

THE ON-FARM WATER MANAGEMENT AND WATER USERS' ASSOCIATIONS ORDINANCE, 1981

(V of 1981)

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**'THE ON-FARM WATER MANAGEMENT AND WATER USERS'
ASSOCIATIONS ORDINANCE, 1981**

(V of 1981)

[22 April, 1981]

An

Ordinance

to provide for on-farm water management, conservation and optimum utilization of irrigation water sources and formation of water users' associations in the Province.

Preamble.- WHEREAS it is expedient to provide for on-farm water management, conservation and optimum utilization of irrigation water sources, formation of water users' associations and matters ancillary thereto;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order 1 of 1977), the Governor of the Punjab is pleased to make and promulgate the following Ordinance:—

1. Short title, extent and commencement.— (1) This Ordinance may be called the On-Farm Water Management and Water Users' Associations Ordinance, 1981.
(2) It extends to the whole of the Province of the Punjab.
(3) It shall come into force at once.

2. Definitions.— (1) In this Ordinance, unless the context otherwise requires, the

following words and expressions shall have the meaning hereby respectively assigned to them:-

(i) "Association" means a Water Users' Association (Anjuman-e-Abpashan) registered under the Ordinance;

*((ii) "Field Officer" means and includes the District Officer On-Farm Water Management or any other officer empowered as such by the Government "[;]]

(iii) | "Government" means Government of the Punjab;

(iv) "irrigator", in respect of any land which is irrigated from a watercourse, means any person for the time being directly deriving benefit by such irrigation, and includes a land owner, tenant or lessee of such land;

'This Ordinance was promulgated by the Governor of the Punjab on 19th April, 1981; and, published in the Punjab Gazette, (Extraordinary), dated 22nd April, 1981; pages 295-A to 295-H.

Substituted by the On-Farm Water Management and Water User's Associations (Amendment) Ordinance, 2001 (XXV of 2001, w.e.f.13.10.2001, s.2; and published in the Punjab Gazette (Extraordinary), pages 1713-1714, which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

3Misprinted in the Gazette as "full-stop".

(v) "Watercourse" means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government and such subsidiary works belonging to any such channel.

(vi) | "prescribed" means prescribed by rules framed under the Ordinance;

(vii) "improvement" means and includes—

(a) | demolishing of the old watercourse;

(b) removing of vegetation including trees, etc. growing in the way of a watercourse sanctioned by Government;

(c) unloading of the banks of the watercourse by physical removal of the silt deposit;

(d) clearance of silt from the bed of the watercourse;

(e) re-alignment of the watercourse based on engineering survey and design;

(f) installation of pacca nakkas at sanctioned sites;

(g) construction of culverts on the crossings;

(h) brick-lining of weak reaches of the watercourse up to certain fixed limit; and

(i) construction, reconstruction or maintenance of buffalo wallows, where required.

(2) | Words and expressions used in the Ordinance but not defined herein shall have the same meanings as are respectively assigned to them in the Canal and Drainage Act, 1873 (VIII of 1873) and the Punjab Land Revenue Act, 1967 (W.P. Act XVII of 1967).

3. Field Officer to direct irrigators to re-construct, etc. the watercourse.— (1)

Where a Field Officer, on receipt of an application to this effect or on the basis of his own observation, is of the opinion that a watercourse needs _ reconstruction, maintenance, or improvement, he may pass an order directing the irrigators of the watercourse jointly responsible with others for the re-construction or maintenance of a watercourse or jointly making use of a watercourse with others to reconstruct, maintain or improve the watercourse within the period specified in that order.

(2) | Where an order is passed under sub-section (1), every irrigator jointly responsible with others for the re-construction, maintenance or improvement of a watercourse, or jointly making use of a watercourse with others shall be responsible to execute his share of work necessary for, and be liable to pay his share of the cost of, such reconstruction, maintenance or improvement and if the share of his liability as determined by the Field Officer is not paid by him within such period as is specified by the Field Officer, the same shall be recoverable from that person as if it were an arrear of land revenue.

(3) If on receipt of an order under sub-section (1), the persons to whom it is addressed do not, within the period specified, reconstruct, maintain or improve the watercourse to the satisfaction of the Field Officer, he may take necessary steps for the reconstruction, maintenance or improvement of the watercourse.

(4) | Where the irrigators of a watercourse jointly responsible with others for the reconstruction, maintenance or improvement of a watercourse or jointly making use of a watercourse with others, have formed themselves into an Association and the same is registered with the Field Officer under the provisions of the Ordinance, he shall, before undertaking the reconstruction, maintenance or improvement of the watercourse, provide an opportunity to the Association to carry out the job of reconstruction, maintenance or improvement of the watercourse.

(5) If an Association, to whom the work of reconstruction, maintenance or improvement of the watercourse has been entrusted by the Field Officer does not execute the work according to the specifications laid down by the Field Officer or does not commence or complete the execution of the work within the time specified by the Field Officer, the Field Officer may cancel the entrustment of the job to the Association and take necessary steps to get the reconstruction, maintenance or improvement of the watercourse done at the cost of the irrigators.

4. Future maintenance of a watercourse, etc.— (1) Where a watercourse has been re-constructed or improved by an Association the Field Officer may, subject to such conditions as may be laid down by him, entrust the future maintenance of the watercourse to that Association, on behalf of all the irrigators of the watercourse.

(2) | Where a watercourse has been re-constructed or improved by an Association or where the future maintenance of the watercourse has been entrusted to it under sub-section (1), it shall carry out the works to the satisfaction of the Field Officer and shall be entitled to recover proportionate cost of reconstruction, improvement or maintenance, as the case may be, from the members of the Associations as well as the irrigators who are not members of the Association.

(3) If any of the irrigators, whether he is a member of the Association or not, refuses or fails to pay to the Association his share of the cost of re-construction, maintenance or improvement as determined by the Association, the same shall be recovered by the Field Officer as an arrear of land revenue and paid to the Association.

5. Field Officer to check maintenance of watercourse.— The Field Officer shall, from time to time, make spot-inspection of the watercourse to satisfy himself that it is being properly maintained and may issue such directions for the proper maintenance of a watercourse as may be considered necessary.

6. Formation and registration of Association.— (1) Where the majority of the irrigators of a watercourse agree to associate in the work of reconstruction, maintenance or improvement of the watercourse, they may form an Association to be known as Water Users' Association (Anjuman-e-Abpashan).

(2) | An Association seeking registration under the Ordinance shall make an application to the Field Officer in the prescribed manner and on the prescribed form containing inter-alia, the following particulars:—

- (i) a list of members of the Association with full particulars thereof;
- (ii) a copy of the bye-laws of the Association;

(iii) | the names and other particulars of the office bearers of the Association; and

(iv) a list of all the irrigators jointly responsible for the re-construction, maintenance or improvement of a watercourse or jointly making use of watercourse with others.

(3) On receipt of an application under sub-section (2), the Field Officer shall convene a meeting of all the irrigators of the watercourse.

(4) If the Field Officer is satisfied that the list of all the irrigators of the watercourse, as furnished by the Association, is correct and that the Association meets all the requirements as laid down in sub-section (5), he may register the Association for the purposes of the Ordinance and shall issue to the Association a certificate of registration on the prescribed form.

(5) No Association shall be registered under the Ordinance unless—

(i) fifty-one per cent of the total number of irrigators of the watercourse are members of the Association;

(ii) the bye-laws framed by the Association are not inconsistent with the Ordinance and the rules;

(iii) | the office bearers and members of the Managing Committee of the Association have been duly elected in accordance with the bye-laws of the Association; and

(iv) | the Association is maintaining a Bank Account in a scheduled bank.

(6) The decision of the Field Officer granting or refusing to grant registration under the Ordinance shall be final and shall not be called in question in any court or before any authority.

(7) | Where a question arises as to whether a particular person is or is not an irrigator, the decision of the Field Officer shall be final.

(8) The Field Officer shall maintain a register containing such particulars as may be prescribed, of all the certificates of registration issued by him under the Ordinance.

7. Association to be a body corporate.— The registration of an Association under the Ordinance shall render it a body corporate in the name under which it is registered with perpetual succession and a common seal with power to hold property, enter into contracts, institute and defend suits and other legal proceedings and to do all acts necessary for the purposes of carrying out its functions.

8. Certificate of registration to be conclusive evidence.— A certificate of registration issued to an Association under the Ordinance shall be conclusive evidence of the fact that the Association is duly registered under the Ordinance unless it is proved that the registration of the Association has been cancelled.

9. Disputes.— (1) If any dispute touching the business of an Association arises between—

(a) members or past members of an Association or persons claiming through members or past members;

(b) members or past members or persons so claiming and any past or present officer, agent or servant of an Association;

(c)

(d)

(2)

(3)

An Association or its Managing Committee and any past or present member of the Association or between an Association or its Managing Committee and any past or present officer, agent or servant of the Association, of a surety of such officer, agent or servant whether such surety is or is not a member of the Association; and

one Association and another Association;

it shall be referred to the Field Officer of the area for decision.
The Field Officer may hear the dispute and decide the matter.
The decision of the Field Officer shall be final.

10. Cancellation of Registration.— (1) The registration of an Association may be cancelled by the Field Officer if—

(i)

(ii)

(iii)

the membership of the Association has been reduced to less than fifty-one percent of the total number of irrigators on the watercourse; or

not less than three-fourths of the members of Association at a special general body meeting called for the purpose pass a resolution for the winding up of Association and move an application to the Field Officer to that effect and the Field Officer after considering the application and making such inquiries as he may deem fit, is of the opinion that the registration of the Association ought to be cancelled;

the Association has refused or has failed to carry out the work entrusted to it by the Field Officer under the provisions of the Ordinance .

‘[Provided that no order of cancellation shall be passed without giving an opportunity of being heard to the Association.]

(2)

The Field officer while ordering the cancellation of the registration of an Association may—

(a) order any person, bank or body who holds any money, securities or other assets of the Association, not to part with such money, securities and assets without the previous permission, in writing of the Field officer;

(b) appoint a person to wind up the affairs of the Association with power to '[institute] and defend suits and other legal proceedings on behalf of the Association and to make such orders and take such actions as may appear to him to be necessary for the purpose;

(c) order any money, securities or assets, remaining after satisfaction of the liabilities of the Association to be paid to the members; and

"Added by the On-Farm Water Management and Water Users Association (Amendment) Ordinance, 1984 (XXXIV of 1984), w.e.f.17.12.1984, s.2; and published in the Punjab Gazette (Extraordinary), pages 2057-2058.

5Misprinted in the Gazette as "intitute".

(d) order any article, vehicle, instrument or other property provided to the Association by any Government agency or department to be handed over to such other Association or a person as may be specified.

11. _ Liability of persons organising or managing an Association.— (1) Where it appears to the Field Officer that any person who has taken part in the organization or management of an Association or any past or present office bearers or members of the Managing Committee or an officer of the Association has misapplied, misappropriated or retained any money or property of the Association or has been guilty of mis-feasance or breach of trust in relation to the Association, the Field Officer may on his own motion and shall, on the application of any creditor or contributory, examine into the conduct of such person and make an order requiring him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Field Officer thinks fit or to contribute such sum to the assets of the Association by way of compensation in regard to the mis-application, misappropriation, retention, mis-feasance or breach of trust as the Field Officer thinks just .

[Provided that no order under sub-section (1) shall be passed without giving an opportunity of being heard to the person to be affected thereby.]

(2) If any person referred to in sub-section (1) does not comply with the order of the Field Officer, the amount involved may be recovered from him by the Field Officer as an arrear of land revenue.

(3) This section shall apply notwithstanding that the act is one for which the offender may be criminally responsible.

12. Obstruction an offence.— Any person who willfully causes obstruction in the work of reconstruction, maintenance or improvement of a watercourse undertaken by an Association under the provisions of the Ordinance or by any person employed by the Association for such purpose shall be deemed to be obstructing a public servant in the discharge of his public functions and shall be punished accordingly.

13. Power of Collector.- Government may by notification in the official Gazette, invest a Field Officer with the powers of a Collector for the recovery of an amount due against a person under the Ordinance as arrear of land revenue under the Punjab Land Revenue Act, 1967 (W.P. Act No. XVII of 1967).

14. | Power to make rules.— (1) Government may make rules for carrying out the purposes of the Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

(i) matters which may or may not be provided in the bye-laws of an Association for purposes of registration under the Ordinance or the standard bye-laws which may be adopted by an Association;

®Added by the On-Farm Water Management and Water Users Association (Amendment) Ordinance, 1984 (XXXIV of 1984), w.e.f.17.12.1984, s.2; and published in the Punjab Gazette (Extraordinary), pages 2057-2058.

(ii) the manner in which and the authority by whom the audit of accounts of an Association is to be conducted; and

(iii) | any other matter ancillary or incidental thereto.

15. Ordinance to over-ride other laws.— The provisions of the Ordinance and

the rules made thereunder shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.