

The Bihar Irrigation Field Channels Act, 1965

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Act 17 of 1965

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The Bihar Irrigation Field Channels Act, 1965 (Bihar Act 17 of 1965) For Statement of Objects and Reasons see the Bihar Gazette, extraordinary of the 22nd December, 1964; for Report of the Select Committee see the Bihar Gazette, extraordinary of the 29th July, 1965. This Act has been Repealed by Bihar irrigation, Act 1997 (Bihar Act, XI of 1998) however, is given here for the sake of ready reference and record. [This Act received the assent of the Governor on the 15th September, 1965 and the assent was first published in the Bihar Gazette, extraordinary of the 23rd September, 1965]. An Act to Provide For Special Measures For construction and Maintenance of Field Channels. Be it enacted by the Legislature of the State of Bihar in the Sixteenth Year of the Republic of India as follows. -

Chapter I Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Bihar Irrigation Field Channels Act, 1965. (2) It extends to the whole of the State of Bihar. (3) It shall come into force at once.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context. -(a) 'beneficiary' in relation to any irrigation work, water course, or field channel is a person whose land is irrigated or is capable of being irrigated by water course or field channel; (b) 'Block' means an area declared as such under Section 3 of the Bihar Panchayat Samitis and Zila Parishads Act, 1961 (Bihar Act VI of 1962), and includes a Community Development Block constituted under the executive orders of the State Government in areas where that Act has been enforced; (c) 'Block Development Committee' means a Committee constituted by that name in respect of a Community Development Block under the

executive orders of the State Government in areas where the Bihar Panchayat Samitis and Zila Parishads Act, 1961 Bihar Act VI of 1962), has not been enforced;(d)'Block Development Officer' means an officer appointed as such under Section 20 of the Bihar Panchayat Samitis and Zila Parishads Act, 1961 (Bihar Act VI of 1962), and includes a Block Development Officer of a Community Development Block appointed under the executive order of the State Government where that Act has not been enforced;(e)['Collector' means the Collector of the district and includes a Deputy Commissioner or any other officer appointed by the State Government under this Act to exercise all or any of the powers of a Collector;] [Substituted by Act 14 of 1982.](f)'co-operative society' means a society registered under the law relating to co-operative societies for the time being in force;(ff)['Executive Engineer' means an Executive Engineer of the Department of Irrigation and Power appointed as such by the State Government to exercise the powers given to him under this Act and includes any other Officer of a statutory development authority or a company incorporated under the Companies Act, 1956, appointed under the said Act by the State Government to perform all or any of the functions of an Executive Engineer;] [Inserted by Act 14 of 1982.](g)'field channel' means any channel by which water is led from an irrigation work or water course into the field to be irrigated and includes all subsidiary works connected with any such channel, except the sluice or outlet through which water is supplied from an irrigation work or water course to such channel;(h)'Gram Panchayat' means Gram Panchayat constituted under the provisions of the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948);(i)'irrigation work' means any work of irrigation or any system of such work, natural or artificial, the construction, maintenance or improvement of which is financed wholly or partly by the State Government or a cooperative society or a Zila Parishad or a Panchayat Samiti or a Gram Panchayat and includes -(i)all canals, channels, tanks, reservoirs,ponds, spring ponds,lakes and other natural collection of water or parts thereof, all embankments, barrages, weirs,dams, guide banks, and all other works which are constructed,improved or maintained by the State Government or a co-operative society or a Zila Parishad or a Panchayat Samiti or a Gram Panchayat for the purposes of irrigation; and(ii)all lands used for the purposes of the work referred to in sub-clause (i) and all buildings, machinery, fences, gates and other erections connected therewith on such lands;(j)'land' includes interest in land, benefits arising out of land and things attached to the earth or permanently fastened to anything attached to the earth;(k)'Panchayat Samiti' means a Panchayat Samiti constituted under the Bihar Panchayat Samitis and Zila Parishads Act, 1961 (Bihar Act VI of 1962), and includes a Block Development Officer acting on the advice of the Block Development Committee in areas where that Act has not been enforced;(l)'State Government' means the State Government of Bihar;(m)'water course' means a channel connected to an irrigation work capable of supplying water for the irrigation of a block of land of not less than one hundred acres in area, which has been constructed partly or wholly by or at the cost of the State Government, a cooperative society or local authority, or beneficiary; and(n)'Zila Parishad' means a Zila Parishad constituted under the Bihar Panchayat Samitis and Zila Parishads Act, 1961 (Bihar Act VI of 1962).

Chapter II

Construction and Maintenance of Field Channels

3. Construction of field channels by beneficiaries in areas within the local limits of Gram Panchayat.

- [(1) Whenever on the report of any officer of the State Government or otherwise, it appears expedient to the Executive Engineer that with a view to utilizing the irrigation potential created by an irrigation work or water course field channels should be constructed in any area which is within the local limits of any Gram Panchayat that may cause to be served on the Panchayat Samiti concerned a notice in the prescribed form containing the exact location of the sluices or outlets on the irrigation work or water course and specifying the area of irrigable land to be served by the same and direct the Panchayat Samiti concerned to get field channels constructed to serve the entire irrigable land in such area from each of such sluices or outlets within six months from the date of issue of the notice.] [Substituted by Act 14 of 1982.](2)On receipt of the notice under sub-section (1); the Panchayat Samiti shall direct the Executive Committee of the Gram Panchayat concerned to get such field channels constructed within a specified time which shall not be more than four months from the date of issue of such direction.(3)On receipt of such direction under sub-section (2), the Executive Committee of the gram Panchayat concerned shall cause to be served on all beneficiaries notices in the prescribed form directing them to construct such field channels at their own cost within a specified time which shall not be more than two months from the date of issue of the notice and thereupon the beneficiaries shall comply with such direction.

4. Construction of field channels by Gram Panchayats.

- If the beneficiaries fail to construct the fields channels within the time mentioned in the notice under sub-section (3) of Section 3, or within such further time, not exceeding one month, as the Executive Committee of the Gram Panchayat may, on application made to it in this behalf, allow, the Executive Committee of the Gram Panchayat shall report the matter to the Panchayat Samiti and, on funds being provided by the Panchayat Samiti, shall itself construct the field channels within such time as may, from time to time, be allowed by the Panchayat Samiti.

5. Construction of field channels by Panchayat Samitis.

- On the failure of the Executive Committee of a Gram Panchayat to construct the field channels within the time allowed by the Panchayat Samiti, the Panchayat Samiti shall construct the same.

6. [Construction of field Channels by Executive Engineer. [Substituted by Act 14 of 1982.]

- If within a period of six months from the date of service of the notice under sub-section (1) of Section 3 or within such further time as the Executive Engineer may allow, the field channels are not constructed by the beneficiaries, the Executive Committee of the Gram Panchayat or the Panchayat Samiti, the Executive Engineer may get them constructed departmentally or through such agencies as he may deem fit.]

7. Maintenance of field channels.

(1) It shall be the duty of the beneficiaries to maintain the field channels constructed under Section 3, 4, 5 or 6 in a proper state of repairs at their own cost. (2) If the beneficiaries fail to keep the field channels in a proper state of repairs, the Executive Committee of the Gram Panchayat shall report the matter to the Panchayat Samiti and shall, on funds being provided by the Panchayat Samiti, make necessary repairs thereof. (3) If the Block Development Officer is satisfied that a field channel constructed under Section 3, 4, 5 or 6 is not being properly maintained, he shall report the matter to the Panchayat Samiti, call upon the Executive Committee of the Gram Panchayat to maintain it properly and shall, with the approval of the Panchayat Samiti, provide funds required for the purpose. (4) [If the Executive Engineer is satisfied that any field channel constructed under Section 3, 4, 5 or 6 is not being properly maintained, he shall after giving an opportunity to the Panchayat Samiti concerned to take such action as may be directed by him, proceed to have such repairs made by such engineering staff of the department as he may deem fit.] [Substituted by Act 14 of 1982.]

8. Construction and maintenance of field channels in areas which are not within the local limits of any Gram Panchayat.

- [(1) Whenever on the report of any officer of the Irrigation Department of the State Government or otherwise it appears expedient to the Executive Engineer that with a view to utilizing the irrigation potential created by an irrigation work of water courses field channels should be constructed in any area which is not within the local limits of any Gram Panchayat he shall directly cause to be served on all beneficiaries notices in the prescribed form directing them to construct such field channels at their own cost within a specified time, which shall not be more than two months from the date of issue of the notice and thereupon the beneficiaries shall comply with such direction, and if within that period or within such further time as the Executive Engineer may allow, the field channels are not constructed by the beneficiaries, the Executive Engineer may get them constructed through such engineering staff of the Department as he may deem fit. (2) It shall be the duty of the beneficiaries to maintain the field channels constructed under sub-section (1) in proper state of repairs at their own cost and if the Executive Engineer is satisfied that any such field channel is not being properly maintained he shall proceed to have such repairs made by such engineering staff of the Irrigation Department as he may deem fit.] [Substituted by Act 14 of 1982.]

8A. [[Inserted by Act 14 of 1982.]

(1) Notwithstanding the provisions contained in the said Act, in any irrigable command area of irrigation projects, an Executive Engineer of the Department of Irrigation and Power or any other officer of a statutory development authority or a Joint Stock Company authorised in this behalf by the State Government may with a view to providing for or improving irrigation facilities in such areas prepare a plan for the construction of field channels and thereupon he may take all such steps as may be necessary for the execution of the plan and cause to be constructed and carried out field channels and all works connected therewith in accordance with the plan and nothing in Sections 3, 4 and 5 shall apply in relation to such plan. (2) Without prejudice to the generality of the provisions of

sub-section (1), an Executive Engineer of the Irrigation and Power Department or any other officer of a Statutory Development Authority or a Joint Stock Company authorised in this behalf by the State Government may apply -(a)to the Requisitioning Authority under the Bihar Irrigation Development (Requisition of Land) Ordinance, 1976 to requisition any land for execution of the plan, and(b)to the Collector to acquire under the said Ordinance any land required for the execution of the plan.(3)The provisions of Section 3 shall apply in relation to a plan prepared under this Section.]

Chapter III

Acquisition of Land

9. [Acquisition of land by the Executive Committee of the Gram Panchayat or by Panchayat Samiti from the owner thereof by mutual agreement. [Substituted by Act 14 of 1982.]

- For construction of field channels the Executive Committee of a Gram Panchayat or a Panchayat Samiti may acquire land from the owner thereof on such terms and conditions and on payment of such price as may be agreed upon between the Executive Committee of the Gram Panchayat or the Panchayat Samiti and such owner, if no such agreement is arrived at, the Executive Committee of the Gram Panchayat or the Panchayat Samiti or the Executive Engineer, as the case may be, may apply to the Collector for acquisition of the land on its/his behalf under the Land Acquisition Act, 1894 (I of 1894).]

10. Publication of plan of field channel and of land proposed to be acquired for construction thereof.

- [(1) When an application for acquisition of land is made to the Collector by the Executive Committee of the Gram Panchayat or by a Panchayat Samiti under Section 9, or when the Executive Engineer proposes to proceed under Section 6 or 8 he may direct an Assistant Engineer to enter upon, survey and mark out the land necessary for the construction of the field channels and of the land as marked out.(2)When the plan has been so prepared, the Executive Engineer shall cause it to be published in every village through which the field channels are proposed to be taken out and also send a copy of it to the Block Development Officer and to the Executive Committee of the Gram Panchayat of the area concerned and to the owners of the land likely to be affected by the field channels.] [Substituted by Act 14 of 1982.]Explanation. - The expression 'Assistant Engineer' means the officer appointed as such by the State Government and includes an Engineer Assistant, an Overseer and Sub-Overseer.

11. Acquisition of land under the Land Acquisition Act, 1894.

(1)After the publication of the plan under Section 10 the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1894 (I of 1894), as if a declaration had been

issued by the State Government for the acquisition thereof under Section 6 and the Collector had been directed under Section 7 of that Act to take order for the acquisition of such land.(2)[Subject to the other provisions of the Act, the Collector, at the instance of the Executive Committee of a Gram Panchayat or a Panchayat Samiti or the Executive Engineer may deliver possession of any land acquired under this Act, to the Executive Committee of the Gram Panchayat or to the Panchayat Samiti or to the Executive Engineer, as the case may be, for being used for the purpose for which it was acquired.] [Substituted by Act 14 of 1982.]

12. Collector may take possession of land at any time after the publication of the plan.

(1)Notwithstanding anything contained in Section 10 or in the Land Acquisition Act, 1894 (I of 1894) or in any other law or anything having the force of law, the Collector may, at anytime after the publication of the plan under Section 10 take possession of the lands specified in the plan and such land shall thereupon vest absolutely in the State Government free from all incumbrances.(2)In every case under sub-section (1) the Collector shall at the time of taking possession offer to the persons interested such ad interim compensation for the land and for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in Section 24 of the Land Acquisition Act, 1894 (I of 1894) as the Collector thinks fit; and in case such offer is not accepted, the value of the land, crops and trees and the amount of other damage shall be allowed for in awarding compensation for the land under the provisions of the said Act.

13. [Land acquired under this Act not be used for other purposes. [Substituted by Act 14 of 1982.]

- No land acquired under this Act for construction of field channels shall be used for any purpose other than that for which it was acquired without the order of the Executive Engineer with the approval of the Collector.]

Chapter IV

Cost of Acquisition of Land and Construction and Maintenance of Field Channels

14. The cost of acquisition of land and construction and maintenance of field channels.

- [(1) The cost of acquisition of land and construction and maintenance of field channels -(a)if incurred by the Executive Engineer -(i)in respect of an area which is within the local limits of any Gram Panchayat, shall be payable by the Panchayat Samiti concerned to the Executive Engineer by the Executive Committee of the Gram Panchayat concerned to the Panchayat Samiti and by the beneficiaries to the Gram Panchayat; and(ii)in respect of an area which is not within the local limits

of any Gram Panchayat, shall be payable directly by the beneficiaries to the Executive Engineer.](2)Every sum payable under this Act to the Collector by the Panchayat Samiti or by the beneficiary or to the Panchayat Samiti by the Executive Committee of a Gram Panchayat or to the Executive Committee of a Gram Panchayat by the beneficiaries shall be recoverable as a public demand under the Bihar and Orissa Public Demands Recovery Act, 1914 (B & O. Act IV of 1914), and every sum payable under this Act to the Collector by the Panchayat Samiti may also be adjusted against grants and aids receivable, from time to time, by the Panchayat Samiti from the State Government.

15. Apportionment of cost of acquisition of land or of construction or maintenance of field channels amongst the beneficiaries.

(1)For the purpose of determining the amount payable by each beneficiary under clause (a) or clause (b) or clause (c) of sub-section (1) of Section 14, the cost of acquisition of land or construction or maintenance of field channels as the case may be, shall by order in writing be apportioned between the beneficiaries by the Block Development Officer concerned on the basis of the culturable command area held by each of them and copy of such order shall be served on the beneficiaries concerned.(2)Any person aggrieved by the order of apportionment passed by the Block Development Officer under sub-section (1) may within thirty days of the date of service of copy of the order prefer an appeal to the Collector or Additional Collector of the district.(3)On such appeal being preferred, the Collector or Additional Collector of the district, as the case may be, shall, after considering such evidence as may be adduced by the parties concerned and after holding such further inquiry as he may consider necessary, for reasons to be recorded, pass such orders as he may deem fit.(4)Every order passed by the Collector or Additional Collector of the district, as the case may be under sub-section(3) shall be final.

Chapter V

Miscellaneous

16. Bar of jurisdiction of Civil Court.

- No suit shall lie in any Civil Court to vary or set aside any order passed or in respect of any proceeding started under this Act or Rules made thereunder.

17. Protection of acts done in good faith.

- No suit, prosecution or other legal proceeding shall be instituted against any person in respect of anything which is, in good faith, done or purported to be done under this Act or under any Rule made thereunder.

18. Power to make Rules.

(1)The State Government may, after previous publication, make Rules, not inconsistent with this Act, for carrying out the purposes of this Act.(2)Every Rule made under this Section shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before expiry of the session in which it is so laid or the session immediately following, both the Houses agree in making any modification in the Rule or both the Houses agree that the Rule should not be made the Rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however,that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Rule.

19. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion may require, by order, do anything not inconsistent with the provisions of this Act which appears to it necessary for the purpose of removing the difficulty.[Substituted by Act 14 of 1982.]