

Bihar Private Irrigation Works Rules, 1940

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Rule BIHAR-PRIVATE-IRRIGATION-WORKS-RULES-1940 of 1940

- Published on 27 September 1940
- Commenced on 27 September 1940
- [This is the version of this document from 27 September 1940.]
- [Note: The original publication document is not available and this content could not be verified.]

Bihar Private Irrigation Works Rules, 1940Published vide Notification No. 1135-3-E-20/40-R-R, dated the 27th September, 1940Notification No. 1135-III-E-20/40-R-R, dated the 27th September, 1940. - In exercise of the powers conferred by sub-section (2) of Section 40 of the Bihar Private Irrigation Works Act, 1922 (V of 1922), and in supersession of the Rules published with notification No. 3317-III-E-I-R., dated the 4th April, 1930, the Governor of Bihar is pleased to make the following rules.

1.

In these Rules, unless there is anything repugnant in the subject or context.(a)"Form" means a form appended to these Rules;(b)"Section" means a Section of the Act; and(c)"the Act" means the Bihar Private Irrigation Works Act, 1922.

2.

(1)The prescribed authority referred to in the last proviso to sub-section (1) of Section 5, sub-section (1) of Section 5-B, clause (a) of the proviso to sub-section (1) of Section 15, sub-section (4) of Section 37, Section 46 and sub-section (2) of Section 48 shall be the Commissioner of the Division; and(2)The prescribed authority referred to in sub-section (1) of Section 48 shall be -(a)the Commissioner of the Division for the purpose of an appeal from any original order or award of the Collector of the district or the Additional Collector of the district or the Additional Collector reversing the order of an officer subordinate to him,(b)the Collector of the district or the Additional Collector for the purposes of an appeal from any original order or award of the Sub-divisional Officer, Additional Sub-divisional Officer, Deputy Collector Incharge Land Reforms and Development Work or Deputy Collector Incharge Land Reforms or from any order of the Sub-divisional Officer, Additional Sub-divisional Officer, Deputy Collector Incharge Land Reforms and Development Work or Deputy Collector Incharge Land Reforms reversing the order of an officer subordinate to him,(c)the Sub-divisional Officer, the Additional Sub-divisional Officer, the Deputy

Collector Incharge Land Reforms and Development Works and Deputy Collector Incharge Land Reforms for the purpose of an appeal from any original order or award of the Circle Officer or the Anchal Adhikari.

3.

(1)The award and notice required by sub-section (3) of Section 35-A and the notice required by Sections 3, 13, 20, 32-A and 32-B to be published in the villages respectively mentioned in the said provisions shall be published by affixing a copy of it in a conspicuous position at the landlord's cutchery if there is one, and if not at the police-station, the post office, or other public place in every such village that such notice or award and notice, as the case may be, has or have been so affixed.(2)The notice under sub-section (2) of Section 35-A shall be in Form A.

4.

The copy of the award and notice required by sub-section (3) of Section 8 and sub-section (2) of Section 11 and the notice required by Section 3, Section 13, sub-section (4) of Section 15, Sections 29, 32, 32-A, 32-B and sub-sections (2) and (3) of Section 35-A to be served on the persons respectively mentioned in the said provisions shall be served in the following manner. -(1)by delivering a copy of the same to the person to whom it is directed or, if personal service is not in the opinion of the Collector practicable, by posting a copy on some conspicuous part of the house in which the said person resides, or by delivering a copy to any agent who is authorized to appear generally for or who is in charge of the property or collect the rent of, such person, or(2)by sending a registered letter containing a copy of such notice directed to the said person at his usual place of abode or at any other place where he may be known to reside, or(3)by posting a copy of the said notice on any mal-cutchery belonging to the said person or used by him and situated in any village, or portion of an estate or tenure affected or likely to be affected by the work referred to in the notice, or, if no such mal-cutchery be found, on some conspicuous place in any such village, estate or tenure, or(4)if the person on whom the notice is to be served is either a sole proprietor or co-sharer of an estate, by delivering a copy thereof to his duly authorized agent.

5.

Every application under sub-section (1) of Section 7 for the recovery of the cost incurred in the execution of any work of repair, extension or alteration shall be accompanied by an account showing the details of expenditure.

6.

(1)Before making any apportionment under sub-section (1) of Section 8 or Section 10 in respect of any work of repair, extension or alteration, the Collector shall serve a notice on the persons interested in such work in the manner prescribed in the Rule 4, stating that an account of the expenses incurred in respect of such work has been deposited in the Collector's office and may there

be inspected by any interested person.(2)Any person interested may file an objection to the said account before the Collector within a period of thirty days after the service of the notice under clause (1) of this rule on the ground that -(a)work charged for has not been performed; or(b)the whole sum charged has not been expended;and the Collector shall hear and decide any such objection.

7.

(1)When an application preferring a claim for compensation under Section 5-B for any loss sustained by any person through anything done by the Collector or by any person acting under the orders of the Collector under sub-section (1) of Section 5-A, has been entertained, the prescribed authority shall duly consider such claim and if he is satisfied as to the loss so sustained he shall assess such compensation as to him appears fair and reasonable.For this purpose the prescribed authority may (a) call for a report from the Irrigation Engineer and (b) direct a local enquiry to be held by any officer subordinate to him.(2)The charge on account of the compensation payable in cash under Section 5-B of the Act should be debited to a new sub-head "Compensation payable under Section 5-B of the Private Irrigation Works Act" under the minor head "1. - Other Revenue expenditure financed from ordinary revenue - A-Irrigation work - Works for which no capital accounts are kept - (iii) Projects under the Bihar Private Irrigation Works Act".

8.

All enquiries held under the Act shall be conducted in a summary way and it shall be necessary to record only the substance of the evidence. The enquiring officer may, if he thinks fit, hold a local inspection in connection with any matter which is the subject of any such enquiry.

9.

The Collector may with the previous approval of the Provincial Government and by an order in writing, delegate any of the powers or duties conferred or imposed on him by Section 4, 14 and 20 of the Act, to an officer-in-charge of a subdivision or to any Deputy or Sub-Deputy Collector whom he considers fit for the purpose.

10.

The Collector shall not issue an order under sub-section (4) of Section 15 until after the expiry of 30 days from the date of publication or service of the notice required by the said sub-section.

11.

(1)The agency entrusted under clause (b) of sub-section (1) of Section 5, under sub-section (1) of Section 5-A or under Section 6 with any work of repair, extension or alteration shall prepare the accounts required to be kept under Section 9 in the manner described hereunder :-(a)if the work is performed by official or private agency other than by contract -(i)a cash book in Form B shall be

maintained in which shall be entered details of all advances or other sums received for the execution of the work, and all disbursements on account of the work. All disbursements shall be supported by receipt vouchers or acquittance rolls and the cash book shall be balanced daily;(ii)final account shall be prepared on completion of the work showing the total expenditure incurred;(b)if the work is executed by contract -(i)a cash book shall be maintained in Form B, containing an account of advances or others sums received and of all payments made to the contractor duly supported by receipts;(ii)a final account shall be prepared on completion of the work which shall show the total receipts and disbursements and shall contain a certificate from a person authorized by the Collector in this behalf that all works charged in the account have been checked and have been found to have been duly and properly carried out; and(c)a receipt book shall be maintained in all cases in Form E for amounts received.(2)After such enquiry or revision as the Collector may deem necessary, the accounts shall be published on the notice board of the collectorate and may there be inspected by any person interested.

12.

(1)An advance made by the Collector to any person or agency other than a contractor or headman of a Panchayat constituted for the purpose by the Collector, or the Mukhiya of a Gram Panchayat established under the Bihar Panchayat Raj Act, 1947, or a Co-operative Society registered under the Bihar and Orissa Co-operative Societies Act, 1935, for the carrying out under Act of any work of repair, or construction shall bear interest at the same rate as for a loan granted under the Land Improvement Loans Act (XIX of 1883).(2)Every person receiving such an advance shall execute a written agreement -(a)for the repayment of the advance and the interest thereon on such dates or within such period as may be specified in the agreement, and(b)for the recovery of the advance and the interest thereon as a public demand, in the event of his failure to pay any instalment or principal or interest on the dates or within the period so specified.(3)The interest recovered under this Rule should be credited to the head "XX-Interests - Miscellaneous".

12A.

(1)An advance made by the Collector to a headman or Mukhiya or a Co-operative Society as mentioned in sub-rule (1) of Rule 12 shall be free of interest provided that interest at the same rate as for a loan granted under the Land Improvement Loans Act may be levied in respect of any such advance or part thereof, which remains unaccounted for and which is not refunded by such headman, Mukhiya or Co-operative Society within the time fixed by the Collector.(2)Every headman or Mukhiya or Co-operative Society receiving such an advance shall execute a written agreement for carrying out the work as specified therein at the rates fixed and under the terms and conditions laid down in the agreement and for the refund of any amount advanced in excess of the value of the work actually executed.

12B.

The amount of advance at a time shall not exceed one-fourth of the estimated cost of the work and no subsequent advance shall be made unless the Collector is satisfied that work has been done to the

extent of the previous advance or advances.

13.

An advance to a contractor shall be governed by the principles laid down in Rules 221 to 223 of the Bihar and Orissa Account Code in this behalf.

13A.

Any advance or part thereof which is found due, after final adjustment, from any person or agency to whom such advance has been made by the Collector for the carrying out, under any of the provisions of the Act, of any work of repair or construction and any interest due thereon shall be realisable as arrear of land revenue.

14.

The accounts of receipts and expenditure required under sub-section (4) of Section 22 to be maintained by a village agency responsible for the maintenance of an irrigation work shall consist of - (1) a cash book showing all receipts and expenditure in Form B; (2) a collection register in Form C in which shall be entered daily the collections made; (3) a ledger account in Form D for each person liable to contribute to the cost of the maintenance of such work, showing the demands made from time to time against such person and the payment made by him; (4) a receipt book maintained in Form E for amounts received; (5) such other form of accounts as the Collector may order.

15.

(1) Before issuing a notification under Section 27, the Provincial Government shall cause a draft of the same to be published for a period of sixty days in the Bihar Gazette and, in the manner prescribed by Rule 3 of these Rules, in every village within the limits proposed to be specified in the said notification, and shall consider any objection which may be made by any person with respect to the said draft within the aforesaid period of sixty days. (2) On the expiry of the said period and after the objections, if any, have been considered, the notification shall be published finally in the Bihar Gazette.