of the owners under this section.

(5) All the works carried out under this section shall be liable to such subsidy as the State Government may fix from time to time.

38. Power to revoke scheme :-

Upon an application made by the Board, the State Government may at any time, by notification in the Official Gazette revoke any scheme after it has come into force and upon such revocation the provisions of this Act, except Section 26, shall cease to apply to such scheme. Such notification shall also be published in the village and at the Headquarters of the Taluk or Mahal and of the District in which the lands included in such scheme are situated.

39. Expenditure incurred by State Government to be charged on the Consolidated Fund of the State :-

The expenditure incurred by the State Government in pursuance of anything done under this Act shall be charged on the Consolidated Fund of the State.

40. Repeal and savings :-

(1) The Bombay Land Improvement Schemes Act, 1942 (Bombay Act XXVIII of 1942) and the Bombay khar Lands Act, 1948 (Bombay Act LXXII of 1948) as in force in the Bombay Area, the Coorg Land Development Act, 1951 (Coorg Act IV of 1951) as in force in the Coorg District, the Hyderabad Land Improvement Act, 1953 (Hyderabad Act XIX of 1953), as in force in the Hyderabad Area, and the Madras Land Improvement Schemes (Contour Bunding and Contour Trenching) Act, 1949 (Madras Act XXII of 1949) as in force in the Madras Area are hereby repealed:

Provided that Section 6 of the Karnataka General Clauses Act, 1899 (Karnataka Act III of 1899), shall be applicable in respect of such repeal and Sections 8 and 24 of the said Act shall be applicable as if the said Acts had been repealed and re-enacted by this Act.

41. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government may, by order published in the Official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) If any difficulty arises in giving effect to the provisions of this Act (otherwise than in relation to the transition from the provisions of the Acts in force before the commencement of this Act), the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

(3) Every order made under this section shall be laid before both Houses of the State Legislature.