

# **The Bihar Irrigation and Flood Protection, (Betterment Contribution) Rules, 1961**

BIHAR

India

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### **Rule**

### **THE-BIHAR-IRRIGATION-AND-FLOOD-PROTECTION-BETTERMENT-C of 1961**

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The Bihar Irrigation and Flood Protection, (Betterment Contribution) Rules, 1961Published vide Notification No. E/A6 (2)/61-1-10937 dated 18th May, 1962Notification No. E/A6 (2)/61-I-10937. - In exercise of the powers conferred by Section 23 of the Bihar Irrigation and Flood Protection (Betterment Contribution) Act, 1959 (Bihar Act XXVIII of 1959), the Governor of Bihar is pleased to make the following Rules, the same having been previously published as required by Sub-Section (1) of the said Section, namely. -

#### **1.**

These Rules may be called the Bihar Irrigation and Flood Protection (Betterment Contribution) Rules, 1961.

#### **2. Definitions.**

- (i) In these Rules, unless there is anything repugnant in the subject or context :-(a)"Act" means the Bihar Irrigation and Flood Protection (Betterment Contribution) Act, 1959 (Bihar Act XXVIII of 1959);(b)"Form" means a form appended to these Rules;(c)"Section" means a Section of the Act.(ii)Any word or expression used in these Rules but not defined herein shall have the meaning assigned to it in the Act.

### **3. Notification under Section 3 of the Act.**

- Whenever the State Government decides to levy betterment contribution under Section 3 in respect of any irrigation work or flood protection work or part of such work it shall cause the date of completion of such work or part of such work, as the case may be, to be notified in the Bihar Gazette in Form A.

### **4. Notification regarding specifications of the land benefited.**

(1) Whenever the State Government decides to levy betterment contribution under Section 3 in respect of any irrigation work or flood protection work or part of such work, it shall call upon the Engineer in charge of the work to prepare a report about the details of the lands which have been benefited by the work or part of the work in consultation with the District Development Officer and the District Agricultural Officer of the district or the districts in which the land is situated and on receipt of the same it shall direct a Senior Engineer at headquarters not connected with the execution of the work to scrutinize it carefully and place his views before a Board consisting of three senior officials and one non-official chosen for the purpose, for consideration. The Board shall then proceed to consider his views and make its own recommendations to the State Government. The State Government, after considering the views of the Board, shall publish in Form B the details of the lands which have been benefited by the work or part of the work by notification in the Official Gazette and copies thereof shall be posted - (a) at the offices of the Collector of the district, the Sub-divisional Officer and the Block Development Officer/Anchali Adhikari/Circle Officer, having jurisdiction over the lands specified in the notification; (b) at any conspicuous place such as, a Panchayat Ghar or a Community Hall, or any other suitable place, in the village in which the lands specified in the notification are situated. (2) The Executive Engineer in charge of the work shall get the copies of the notification published at the places mentioned in sub-rule (1) and shall furnish a certificate of his having done so to the Collector of the district and such certificate shall be conclusive proof of the publication thereof. Explanation. - (i) When any land is benefited by a flood protection work as well as by an irrigation work which is distinct and separate from the flood protection work, betterment contribution shall be leviable, subject to the provisions of Section 4 in respect of both the flood protection work and the irrigation work. (ii) In the case of a work which is ancillary to the main flood protection work such as a sluice on a flood protection embankment, no betterment contribution shall be leviable in respect of the irrigational facilities it may incidentally provide to any land which has been benefited by the flood protection work.

### **5. Preparation of assessment list.**

(1) As soon as may be after the notification under Section 4 has been issued, the Collector of the district in which the irrigation work, flood protection work or part of such work is situated, shall cause a village-wise assessment list to be prepared in Form C indicating therein the name and nature of the work, its cost, the particulars of the land benefited by such work, such as its survey plot number, Khata number and area, the name of the owner of the land and such other particulars as may be deemed necessary and the amount of the betterment contribution payable for it on demand. Explanation. - In case of an irrigation work or part of such work - (i) No betterment

contribution is leviable on Government or on Gairmazrua Malik or Gairmazrua Am land, which has been vested in the Government, except in respect of a tenancy which has been created or recognized on such land in which case the raiyat in cultivating possession or the under-raiyat as well as the raiyat, if there be an under-raiyat, shall be liable to pay in proportion to their right to share the produce as laid down by law;(ii)betterment contribution is leviable in Parti Kadim and Parti Jadid lands owned by raiyats.(2)In preparing the assessment list the Collector shall rely on the survey record of rights and may refer to the continuous Khatian (Register I B) prepared by the officials of the Revenue Department and may make or cause to be made such local enquiry in respect of the ownership of the land or changes in its configuration either by subdivision or amalgamation as he may deem necessary and expedient.

## **6. Issue of demand notices.**

- As soon as an assessment list under Section 5 has been prepared, the Collector shall cause a notice of demand to be prepared in Form D and served on the assessee.

## **7. Mode of service of notices of demand.**

(1)Service of the notice of demand on the assessee shall be in one of the following ways: -(a)by delivering or tendering a copy of the notice to the assessee personally or to his agent if he (the agent) is empowered to accept service of the notice on his behalf or, to any adult male member of his (the assessee's) family residing with him, if he himself cannot be found and has no agent empowered to accept service of the notice on his behalf;(b)by causing the said notice to be affixed to some conspicuous part of the land or building to which the notice relates if the assessee, or his agent or such other person aforesaid, refused to sign the acknowledgement of service or where the serving officer, after using all due and reasonable diligence cannot find the assessee, and there is no agent empowered to accept service of the notice on his behalf, nor any other person on whom service can be made;(c)by delivering the said notice at some post office under registered cover addressed to the assessee; or(d)by any one or more of these methods.(2)Where the serving officer delivers or tenders a copy of the notice to the assessee personally or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgement of service endorsed on the original notice.(3)The serving officer shall in all cases in which the notice has been served either under sub-rule (a) or under sub-rule (b) of Rule 7, endorse or annex, or cause to be endorsed or annexed, on or to the original notice, a return stating the time when and the manner in which the notice was served, and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of the notice under sub-rule (a) of Rule 7 or of the person (if any) witnessing the affixation of the notice to some conspicuous part of the land or of the building to which it relates under sub-rule (b) of Rule 7.(4)If the notice relates to a case in which persons having the same interest are so numerous that personal service on each one of them is not practicable, it may be served by delivering or tendering a copy thereof to such of those persons as the Collector specifically nominates in this behalf, and by proclamation of the contents thereof for the information of the other interested persons.

## **8. Objections under Section 6 of the Act.**

- A petition of objection shall be filed in Form E and it shall be stamped in accordance with the law in force relating to court-fees.(2)All such objections shall be entered in a register maintained for the purpose and on receipt of any objection, the Collector shall give a notice in writing to the objector of the time and place at which his objection will be investigated to enable him to adduce such evidence as he may like in support of his petition.(3)At the time and place so fixed, the Collector shall hear the objection,in the presence of the objector or his authorised agent if he appears, and may, for reasonable cause, adjourn the investigation.(4)If the petition objecting to the levy is for apportionment of betterment contribution among the different owners of the land, the Collector shall cause a notice in writing to be served on each of the owners among whom apportionment is to be made to show cause, if any, on the date fixed by him or on any date to which the hearing may be adjourned why the betterment contribution shall not be apportioned among the different owners of the land with due regard to their respective rights thereof.(5)(i)After considering the evidence adduced by objector and, if the objection is for apportionment of the betterment contribution among the different owners of the land, hearing such of the owners as may oppose the appointment and considering the evidence adduced in this behalf and after such further enquiry, if any, as he may consider necessary, the Collector shall pass, for reasons to be recorded by him, such orders on the objection as he may deem fit.(ii)In apportioning betterment contribution between an under-raiyat paying for the land held by him rent in kind and a kayimi raiyat the same ratio shall be adopted as is adopted in dividing the produce, i.e., the under-raiyat shall be made to pay 13/ 20th of the contribution and the kayimi raiyat 7/20th of it.(iii)In case where the interest in the land or part thereof is transferred on or before the service of the notice of demand under Section 5, the betterment contribution in respect of the land or part of land shall be realisable from the person or persons in possession thereof.(iv)Whenever the interest in the land or a part thereof is transferred subsequent to the payment of the first instalment and before the payment of the last instalment of the betterment contribution, the outstanding instalment or instalments shall be recoverable from the assessee.(v)The orders passed by the Collector shall be recorded in the register mentioned in sub-rule (2) and if necessary, an amendment made in the assessment list in accordance with the result of the objection.(vi)All notices and processes issued in connection with the hearing of objections shall be served in the manner prescribed for the service of the notice of demand under Rule 7.

## **9. Appeals under Section 7 of the Act.**

(1)The memorandum of an appeal preferred under Section 7 shall be stamped in accordance with the law in force relating to court-fees, and shall be accompanied by a certified copy of the decision or order appealed against and shall set forth concisely the grounds of objection to the decision or order appealed against.(2)All such appeals shall be entered in a register to be maintained for the purpose and on receipt of any appeal the Commissioner, or the Collector as the case may be, shall give a notice in writing to the appellant of the time and place at which his appeal will be heard to enable him to adduce such evidence as he may like in support of his appeal.(3)At the time and place so fixed the Commissioner, or the Collector of the district or the Deputy Commissioner, as the case may be, shall hear the appeal in the presence of the appellant or his authorised agent if he

appears and may, for reasonable cause, adjourn the hearing.(4)When the appeal has been decided, the order passed on such appeal shall be recorded in the said register and if necessary, an amendment made in the assessment list in accordance with the result of the appeal.(5)All notices and processes issued in connection with appeal shall be served in the manner prescribed for the service of the notice of demand under Rule 7.

## **10.**

(a)On an application by an owner for revision of an order under Section 7, the Board of Revenue, if the order under Section 7 has been passed by the Commissioner, and the Commissioner, if order has been passed by the Collector of the district or the Deputy Commissioner as the case may be, may call for the record of the proceeding in which order was passed, and on receipt of the record may make such enquiry or cause such enquiry to be made and subject to the provisions of the Act, may pass such order thereon as the Board of Revenue or the Commissioner as the case may be, thinks fit.(b)Every application by the owner under sub-rule (a) shall be accompanied by a fee of ten rupees.

## **11.**

The provisions of Parts II and III of the Indian Limitation Act, 1908, relating to appeals and applications shall apply to every appeal preferred under Section 7 and to every application for revision under Section 8.

## **12.**

(i)The pendency of an appeal under Section 7 or of revision under section 8 shall not operate to delay or prevent the levy or realisation of the betterment contribution or instalments thereof payable in respect of any land or building according to the order of levy either in appeal or in revision, but, if by the decision in appeal or in revision, it is determined that such contribution or instalments thereof ought not to have been levied or realised in whole or in part, the Collector shall within ninety days from the date of such decision, refund to the person from whom the same have been levied or realised, the amount of such contribution or instalments thereof, or the excess thereof over the amount properly leviable in accordance with the decision under Section 7 or under Section 8 as the case may be, or adjust such an excess amount against any future demand if so desired by the assessee after satisfying himself that the amount has actually been realised and credited to Government accounts.Note. - A note of the refund shall be kept in the records in such a way that any payment preferred on a second claim on the same account becomes impossible.(ii)Where the sum due to the assessee is not refunded to him within the period prescribed in sub-rule (i) without valid and reasonable cause interest at the rate of four and half per centum per annum shall become payable on such sum from the date of the expiry of the said period of ninety days.

## **13.**

(i)When the State Government has reasons to believe that any of the circumstances mentioned in

Section 12 does exist, it shall direct the Collector to get an early enquiry made into the conditions obtaining in the area assessed to betterment contribution and the extent of the failure of crops therein or of the fall in the price of agricultural produce.(ii)When the crops are seriously damaged on account of drought, flood, tempest, hailstorm or any other irresistible force or when the agricultural industry has received a set-back on account of serious fall in the price of agricultural produce, the enquiry shall be made by an officer not below the rank of a Sub-Deputy Collector.(iii)When the land being water-logged or due to some other cause has become unculturable the enquiry shall be made by an officer of the Agriculture Department not below the rank of a Sub-divisional Agriculture Officer.(iv)When the crops are seriously damaged on account of the failure of the irrigation work or of the flood-protection work or the land has for some reason or the other ceased to receive irrigation from the irrigation work or to be benefited from the flood protection work, the enquiry shall be made by an officer of the Irrigation Department not below the rank of an Assistant Engineer.(v)On receipt of the Enquiring Officer's report and after such test thereof as may be considered necessary, the Collector shall, if he is satisfied that any condition justifying the suspension or remission of betterment contribution does exist, submit his proposal for suspension or remission of the whole or part of the betterment contribution to the State Government through the Commissioner, for orders.(vi)Remission shall not ordinarily be granted unless the land has become permanently unculturable or it has permanently ceased to receive irrigation from the irrigation work or to be benefited from the flood-protection work.(vii)In all cases of suspension under these Rules subsequent collection of the suspended instalment shall be made without interest.(viii)When the betterment contribution or any part thereof is remitted under any of the conditions prescribed in the Act, an assessee who has paid the betterment contribution in a lump sum shall be entitled to the refund of the whole of it, if the whole has been remitted or to such part thereof as has been remitted in the manner indicated in Rule 12(i) and (ii).

#### **14. Mode of payment of betterment contribution-Payment of instalments.**

- (i) The contribution may be paid either in a lump sum in which case rebate as provided for in sub-section (2) of Section 13 shall be allowed or in fifteen equal annual instalments together with interest at four and a half per cent, on the amount of the principal outstanding.(ii)Date of payment of first instalment. - (1) The date of payment of the first instalment if a petition objecting to the levy has not been filed under Section 6, shall in no case be later than sixty days from the date of the service of the demand notice under Section 5.(2)The date of payment of the first instalment if a petition objecting to the levy has been filed under Section 6 shall in no case be later than sixty days from the date of the order passed under that Section.(iii)Dates of payment of subsequent instalments. - The dates of payment of subsequent instalments shall in all cases be fixed by the Collector with due regard to the dates of harvest of the principal crops and there shall be an interval of one full year between the payment of one instalment and the next.(iv)Date of payment of last instalment. - The date of payment of the last instalment shall not be later than fifteen years from the date on which the first instalment fell due.(v)Interest on instalments. - The interest due on each date of payment of the instalment shall be calculated on the amount of the principal outstanding.(vi)Where an instalment of the principal is not paid on the date on which it falls due a further demand of interest calculated at the rate prescribed under sub-rule (i) shall be made for the whole of the period during which the instalment is not paid.(vii)When an instalment is not paid

within one year from the date on which it fell due, it will be open to the Collector to proceed to realise it in accordance with the provisions of the Bihar and Orissa Public Demands Recovery Act, 1914 as a public demand.(viii)Payment of instalments in advance - It shall be permissible for assesseees to pay their instalments in advance of the dates fixed for payment.Form A(See Rule 3)Notification under Section 3 of the Bihar Irrigation and Flood Protection (Betterment Contribution) Act, 1959.No. .... - In pursuance of the Explanation 2 to Section 3 of the Bihar Irrigation and Flood Protection (Betterment Contribution) Act, 1959 (Bihar Act XXVIII of 1959), the Governor of Bihar is hereby pleased to direct that the ..... day of ..... 19 ..... shall be the date of completion of ..... the following irrigation work/flood-protection work/part of irrigation work/part of flood-protection work, namely: -(Here specify the work)By order of the Governor of Bihar, Secretary to Government.Form B(See Rule 4)Notification under Section 4 of the Bihar Irrigation and Flood Protection (Betterment Contribution) Act, 1959The ..... 19.Whereas the Governor of Bihar proposes to levy betterment contribution under Section 3 of the Bihar Irrigation and Flood Protection (Betterment Contribution) Act, 1959 (Bihar Act XXVIII of 1959) from owners of lands which are benefited from the following irrigation work/flood control work/part of irrigation work/part of flood control work, namely :- (Here specify the work)Now, therefore, in pursuance of the provisions of Section 4 of the said Act, the Governor is hereby pleased to specify on the schedule hereto annexed the land which are benefited from the said irrigation work/flood control work.

## Schedule

1. Situation of the land. - District  
Sub-division  
Anchal  
Village

2. Particulars of the land -

Sl. no. Survey Plot no. Classification, if any.

By order of the Governor of Bihar. Secretary to Government.Form CAssessment List(See Rule 5)Name of the irrigation work/flood control work.Name of the villageThana No.AncchalDistrict

Serial No.	Survey Plot No.	Khata No.	Classification of the land if any.	Name of the owner with father's name and residence.	Status of the owner.	Area
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Area D. B.

K. Dh.

5

Betterment contribution payable on demand. Rs. nP.	Betterment contribution payable on the disposal of objection under Section 6 Rs. nP.	Betterment contribution payable on the disposal of appeal under Section 7 Rs. nP.	Betterment contribution payable on revision under Section 2. Rs. nP.	Remarks
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Form DDemand Notice under Section 5 of the Bihar Irrigation and Flood Protection (Betterment Contribution) Act, 1959.To.....Whereas the land specified in the Schedule hereto annexed of which you are owner is benefited from the following irrigation work/flood control work/part of irrigation work/part of flood control work as already notified under Section 4 of the Bihar Irrigation and Flood Control (Betterment Contribution) Act, 1959 (Bihar Act XXVIII of 1959) in an issue of the Bihar Gazette, dated\*Now therefore, in pursuance of the provisions of Section 5 of the said Act, you are hereby called upon to pay Rs. .... as betterment contribution in respect of the said land, within sixty days of the receipt of this demand notice, failing which the said amount will be recovered from you in accordance with the provisions of the Bihar and Orissa Public Demands Recovery Act, 1914.

## Schedule 2

1. Situation of land. - District  
Sub-divisions  
Anchal  
Village with Thana no.  
.....

2. Particulars of the land -

SI. no.	Survey Plot no.	Khata no.	Area in acres/Classification.Bigha Khata
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CollectorNotes. - (1) Cut out the words which do not apply.(2)In the space indicated by the asterik\* specify the work and the date of its completion together with the date of the issue of the Bihar Gazette in which it was notified as required by the Explanation 2 to Section 3 of the Act.(3)A rebate of 20 per cent, will be allowed on the said amount if it is paid in full within 12 months from the date of the service of this notice and of 15 per cent if paid in full on any day after 12 months from the date of the service of this notice and within 2 years of such service.(4)The amount of the betterment contribution may be paid, if so desired, in fifteen equal annual instalments along with interest at 4½ per cent, on the principal amount outstanding subject to the terms and conditions prescribed in Rule 12 of the Bihar Irrigation and Flood Protection (Betterment Contribution) Rules, 1961. The first instalment must be paid within sixty days of the receipt of this notice and the subsequent instalments on or before the dates which may be fixed by the undersigned in this behalf.(5)The amount of the betterment contribution or an instalment thereof is payable to the Treasury Officer/Sub-Treasury Officer/State Bank of India at ..... by challan. The challan shall be prepared in quarduplicate. The original copy of the challan shall be sent to the Collector, the duplicate copy shall be retained by the Treasury and the triplicate and quarduplicate copies shall be returned to you as proof of payment.(6)The amount of the contribution or an instalment thereof shall not be paid to any (departmental) other officer as he has no authority to receive the same.Form E(See Rule 8)Objection petition under Section 6 of the Bihar Irrigation and Flood Protection (Betterment Contribution) Act, 1959



- 1. Name, father's name and residence of the objector.**
- 2. Specifications of the land (survey plot no., khata no. etc.,) in respect of which he as "owner" has been assessed to betterment contribution.**
- 3. Date of receipt of notice under Section 5 of the Act.**
- 4. Date of filing of objection petition.**
- 5. Ground of objection**

Signature (with date) of the objector.