The Odisha Gazette

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[1](ORISSA ACT 14 OF 1959)

[Received the assent of the Governor on the 12th October, 1959]

An act to consolidate and amend the laws relating to irrigation, assessment and levy of water rate and cess in force in different parts of the State of Orissa.

[2](And to provide for the regulation of use of water from Govt. Source.)

Whereas it expedient to consolidate and amend the laws relating to irrigation, assessment and levy of water rate and cess in force in different parts of the State of Orissa [2](and to provide for regulation of use of water from Government Source).

It is hereby enacted by the Legislature of the State of Orissa in the Tenth Year of the Republic of India as follows:

[3]STATEMENT OF OBJECTS AND REASONS

Large expenditure has been and is being incurred from the State exchequer for construction of irrigation works in the whole State of Orissa. A large number of minor irrigation works have already been constructed throughout the State under the Intensive Cultivation Scheme at a great cost to the exchequer and large number of minor and medium irrigation projects are under construction and will be constructed according to the plan.

It is necessary that payment of water rates and cess should be made obligatory on persons deriving benefits from the lands within the irrigable command of all these irrigation works whether water is actually used for cultivation or not , and that a fit return should in all cases alike be made to Government, on accounts of the increased profits derivable from lands irrigated by such works, so as to promote economy in the use of water and to create conditions which will make the maintenance and development of the irrigation schemes possible on a larger scale in future. It is also necessary that there should be suitable provisions for the efficient regulation and control of the supply of water from irrigation works and for certain other matters relating to irrigation

2. Added vide O.A. 3 of 1994 Pub.in O.G.E. No. 133 dt. 2.2.1994 Notification No. 1769-legis 2.2.1994.

and for the recovery of the cost of construction of watercourses when such cost is incurred by Government to popularise use of water from the irrigation works.

There is at present no law in the state to carry out all these objectives. The provisions of the existing irrigation Acts, are to all intents and purposes, not sufficient carry out all these objects consistent with the modern principles of using irrigation water to the full, nor is any of them applicable to the Ex-State areas. This Bill, therefore, seeks to consolidate the existing laws, introduce a system of firm basic rate as recommended by the committee appointed to investigate into the direct benefits of Hirakud Dam

Project and to bring about uniformity in the irrigation laws in the whole of the State of Orissa.

CHAPTER - I

PRELIMINARY

1. Short title and extent :– (1) This Act may be called the Orissa Irrigation Act, 1959.

(2) It extends to the whole of the State of Orissa.

NOTES

The scheme of the Act indicates that the lands within the irrigable command would be liable to compulsory basic water rate which would be in the nature of a tax as it would be leviable whether water is actually utilised or not from an irrigation work, while the scheme under Chapter IV makes provision for supply of water on payment of money and any levy under Chapter VI is co-related to actual supply - **See- (1070) 36 CLT 163**.

Orissa Irrigation Rules, 1961- Rules 13 and 20 - Application of the provisions and procedures to followed, indicated-Publication of notice in Form-F in every village from which water-course is proposed to be taken is mandatory-Purpose explained-**See- 1995 (i) OLR (NOC) 22: 80 (1995 CLT 18, *Baisakhu Bhoi and others v. State of Orissa and others*.**

2. Application :– Section 1 shall come into force at once. The State Government may, be ınotification in the Official Gazette, apply the rest of the provisions of this Act, or any portion thereof to any local area or to any irrigation work or class of irrigation works, and may also, by a like notification subsequently exclude any portion of such local area or any such irrigation work or class of irrigation works from the operation of this Act. From such date as may be specified therein.

NOTES

Sections 2 to 56 came into forcewith effect from 1st June 1961 in the whole of the State of Orissa except the area where water rates and ceses are being levied under the provisions of the Bengal Irrigation Act, 1876 (Ben, Act III of 1876); and the Madras Irrigation Cess Act, 1865 (Mad, Act VII of 1865), vide

1. Came in to force W.e.f. 1st June, 1961-vide O.G.E. No. 362-dt 25-02- 1961.

3. Repeal and savings :– On the date of application of this Act or any portion thereof to any local area or to any irrigation work or class of irrigation works by a notification under S. 2, such of the Acts specified in the Schedule and the rules and orders made thereunder as where in force in the area to which they apply and all laws, rules or orders in force and applicable to the

forming part of the

State of Orissa shall in respect of that area or any irrigation work or class of irrigation works, stand repealed:

Provided that such repeal shall not affect-

(a) the previous operation of the said Acts, rules and orders, or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Acts, rules, laws or orders; or

(c) any penalty, forfeiture or punishment in respect of any offence committed under the said acts, rules, laws or orders ;or

(d) any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid, and any such investigation, legal proceedings or any action for remedy may be continued, enforced or instituted with respect to any act previously done and any such penalty, forfeiture or punishment may be imposed as if this Act or any portion thereof bad not come into force.

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

[1][x x x x x x x x]

[2](1) ***Board of Revenue*** **–** "Board of Revenue" means the Board of Revenue as constituted under the Orissa Board of Revenue Act, 1951 (Orissa Act 23 of 1951) as amended by the Orissa Board of Revenue (Amendment) Act, 1957 (Orissa Act 18 of 1957);

(2) ***Collector*** **–** "Collector" means the Collector of a district and includes a Deputy Commissioner or other officer appointed under the act by the State Government to exercise all or any of the powers of a Collector;

(3) ***Commissioner*** **–**"Commissioner" means a Revenue Divisional Commissioner as defined in the Orissa Revenue Divisional Commissioners Act, 1957 (Orissa Act 19 of 1957);

[3](4) ***Compulsory basic water rate*** **–**"Compulsory basic water rate" means a flat-rate per acre of land within the culturable commanded area of an irrigation work payable to the State Government for supply of water, whether used or not, from an irrigation work for irrigation of staple cereal crop generally grown in such area.

1. Ommited by Act, 21 of 1974.
2. Renumbered by Act, 21 of 1974.
3. Inserted by Orissa Act, 21 of 1974.

Explanation :– For the purpose of this clause "law within culturable commanded area" shall not include any land which does not, except under circumstances specified in S. 22, actually get water from an irrigation work;

NOTES

Irrigation work is defined under Sec. 4 (d) of the Act as to include all land occupied by the Government for the purpose of reservoir, tanks, etc. and others structures occupied by or on behalf of the State Government on such land. A reservoir cannot be understood merely to be a means to hold water in a stream. It is only by controlling the following stream in all area that water can be stored in a reservoir. Viewed thus, irrigation work would include land used for such purpose. Reservoir may not necessarily mean only the constructed part of the land, but includes the area where the water is held by a dam constructed by the Government; then if from such a point falling within that area water is drawn it must be held that the appellant is liable to pay the water rate. Under Section 28 of this Act, the Irrigation Officer is empowered to fix the compulsory basic water rate for supply of water from a Government source as distinguished from a private source. ***Orient papers v. Tahasildar- Cum-Irrigation Officer*** **: 87 (1999) CLT 108 (Sc).**

(5) ***Culturable Commanded Area*** **–** "Culturable Commanded Area" means all lands under irrigable command of an irrigation work are fit for cultivation.

(6) ***Drainage work*** **–** "Drainage work" includes channels, either natural or artificial, for the discharge of waste or surplus water and all works connected with or auxiliary to such channels and escape channels from an irrigation work, embankments sluices, groins and all works for the protection of lands from flood or from erosion formed, constructed or maintained by the State Government either wholly or in part;

[1][6-a) ***"Government water source"*** **–**means any water source created naturally or otherwise by collection or deposit of water at a fixed place, any sub-oil water or water in a state of running such as rivers, nalas, springs, stream and the like, which is other than an irrigation work and is the property of the Government];

(7) ***Irrigation Officer*** **–**"Irrigation Officer" means an officer appointed under this Act to exercise control or jurisdiction over an irrigation work or any part thereof and includes an Additional Irrigation Officer;

(8) ***Irrigation Revenue*** **–** "Irrigation Revenue "includes all sums payable to Government for the use of or right to use of waste water from an irrigation work;

1. Renumbered by Act, 21 of 1974

(9) ***Irrigation Work*** **–**"Irrigation work" included-

(a) all reservoirs, tanks, anicuts, dams, weirs, canals, barrages, channels, pipes, wells, tube-wells and artisan wells constructed, maintained or controlled wholly or mainly by the State Government or by any Panchayat Samiti, constituted under the Orissa Panchayat Samiti and Zilla Parishad Act, 1959, (Orissa Act 7 of 1960) on behalf of such Government for the supply of storage of water;

(b) all works, embankments, structures, supply and escape channels connected with such reservoirs, tanks, anicuts, dams, weirs, canals, barrages, channels, pipes, wells, tube- wells and artisan wells and all roads constructed for the purpose of facilitating the construction or maintenance of such reservoirs,tanks, anicut, dams, weirs, canals, barrages, channels, pipes, wells, tube-wells and artisan wells;

(c) all water courses and drainage works as herein defined;

(d) all lands occupied by the Government for the purpose of such reservoirs, tanks, anicuts, dams, weirs, canals, Barrages, channels, pipes, wells, tube-wells and artisan wells and all buildings, machinery, fences, gates and other structures, occupied by or belonging to the State Government upon such lands;

(10) **Lands under irrigable command –** "lands under irrigable command" means such lands as are irrigated or capable of being irrigated by flow from an irrigation work being under its command and shall include also such cultivated lands which receive, in the opinion of the Irrigation Officer or the Collector, by percolation or otherwise from an irrigation work or by indirect flow, percolation or drainage from or through adjoining land, an advantage beneficial to and sufficient for the requirements of the crop;

[1](10-a) ***"Minor irrigation work"*** means an irrigation work having culturable commanded area of not more than two thousand hectares;

(11) ***Occupier –***"Occupier" includes an occupier of land or property who cultivates or possess the same for the time being;

(12) ***Outlet –***"Outlet" includes an opening constructed by the State Government in an irrigation work through which water is delivered into a water course of directly on to any land;

(13) ***Owner –***"Owner" includes every person having interest in the ownership of land or property and all rights and obligations which attach to an owner under the provisions of this Act shall attach

1. Substituted by Orissa Act, 17 of 1981.

jointly and severally to every person having such joint interest in the ownership;

(14) ***Prescribed–***"Prescribed" means prescribed by rules made under this Act;

[1](14-a) **"Rabi crop"** means any crop notified as such by the State Government and different crops may be notified in respect of different areas;

[2](14-b) ***Staple cereal crop –*** "Staple cereal crop" means any crop notified as such by the State Government and different crops may be notified in respect of different areas;

(15) ***Vessel –***"Vessel" includes, boats, rafts, timber and other floating bodies;

(16) ***Water Cess*** **–** "Water Cess" is the amount payable in respect of any land under the irrigable command of certain classes of irrigation works to be notified from time to time for the maintenance and repairs of such works;

(17) ***Water Course-*** "Water Course" means any channel or pipe not maintained at the cost of the State Government which is supplied with water from an irrigation work and includes all subsidiary work connected with any such channel or pipe, except the sluice or outlet through which water is supplied from an irrigation work to such channel or pipe;

(18) ***Water Rate -***"Water Rate" is the amount of revenue payable to Government for the supply of water for [3][any crop, other than staple cereal crop, [4][xxxxxx] whether the water is used or not.

Explanation :– When water rate is changed for irrigation, it shall be with reference to a single crop per acre of land .

CHAPTER - II

CONSTRUCTION AND MAINTENANCE OF IRRIGATION WORKS

5. Power to enter and survey, etc. :– (1) Any Irrigation Officer, or any person acting under the general or special order in writing of an Irrigation Officer, may-

(a) enter upon and lands adjacent to any irrigation work or water-course, or through which any irrigation work or water-course is to be made, and under take surveys or levels thereon;

1. Inserted by ibid.
2. Renumbered by Orissa Act, 17 of 1981.
3. Substituted by Orissa Act, 21 of 1974.
4. Words "to be notified by the State Govt, in this behalf and generally grown in the area omitted by Orissa Act, 24 of 1962.

(b) dig and bore into sub-soil;

(c) make and setup suitable land-marks, level-marks, water-gauges and other apparatus;

(d) do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected irrigation work or water-course under the charge of the said Irrigation Officer;

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

(f) enter upon any land or building for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands, irrigated thereby or chargeable with irrigation revenue and of doing all things necessary for the proper regulation and management of any irrigation work:

Provided that, if such Irrigation Officer or person proposes to enter into any building or any enclosed Court attached to a dwelling house he shall give the occupier of such building or Court at least twenty-four hour's notice in writing of his intention to do so.

(2) After entry under this section, the Irrigation Officer shall, before leaving, tender compensation to the owner or occupier of such land for any damage which may have been caused by any proceeding under this section; and, in case of dispute as to the sufficiency of the amount so tendered, he shall refer the matter for decision by the Collector, Such decision shall be final, and no suit shall lie in a Civil Court to have it set aside or modified.

(3) Whenever the State Government propose to construct any projected irrigation work they shall, after completion of the survey and enquiry as may be necessary, for the purpose in accordance with the provisions of Sub-section (1), published in the prescribed manner the description of the said work indicating the situation thereof and the area likely to be benefited or adversely affected thereby along with any further particulars as may be prescribed and call for objections or suggestions from persons interested to be filed before the prescribed authority within a time to be specified.

Every such objection or suggestion shall be heard and considered by the said authority in the prescribed manner, who shall after the close of the enquiry submit the entire record of the proceedings along with his report and recommendations to the State Government for their decision which shall be final:

1[Provided that nothing in this sub-section shall apply in respect of any minor irrigation work and the procedure to be followed in the construction of any such work shall be as may be prescribed.

Explanation :– For such purposes of this sub-section "construction of any project irrigation work" shall include the extension or improvement of any irrigation work if as a result of such extension or in provement—

1. Inserted by Orissa Act, 24 of 1962

(a) the anicut of such irrigation work is increased ;or

(b) such irrigation work is assigned a class higher than that to which it belonged].

6. Power to enter for repairs and to prevent accidents :– (1) in case of any accident happening or being apprehended to an irrigation work, any Irrigation Officer or any person acting under his general or special orders in writing in this behalf, may enter upon any lands adjacent to such irrigation work, and may execute all works which may be necessary for the purpose of repairing the damages caused by or preventing such accident.

(2) In every such case the Irrigation Officer shall tender compensation within one month to the owner or occupier of the said lands for all damages caused thereto by the entry or by any works executed thereon. If such tender is not accepted, the Irrigation Officer shall refer the matter to the Collector who shall thereupon give notice in writing to the person or persons interested in such land and to the Irrigation Officer requiring them to attend before him on a date to be fixed in the notice for the purpose of making enquiry as to the amount of compensation. The Collector shall after making such enquiry as he may deem necessary decide the amount of compensation payable to such person or persons.

7. Power to prohibit obstructions or to order their removal :–Whenever it appears to the State Government that injury to any land or to the public health or public convenience has arisen or may arise from the obstruction of any river, spring, stream, irrigation work or drainage work, they may, by notification published in the Gazette, prohibit within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or modification of such obstruction.

8. Power to remove obstructions :– (1) The Collector, or any Irrigation Officer authorised by the State Government in this behalf, may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify it within a time fixed in the order.

(2) If, within the time so fixed, such person does not comply with the order, the Collector or the said Irrigation Officer may remove or modify the obstruction and the expenses incurred in such removal of modification shall be recoverable from the person concerned as arrears of land revenue:

Provided that the Collector or the Irrigation Officer authorised by the State Government may, in cases of emergency, remove the obstruction before publication and the expenses incurred shall be recoverable in the same manner.

9. State Government to provide means of crossing canals :– (1) There shall be provided, at the cost of the State Government, suitable means of crossing canals constructed or maintained at the cost of the State Government at such places as the State Government think necessary for the reasonable convenience of the inhabitants of the adjacent lands.

(2) On receiving a statement in writing, signed by not less than five persons who may be owners or occupiers of such lands; to the effect that suitable crossings have not been provided on any canal, the Collector shall cause an enquiry to be made in the matter and if he thinks that the statement requires favourable consideration, he shall report his opinion thereon for the consideration of the State Government, and the State Government shall cause to be taken such measures in reference thereto in the prescribed manner.

10. Power to impress labour in emergency :– (1) Whenever it appears to the Irrigation Officer or any officer acting under his general or special orders in this behalf, that, unless some work is immediately executed, such serious damage shall happen or continued to happen to any irrigation work as is likely to cause or continue to cause serious public injury or serious interruption of the normal course of irrigation and that the labour necessary for the proper execution thereof cannot be obtained in the ordinary manner in time to prevent such injury or interruption or to remedy it within a reasonable time, the Irrigation Officer or any officer acting under the said orders, may, by public Proclamation by beat of drum, require every owner and occupier of irrigable land resident in any village within five miles of the place where the work is to be executed, and every agricultural labourer employed by them, to attend in person at such place to carry out such duties as he may allot to them in connection with the execution of the work necessary for the safety of the particular irrigation work.

2. If the Irrigation Officer, or any officer acting under his orders is of opinion that the amount of labour likely to attend in pursuance of an order under Sub-section (1) is not sufficient, he may at any time, in like manner and subject to the same conditions as laid down in Sub-section (1) issue a like order requiring the attendance of all cultivators or of all agricultural labourers or of both resident within five miles of the place where the work is to be executed.

3. The rates of wages to be paid for such work shall be at the approved rates of the Works Department for labour or services performed during day time and at double such rates for any labour or services performed during night time, and any person attendinging compliance with the proclamation shall be paid for the whole period during which he is thereby prevented from following his ordinary avocation.

4. No person shall be required to carry out any duties under this section for which such persons unfitted by reason of age, sex, health or bodily infirmity.

CHAPTER - III

CONSTRUCTION AND MAINTENANCE OF WATER-COURSES

11. Construction of water-courses :– For the purposes of making use of the water of an Irrigation Work the water-courses shall be constructed by the persons to be benefited at their own cost.

12. Construction, extension, improvement or alteration of a water-course on the application of person interested :– (1) Any owner of land desiring the construction, extension, improvement, or alteration of a water-course
may apply in writing to the Irrigation Officer, and the said Officer may, after giving such notice and causing such enquiries as may be prescribed either permit the applicant to construct, extend, improve or alter the said water-course or, if the applicant so desires, have it constructed, extended improved or altered through Government agency on such terms and conditions to be fixed by the Irrigation Officer as regards payment of costs, mode of execution, time of completion, facilities to be afforded by the applicant to safeguard other interests or to benefit other lands whose owners may apply for the same, and other matters as may be relevant in each case or may reject the application.

(2) Any person aggrieved by an order under Sub-section (1) may within thirty days from the date of intimation of the order, appeal to the Collector and his decision thereon shall be final.

(3) if it is necessary to acquire any land for the purpose of Sub-section (1) the Collector may on application for the said purpose proceed to acquire the same under the provisions of the Orissa Development of Industries, Irrigation, Agriculture, Capital Construction and Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (Orissa Act 18 of 1948) or any other law for the acquisition of land for the time being in force.

NOTES

Secs. 12, 29, 47– Orissa Irrigation Rules 46,47,54,57 and 59 Limitation and procedure for appeal, indicated- 1995 (I) **OLR (NOC) 22; 80(1995) CLT 18,**

13. No alteration of water-course except with the consent of Irrigation

Officer- No water-course construct, extended, improved or altered under the provisions of 12 shall be altered without the consent of the Irrigation Officer.

14. Obligations of owners of land receiving supply from water-course :– All owners and occupiers of land receiving supply of water from a specified water-course shall be bound-

(a) to maintain such water-course in a fit state of repair;

(b) to allow the use of it to any person entitled to the same by reason of an order passed under S. 12 or otherwise;

(c) to construct and maintain all works necessary for the passage across such water-course of canals, water-courses, drainage, channels and public roads existing at the time of such construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of the neighbouring lands.

15. Enforcement of said obligations :– (1) If the owners and occupiers of lands receiving supply of water from a specified water-course fail to fulfil any obligation imposed on them by Cls. (a) and (c) of S. 14, the Irrigation Officer may require them by public notice to execute the necessary work or repair within such period as may be prescribed not being less than five days from the date of the said notice and in case of their default the Irrigation Officer may
execute the same on their behalf.

(2) The expenses incurred by the Irrigation Officer on any work or repair under Sub-section (1) shall be recoverable pro rata on the basis of the acreage of land benefited by the water-course from the defaulters as arrears of land revenue.

16. Settlement of disputes concerning water-courses :– Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of water-course, or among joint owners of a water-course as to their respective shares of the expenses of constructing or maintaining such water-course or as to the amount severally to be contributed by them towards such expenses or as to failure on the part of owner to contribute his share, any person interested in the matter of such dispute may apply in writing to the Irrigation Officer stating the matter in dispute.

Such officer shall thereupon proceed to make a summary enquiry into the matter in the manner prescribed and pass order thereon.

Against the said order of the Irrigation Officer an appeal shall lie to the Collector within thirty days from the date of communication of said order and the decision of the Collector in appeal shall be final unless set aside by a decree of a Civil Court.

17. Use of land acquired for water-course for other purpose :– No land acquired under this Chapter for a water-course shall be used for any other purpose without the previous consent in writing of the Collector.

18. Construction of water-course by Government and recovery of cost incurred :– Notwithstanding the previous contained in Sections 12 and 13 of this

Chapter if the State Government consider it expedient to construct the water-courses pertaining to any irrigation work, they may lay out, construct and maintain at the cost of Government in the first instance, the entire system of water-courses or a substantial section of it, and effect recovery of the cost so incurred from the owners and occupiers of the lands other than the tenants protected under the Orissa Tenant's Relief Act, 1955 (Orissa Act V of 1955) benefited thereby in the form of a general enhancement of the [1][compulsory basic water-rate or water-cess] [2][or by the imposition of a special rate per acre in the manner prescribed:

Provided that in consideration of special circumstances the State Government may decide to exempt the said owners and occupiers either wholly or partly from the said payments.

1. Substituted by Orissa Act, 10 of 1968. 2.
Substituted by Orissa Act, 21 of 1974.

19. Special provision for recovery of past expenses incurred by Government- All expenses incurred by the State Government in connection with the construction and maintenance of water-courses and acquisition of lands therefore before the coming into force of this Act under any irrigation works including the Hirakud Dam Project shall be recovered from the owners and occupiers of the lands other than the tenants protected under the Orissa Tenant's Relief Act, 1955 (Orissa Act V of 1955) benefited or to be benefited by such water-courses [1][in the form of a general enhancement of the compulsory basic water-rate or by the] imposition of a special rate per acre in the manner prescribed under S. 18 :

Provided that in consideration of any special circumstances the State Government may exempt such owners and occupiers either wholly or partly from payment of such [1][water-rate or special rate, as the case may be].

CHAPTER - IV

SUPPLY OF WATER

20. Water supply to be subject to rules :– All supply of water from an irrigation work shall be subject to such rules or orders as may be prescribed or issued by the State Government from time to time with respect to rates, conditions or any other matter.

[2][20-A. Regulation and use of water from Government water source :– (1) The State Government may, in the public interest-regulate the use, diversion, collection or consumption of water from Government water source for industrial and commercial purposes other than agriculture.

(2) On and after commencement of the Orissa Irrigation (Amendment) Act, 1993, no person shall use, divert, collect or consume water from Government water source for any industry or commercial establishment except in accordance with a licence granted under this Act.

(3) The licence referred to in Sub-section (1) shall be subject to such terms and conditions, and shall be obtained from such authority, in such manner, and subject to payment of such fees, as may be prescribed.

(4) Notwithstanding anything contained in Sub-section (1) or in any subsisting contract, any person using, diverting, collecting or consuming water from Government water source for any industry or commercial establishment immediately before the commencement of the Orissa Irrigation (Amendment) Act, 1933 may continue to do so and shall be deemed to have been granted a licence under this Act–

(i) for a period of three months from the date of such commencement; or

1. Substituted by Orissa Act, 21 of 1974.

(ii) if an application for the required licence is duly made in the prescribed manner to be appropriate authority with in the period specified in Clause (i), till the disposal of such application.

(5) Any person who uses, diverts, collects or consumes water from Government water source in contravention of the provisions of this section, shall on conviction, be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to twenty-five thousand rupees, or with both and where any such person after being convicted under this sub-section for the offence continues to commit the offence or commits it for second or any subsequent time he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to fifty thousand rupees, or with both.

(6)(a) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the Company for the conduct of the business of the company, as well as the Company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this Sub-section shall render any such person liable to any punishment, if he proves that the offence has been committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(b) Notwithstanding anything contained in Sub-section (1), where an offence under this Act has been committed by company and it is proved that the offence has been committed with consent or connivance or is attributable to any neglect on the part of , any Director, Manager, Secretary or other Officer of the Company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) The rules that may be made for the purpose of this section may provide that the State Government may, in any case or class of cases, exempt in part or in full the payment of the required licence fee for any specified period in the interest of industrial and commercial developments in the State.

Explanation :– For the purpose of this section-

(a) "Commercial establishment" shall have the same meaning as defined in the Orissa Shops and Commercial Establishment Act, 1956;

(b) "Company" means a body corporate and includes a firm of other association of individuals;

(c) "Director in relation to firm", means a partner in the firm; and

(d) "Industry" shall have the same meaning as defined in the Industrial Disputes Act, 1947.]

21. Water to be supplied on written application :– (1) Any person desiring to have supply of water from an irrigation work shall submit a written application to that effect to the Officer duly empowered to receive such applications within such date, in such form and in such manner as shall from time to time be prescribed by the State Government in this behalf:

[1][Provided that no such application shall be necessary for irrigation of the crop or crops for which a compulsory basic water-rate is levied by the State Government under S. 28 [2][or for irrigation of any rabi-crop].

[2][(1-a) The supply of water for rabi crops shall be made and regulated in such manner and shall be subject to such conditions as may be prescribed.]

(2) ***water supply for purposes other than those of irrigation.*** If the application be for a supply of water to be used for purposes other than those of irrigation, of officer duly empowered may, subject to the rules to be made under this Act, give permission for water to be taken for such purposes under such special conditions and restriction as to the limitation, control and measurement of the supply as may be imposed in each case and Subject to such special rates as may be fixed for the purpose.

NOTES

Supply of water for purposes other than the irrigation is also covered by the statute and levy of water rate or water cess for such supply is also provided therein **[See 61 (1996) CLT 209].**

22. Power to stop water supply :– [3][(1) the supply of water to any water course or to any person who is entitled to such supply shall not be stopped except under such circumstances and subject to such limitations as are specified below, namely:

(a) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by a competent authority;

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

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

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

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

(f) whenever and so long as it is necessary to stop such supply pending a change in the source thereof by an officer duly empowered in this behalf .

[4] [x x x x x x x x x x x]

1. Substituted by Orissa Act, 21 of 1974.
2. Inserted by Orissa Act, 17 of 1981.
3. Renumbed by Orissa Act, 10 of 1978.
4. Omited by Orissa Act, 21 of 1974.

23. Duration of supply :– When water is supplied for the irrigation of one or more crops, the permission to use such water shall be deemed to continue only during the period such crop or crops come to maturity.

24. Right to supply of water transferable along with property in respect of which supply given :– Every right to be supply of water for agricultural purposes to any land or other immovable property shall be attached thereto and shall be presumed to have been so transferred whenever a transfer of such land or other immovable property takes place.

Right to use of water not transferable in other cases without permission of officers duly empowered. No person entitled to the use of any water or land appertaining to any irrigation work, except in the case where an agreement has been executed in the manner prescribed, shall be entitled to use the water of the said irrigation work, for the purpose of selling or sub-letting, or otherwise transferring his right to such use without the permission of an officer duly empowered to grant such permission.

25. No claim against State Government :– (1) No claim other than by way of remission of water rates shall lie against the State Government in respect of loss causes by the failure or stoppage of water of an irrigation work by reason of any cause beyond the control of the State Government or of any repair, alteration or addition to the irrigation work, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which is considered necessary.

(2) Claims on account of interruption from other causes. If the supply of water to any land irrigation from an irrigated work be interrupted otherwise than in the manner specified in the preceding Sub-section, the Collection may on application allow such remission as may be considered reasonable and his decision in this regard shall be final.

NOTES

Sub-section (1) as apparent from the provisions contained therein does not purport to bar the Jurisdiction of the Civil Court in respect of suits for damages field on account of any tortious action. It only lays down that in the event of any loss caused by the failure or stoppage of water of an irrigation work, the affected party is to claim a remission of water rates. Sub-section (2) provides as to how such claims for remission of water rates can be made before the Collector ***State v. pranabandhu. 85 (1998) CLT 553 : AIR 1998 ORISSA 156.***

26. Owner and occupier to afford free passage of water over their lands :– (1) For the purpose of irrigation or drainage on lands under the irrigable command of an irrigation work the owners or occupiers of such land shall be bound to afford free passage of water through or over all lands in their possession or under their control without causing unnecessary loss or damage to their lands.

(2) If the owner or occupier refuses to allow free passage for water through or over lands in his possession or control, the Irrigation Officer may take such expeditious steps as he thinks necessary to allow such passage and recover the cost in that behalf, if any, in the manner prescribed.

CHAPTER - V

LEVY OF WATER RATE AND CESS

27. Classification of irrigation works :– [1][All irrigation works belonging to or constructed by or on behalf of the State Government shall be classified into such number of classes as the State Government may determine having regard to the cost of construction of the work, the duration of supply of water and the amount of water supplied from such works and the compulsory basic water-rate, water-rate or water-cess shall believed in respect of each such class of irrigation work in any district or specified area at such rates as may be fixed by the State Government in the prescribed manner.

28. Levy of water rates and compulsory basic water rates :– The Irrigation Officer or such officer duly empowered by the State Government shall thereupon in the prescribed manner fix [2][the compulsory basic water rate and] the water-rate payable in respect of each such work in any district or in any specified area according to the classification and the rates as finally determined under S. 27:

Provided that levy of [3][compulsory basic water rate] shall not be made in respect of low lands which are ordinarily liable to the water logged, the particulars where of shall be, as may be prescribed:

Provided further that such levy with respect to low lands which do not ordinarily require irrigation except in years of drought shall be at such concessional rate as may be prescribed :

Provided also that such levy with respect to area where lift irrigation is allowed to be provided at the expense of the owners and occupiers shall be at such reduce rate as may be prescribed :

Provided further that in respect of lands which are already under irrigation from private sources, the [4][basic water-rate] to be levied shall be the difference between the [3][compulsory basic water-rate] of the irrigation work which is provided and the estimated rate for the existing source of irrigation.

Explanation :– The said estimated rate shall be, as may be determined in the prescribed manner.

1. Substituted by Orissa Act, 24 of 1962. 2.
   Inserted by Orissa Act, 21 of 1974. 3.
   Substituted by ibid.
4. Omitted by Orissa Act, 10 of 1968.

[1][**28-A. Re- assessment of water rate after consolidation of holdings :–** (1) After closure of consolidation operations carried on in any area under the Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 (Orissa Act 21 of 1972), the officer empowered in that behalf by the Sate Government shall re-assess the water rate of compulsory basic water rate, as the case may be, in respect of lands situate in the said area.

(2) In re-assessing the rates as aforesaid, the officer shall, as far as may be, follow the procedure prescribed for fixation of the rates under S.28.

28-B.Review :– An order passed under S. 28 or S. 28-A may, after giving notice to all persons concerned, be reviewed within the prescribed period by the officer who passed the order or by his successor in office either on his own motion or on an application made by an aggrieved person, on the ground of any clerical mistake or error in the course of proceedings under the said section.]

[2][**29. Appeal :–** (1) Any person aggrieved by any order made under S.28, S.28-A or S. 28-B may prefer an appeal in the prescribed manner and within the prescribed period to the Sub-divisional Officer having jurisdiction.

(2) The Sub-divisional Officer having jurisdiction may also on his own motion annul or modify any such order as aforesaid:

Provided that no proceedings under this sub-section shall be initiated after the expiry of the prescribed period and no orders shall be passed thereunder without giving the parties concerned a reasonable opportunity of being heard.

NOTES

When the scope of enquiry after remand was not restricted by the appellate authority, it was certainly permissible by the Irrigation Officer to examine all questions arising thereto **: *Orient Papers v. Tahasildar -cum- Irrigation Officer* : 87 (1999) CLT 108 (SC).**

29 - A. Revision :- Any person aggrieved by an order passed by the Sub-divisional Officer under sub-S. (1) or sub-S. (2) of S. 29 may file an application in the prescribed manner and within the prescribed period before the Collector for revision of such order.]

30. Levy of water cess :– In addition to or in lieu of the water rates payable under the provisions of this Act, the State Government may, levy a water cess at such rates and in such manner as shall be prescribed by the State Government from time to time:

[3][Provided that no water cess shall be levied in addition to the compulsory basic water rate.]

1. Added by Orissa Act, 17 of 1981.

2. Substituted by Orissa Act, 17 of 1981. 3. Added by Orissa Act, 21 of 1974.

31. Unauthorised use of water :– Water is said to be used in a unauthorised, manner when it is taken from any irrigation work outlet or water-course in contravention

of any of the provisions of this Act or of the rules made thereunder or of any order passed by an Irrigation Officer thereunder and its use gives rise to, or may be expected to give rise to, benefits of any kind.

32. Liability of occupiers of lands benefiting from unauthorised use of water :– (1) If water is used in an unauthorised manner and if the person by whose act or neglect such use has occurred cannot be identified the occupiers of the lands on which such water has flowed, if such lands have received benefit therefrom, shall be liable to the charges made for such use.

(2) If water supplied through a water course for a specific purpose be suffered to run to waste, and if, after inquiry by the Irrigation Officer the person by whose act or neglect such water was suffered to run to waste cannot be discovered, the person or persons chargeable in respect of the water supplied for the purpose shall be individually or jointly liable as the case may be for the charges made in respect of water so wasted.

All question arising under this section shall be decided by the Irrigation Officer.

(3) The levy of rates for unauthorised use or for wastage shall not bar a prosecution for any offence connected with such use or wastage.

(4) The decision made by an Irrigation Officer under this section shall subject to any order passed by the Collector on appeal from such decision, if any, shall be final.

(5) Rules may be made under this Act regulating the procedure of Irrigation Officers in imposing liability for, and in assessing irrigation revenue payable under this section.

33. Dates of payment of charges and mode of recovery of arrears :–(a) The State Government shall prescribe the dates for the payment of charges of [1][complusory basic water-rate] and water cess.

(b) All charges recoverable under the Act remaining unpaid after the due date shall be recoverable with interest at 6 percent per annum as arrears of land revenue.

34. Amount payable under this Act to be a charge on the land benefited :– The water-rate and cess and other charges payable by any person under this Act in connection with irrigation shall be a charge on the lands benefited and the crops raised thereon.

35. Persons liable to pay the charges under the Act and the extent of such liability :– Notwithstanding anything contained in any other law for the time being in force the water-rate and cess shall be recoverable from the owner and the occupier in such proportion as may be prescribed:

Provided that where such charges remain in arrear either the owner or the occupier may deposit the arrear dues in full in order to save the land and

1. Inserted by Orissa Act, 21 of 1974.

crop thereon from attachment or sale and seek redress in a Civil Court for the recovery of the amount deposited on behalf of the other party.

36. Concession to the people who have contributed to the cost of execution on an irrigation work :– Where the people of a local area have contributed to the cost of construction of an irrigation work, a rebate in water-rate or cess may be allowed by the State Government for a specified number of years to the persons who had contributed

towards such construction. The rebate shall be in the same ratio as the value of such contribution bears to the total cost of construction of such irrigation work. The procedure to be followed for fixation of the annual rate of such rebate and the number of years for which such rebate will continue to be allowed in any district or in any specified area shall be fixed in the prescribed manner and the same shall be final.

37. Exemption of water-rate and compulsory basic water-rate in full or in part :–[1][(1) The Sate Government may, direct exemption and recovery of the water-rates and cess recoverable under this Act in the prescribed proportion and manner every year as will appear to them fair and equitable .

[2][(2) The Sate Government may, by order and subject to such terms and conditions as may be specified therein, delegate their powers under sub-S. (1) to the Sub-divisional Officer to be exercised by him in relation to the local area within his jurisdiction.]

[3][provided that no order shall be made in exercise of the power so delegated without the prior approval of –

(i) Where the amount of water-rate or cess involved in any case exceeds five hundred rupees, but does not exceed one thousand rupees, the Collector of the district having jurisdiction;and

(ii) Where such amount exceeds one thousand rupees, the Commissioner having jurisdiction.]

38. Meaning of the term "water-rate" used in this Chapter :– [4][For the purposes of this Chapter, the term "water-rate" shall mean "compulsory basis water-rate" or "water-rate", as the case may be.]

CHAPTER - VI

PENALTIES

39. For damaging irrigation work etc. :– Whoever voluntarily and without proper authority–

(1) damages, alters, enlarges, reduces or obstructs any irrigation work;

(2) interferes with, or increases or diminishes the supply of water in, the flow of water from, through, over or under any irrigation work

1. Renumbered by Act, 11 of 1975.

2. Inserted by ibid.

3. Substituted by Orissa Act, 17 of 1981. 4.

Substituted by Orissa Act, 21 of 1974.

or by any means raises or lowers the level of the water in any irrigation work;

(3) corrupts or fouls the water of any irrigation work so as to render it less fit for the purposes for which it is ordinarily used;

(4) interferes with or alters the flow of water in any river, spring or stream, so as to endanger, damage or render less useful any irrigation work;

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

(6) destroys, tampers with, or removes, any apparatus,or any part thereof meant for controlling, regulating or measuring the flow of water in any irrigation work;

(7) Passes, or causes animals or vehicles to pass, in or across any of the works, banks or channels of an irrigation work contrary to rules made this Act, after such passage has been prohibited;

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

(9) neglects, without reasonable cause, to assist or to continue to assist in the execution of any repair, clearance or work, when lawfully bound so to do under S. 10.

(10) violates any rule made under this Act, for breach whereof the State Government in such rules, direct that a penalty may be imposed;

(11) causes any vessel to enter or navigate in any canal contrary to the rules for the time being prescribed by the State Government for entering or navigating such canal;

(12) While navigating any canal neglects to take proper precautions for the safety of the canal and of vessels thereon; or

(13) being responsible for the maintenance of a water-course, or using a water-course neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorised distribution of the water therefrom, or uses such water in an unauthorised manner or prevents or interferes with the lawful use of such water-course by any person authorised to use the same;

shall, when such act shall not amount to the offence of committing his chief within the meaning of the Indian Penal Code (45 of 1860) on conviction
before a Magistrate, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

40. For endangering stability of irrigation work, etc :– Whoever without proper authority–

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

(2) opens, shuts or obstructs, or attempts to open, shut or obstruct any sluice of any irrigation work;

(3) makes any dam or obstruction, for the purpose of diverting or opposing the current of a river, spring, stream or canal on the bank whereof there is a flood embankment, or refuses or neglects to remove any such dam or obstruction when lawfully required so to do; shall, when such act shall not amount to the offence of committing his chief within the meaning of the Indian Penal Code (45 of 1860) on conviction before a Magistrate of the first or second class, be furnished for each such offence with fine which may extend to six months, or with both.

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

42. Persons employed on canal may take offenders into custody :–Any person in charge of, or employed upon, any irrigation work may remove from the lands or buildings, belonging, thereto, or may take into custody without a warrant any person who in his view—

(1) willfully damages, obstructs or fouls any irrigation work; or

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

and upon so taking him into custody shall produce him forthwith before a Magistrate or at the nearest Police-station, to be dealt with according to law.

43. Saving of prosecution under other laws :– Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Act:

provided that no person shall be punished more than once in respect of one and the same act or omission.

44. Payment of fine as award to informant :– Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms in appeal, or revision a sentence of such fine, or a sentence of which such fine forms part may direct that the whole or any part of such fine or any portion of it may be paid by way of reward to any person who gave information leading to the detection of such offence or to be conviction of the offender.

If the fine be so awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of appeal or revision has elapsed, or if an appeal or revision be presented till after the decision of appeal or revision.

45. Composition of offences :– (1) Any Irrigation Officer may accept from any person, against whom a reasonable belief exists that he has committed an offence punishable under this Act, or the rules made there under, a sum of money not exceeding two hundred rupees, by way of composition for such offence.

(2) On payment of such sum of money, the said person if in custody, shall be discharged, and no further proceedings shall be taken against him in regard to the offence so compounded.

(3) Rules may be made under this Act regulating the procedure to be adopted in compounding an offence.

CHAPTER - VII

MISCELLANEOUS

46. Appointment of officers and inspection of irrigation works :–(1) The State Government, or , subject to such rules as may be made under this Act, any officer so empowered in this behalf, may–

(a) appoint such officers with such designations, define the local limits of jurisdiction of such officers and assign to them respectively such powers and duties under this Act, as the State Government of such officer, may deem fit;

(b) invest any Government Officer in any department, either personally or in right of his office, or any other persons, with such powers, and impose upon him such duties, under this Act, as the State Government or such officer, may deem fit:

Provided that any assignment of, or investment with powers or duties may under this section may at any time be cancelled or varied by the authority who made it.

(2) The State Government shall have the power to direct in the manner prescribed the annual inspection of and submission of reports on all irrigation works in respect of their proper maintenance and repair.

47. Appeals :– Save as provided for in this Act and rules made thereunder an appeal shall lie against every order passed by an Irrigation Officer or any officer duly authorised by such Irrigation Officer or the Collector under Chapters II,III, IV and V of this Act to the Collector or the Commissioner respectively within thirty days of the date of the order appealed against.

48. Power of revision :– (1)The Board of Revenue or the Commissioner in the prescribed manner may call for and examine the records of the proceedings under this Act of any officer subordinate to him for the purpose of satisfying himself as to the correctness, legality or propriety of any decision or order passed an the regularity of the proceedings of such officer.

(2) When on examining the records of any case, the Board of Revenue or the Commissioner considers that the order or decision of such officer should be revised, he may reverse or alter such order or decision or pass such other order as he may think fit:

Provided that no order adversely affecting any party shall be passed unless the said party is given an opportunity of being heard.

49. Offences under this Act to be cognizable :– Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), all offences punishable under this Act shall be cognizable.

50. Power to summon and examine witnesses :– Any officer empowered under this Act to conduct any enquiry, may exercise all such powers connected with the summoning and examining the witnesses and the production of documents as are conferred on a Civil Court by the Code of Civil Procedure, 1908 (5 of 1908) and every such enquiry shall be deemed to be a judicial proceeding .

51. Manner of serving notices :– Service of any notice under this Act shall be made in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908).

52. Jurisdiction of Civil Courts barred :– No Civil Court shall have jurisdiction to entertain any suit relating to this Act except provided in Sc. 16 and 35 of this Act.

53. Power to make rules :– (1) The State Government may, after previous publication make rules not inconsistent with the provisions of this Act to carry out all or any of the provisions or purposes of this Act.

(2) In Particular and without prejudice to the generality of the foregoing power such rules may provide for any matter which has to be or may be prescribed under this Act.

1[(3) All rules made under this section shall be laid before the Legislative Assembly as soon as possible after they are made for a total period of fourteen days which may be comprised in one or more sessions and shall be subject to such modifications as the Assembly may make during the said period:]

Provided that no rule with respect to rates as specified in S. 20 shall be deemed to have been made until the expiry of the said period.

1. Substituted by Orissa Act, 24 of 1962

NOTES

Amendment Bill of Orissa Irrigation Rules of 1976 for enhancing rate was placed before the Assembly for 11 days after which the Assembly dissolved and fresh election was held-After the new Assembly started it was placed for 3 days and the Amendment Rule was passed-Under Sec. 53(3) the Rules should be placed before Assembly for 14 days which may be comprised in one or more sessions of Assembly- It means that the Rules should be laid down for complete 14 days before one Assembly-It can not be for some days before one Assembly and for some days before another new Assembly so as to constitute 14 da-Reasons and purpose explained-Rules quashed 01992 (I) OLR 281:73 (1992) CLT 504::\34(1992) OJD 167 (CIvil): AIR 1992 Ori. 213.

54. Revision of record-of-rights :– 1[(1) Notwithstanding anything to the contrary in any other law for the time being in force or in any contract, custom, practice or usage the State Government may in respect of any land during the currency of a rent settlement direct any Revenue Officer specially empowered by them in that behalf to take action in accordance with any one or both of the following provisions, namely:

(a) to assign such land, in consultation with Irrigation Officer having jurisdiction, an irrigation source different from what was obtaining previously; and

(b) where irrigation charges are included in the rent payable in respect of such land to separate such charges from the said rent.

(2) The Revenue Officer after taking action under sub-S. (1) shall amend the record-of-rights in respect of the land accordingly and inform the same to the Irrigation Officer having jurisdiction who shall there upon be competent to levy the irrigation charges in accordance with such amendment and the provisions of this Act.

(3) After effecting the amendment the Revenue Officer may reassess the rent of the land in accordance with the law in force.

(4) No final order under this section shall be passed by the Revenue Officer unless a reasonable opportunity of being heard has been given to the persons interested.

(5) An appeal shall, if presented within thirty days from the date of the order, lie from every order passed by the Revenue Officer under this section to the prescribed authority .

55. Protection of persons acting in good faith and limitation for suit or prosecution :– (1) No suit, prosecution or other legal proceedings shall be instituted against any public servant or officer or person duly authorised under this Act in respect of anything in good faith done or authorised under this Act or the rules or orders made there under.

(2) No suit or prosecution shall be instituted against any public servant or officer 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 commission of the act complained of.

1. Substituted by Orissa Act, 24 of 1962

56. Power to remove difficulties :– If any difficulty arises invoking effect to the provisions of this Act, the State Government may, as occasion may require, by order, do anything, not incosistent with this Act or the rules made thereunder, which appear to them necessary for the purpose of removing the difficulty.

ANNEXURE

Provisions of Amending Act not incorporated in the original Act The Orissa Irrigation (Amendment) Act, 1974

(Orissa Act 21 of 1974)

Savings :– Where in respect of any lands within any Block as constituted prior to the date of coming into force of this Act, an agreement has been executed in pursuance of the proviso to S. 21 of the Principal Act, as amended by this Act shall not apply to the lands within such Block till the expiry of the period for which the agreement has been entered into the expiry of the period for which the agreement has been entered into and all such agreements shall continue in force during the aforesaid period.

SCHEDULE

[*See Section 3*]

Number and year	Short title	Extent of application
1	2	3
Bengal Act III 1878	The Bengal Irrigation Act, 1976	The old District of Cuttack, of Puri and Balasore as constituted prior to merger of States and Khondmals Sub-division of Phulbani District.
Central Provinces of 1931	The Central Provinces Irrigation Act, 1931	Ex- C.P., area of Nawapara Sub-division of Kalahandi District and Ex-C.P. area in Sadar Sub-division of Sambalpur District (Mahadebpali P.S.. area)
Central Act VIII 1873	The Northern India Canal and Drainage Act, 1873	The Districts of Samblapur of excluding ex-State areas and ex-C.P. area transferred to Orissa in 1936.
Madras Act VII Cess Act, 1865	The Madras Irrigation and Koraput and Baliguda	The Districts of Ganjam of 1865 Sub-Division of Phulbani District.

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