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PART IV

PROVINCIAL ASSEMBLY OF SINDH

NOTIFICATION

Karachi, the 15th September, 1997

No. PAS/Legis-B-8/97.—The Sindh Irrigation and Drainage Authority Bill, 1997 having been passed by the Provincial Assembly of Sindh on 28th June, 1997 and assented to by the Governor of Sindh on 11th August, 1997 is hereby published as an Act of the Legislature of Sindh.

THE SINDH IRRIGATION AND DRAINAGE
AUTHORITY ACT, 1997.

SINDH ACT NO. IV OF 1997

(First published after having received the assent of the Governor of Sindh in the Gazette of Sindh (Extra-Ordinary) dated 15th September, 1997.)

AN

ACT

to provide for the establishment of the Irrigation and Drainage Authority in the Province of Sindh.

WEREAS it is expedient to provide for the establishment of the Irrigation and Drainage Authority in the Province of Sindh for equitable distribution of Irrigation water and effective drainage and flood control sustainable on long term basis through participation of beneficiaries in the operation and management of irrigation and drainage network and to provide for matters connected therewith or incidental thereto;

Preamble

It is hereby enacted as follows:—

CHAPTER—I
PRELIMINARY

Short title
and Commence-
ment.

1. (1) This Act may be called the Sindh Irrigation and Drainage Authority Act, 1997.

(2) It extends to the whole of Province of Sindh.

(3) It shall come into force at once.

Definition:

2. In this Act, unless there is any thing repugnant in the subject or context:—

(i) "Authority" means the Sindh Irrigation and Drainage Authority established under section 3;

(ii) "AWB" means an Area Water Board established under section 23;

(iii) "Board" means the Board of Management, constituted under section 7;

(iv) "canal" means a canal as defined in the Sindh Irrigation Act, 1879;

(v) "Chairman" means the Chairman of the Authority;

(vi) "drain" means a natural drain, surface or sub-surface drainage network provided for the evacuation of the surplus sub-soil and surface water from the land under the command of a canal system;

(vii) "drainage cess" means the drainage cess levied for conveyance and disposal of effluent through the drains;

(viii) "FO" means the Farmers Organization formed under section 26;

(ix) "Government" means the Government of Sindh;

(x) "Local Council" means a local council constituted under the Sindh Local Government Act 1979;

(xi) "Managing Director" means the Managing Director of the Authority;

(xii) "member" means the member of the Authority;

(xiii) "prescribed" means prescribed by rules or regulations under this Act;

- (xiv) "regulations" means regulations made under this Act;
- (xv) "rules" means rules made under this Act;
- (xvi) "WAPDA" means the Water and Power Development Authority;
- (xvii) "water" includes any water standing or Planning on surface or sub-surface at any palce in the Province but does not include the water in the inter provincial reservoirs and/or rivers and canals as is allocated to any other Province;
- (xviii) "water rate" means the charge levied for supply of water under the Water Apportionment Accord, 1991.

CHAPTER—II

ESTABLISHMENT OF THE AUTHORITY

3. (1) As soon as may be, after the commencement of this Act there shall be established an Authority to be known as the Sindh Irrigation and Drainage Authority. Establishment of the Authority.

(2) The Authority shall be a body corporate with power to acquire, hold and dispose of property, having perpetual succession and a common seal and shall by the said name, sue and sued.

(3) The Headquarters of the Authority shall be at Hyderabad.

4. (1) The Authority shall consist of:—

Board of Constitution of the Authority

- | | |
|--|----------|
| (a) Minister for Irrigation or any other person appointed by Government. | Chairman |
| (b) Senior Member, Board of Revenue. | Member |
| (c) Additional Chief Secretary Planning and Development Department. | Member |
| (d) Secretary Finance Department. | Member |
| (e) Secretary Irrigation and Power Department. | Member |
| (f) Secretary Agriculture Department. | Member |
| (g) Managing Director of the Authority. | Member |
| (h) A representatvie of Farmer's Organization. | Member |

(2) The Chairman other than the ex-officio Chairman and member other than the ex-officio members shall, unless resigned or removed earlier, hold office for four years and shall be eligible for re-appointment for one similar term.

(3) In the case of death, resignation or removal of such Chairman or a member another Chairman or as the case may be, a member may be appointed in his place for the un-expired term of such Chairman or member.

(4) The Chairman or a member may by writing under his hand resign from his office but his resignation shall not take effect until it is accepted by Government.

5. (1) There shall be at least one meeting of the Authority each quarter of a year.

(2) The meetings of the Authority shall be held at such time and as such places and in such manner as may be prescribed by regulations or until regulations are made in this behalf, as and when convened by the Chairman.

(3) Notwithstanding the provisions of sub-section (1), the Chairman shall convene a meeting of the Authority if three or more members so request him in writing and such meeting shall be convened after giving at least seven days notice within a period of not exceeding fifteen days of receipt of such requisition.

(4) The quorum for a meeting of the Authority shall be three members.

(5) The Chairman or, in his absence, a member elected by the members present in a meeting of the Authority shall preside at such meeting of the Authority.

(6) In the event of an equality of votes the Chairman or the member presiding a meeting shall have a casting vote.

(7) The Chairman and a member shall receive such allowance as may be prescribed by Authority for attending a meeting of the Authority.

6. Government may by notification remove the Chairman or a member other than the ex-officio Chairman and member if he—

- (a) is incapable of discharging his responsibilities under this Act;
or
- (b) has been declared insolvent; or

- (c) has been declared to be disqualified for employment, or has been dismissed from the service of Government, or has been convicted for an offence involving moral turpitude; or
- (d) has knowingly acquired or has continued to hold without the permission, in writing, of Government, directly or indirectly or through a partner, any share or interest in any contract or employment with or on behalf of the Authority or in any land or property which, to his knowledge, is likely to benefit or has benefitted as a result of the operations of the Authority:

Provided always that no action shall be taken under this section against the Chairman or member without affording him an opportunity of being heard.

7. (1) Subject to the overall control and guidance of the Authority, the day to day management of the affairs of the Authority shall be carried out by a Board of Management consisting of the Managing Director and not more than four General Managers as may be appointed by the Authority with the approval of Government.

Board of Management

(2) The Managing Director and the General Managers shall have such qualifications, technical back ground and practical experience in the profession relevant to their job description provided that the Managing Director and the General Managers shall respectively possess at least twenty five years and fifteen years professional standing in the field of Irrigation and Drainage.

(3) The Managing Director or a General Manager may be removed if he has incurred any of the disqualification mentioned in Section 6.

(4) Subject to other provisions of this section, the Managing Director and General Managers shall be appointed on such terms and conditions as may be prescribed by rules.

(5) The Managing Director and General Managers shall unless resigned or removed earlier hold office for four years and shall be eligible for re-appointment for another similar term or for such shorter terms as Government may decide.

(6) The Managing Director or any General Manager may, at any time resign; provided that his resignation shall not take effect until accepted by Government.

CHAPTER-III

POWERS AND DUTIES OF THE AUTHORITY

Powers and
Duties of the
Authority.

8. The Authority shall have the following powers and duties:—

(A) GENERAL.

(1) Subject to the provisions of the Water Apportionment Accord, 1991, to receive Irrigation Water of the Barrages within the Province and/or from the inter Provincial/Link canals and deliver the same in agreed quantities to the various AWB's bodies or persons in the manner and on the terms and conditions as may be prescribed by the Authority at the relevant Canal head works and to receive drainage effluent at the designated points and convey the same to the inter provincial outfall drains.

(2) to exercise such powers of Government under the Irrigation Act, 1879 and rules as are not inconsistent with or in derogation to any provision of this Act, rules or regulations.

(3) to levy and collect Water rate and drainage cess and surcharge for late payment of such rate and cess.

(4) to prescribe and receive fees or charge for providing any service under this Act.

(5) to recover any amount payable to the Authority under this Act as arrears of land revenue.

(B) POLICY AND REGULATION.

(1) To formulate and implement policy Guide lines and procedures for the proper and efficient implementation of the provisions of this Act.

(2) to formulate and implement policies in the water resources sector with a view to continuously improve and achieve effective economical and efficient utilization, preservation and improvement of such water resources on sustainable basis;

(3) to prescribe training requirements and programme which may be necessary for the purpose of this Act and to prescribe the manner and authority for conducting such training and programmes.

(4) to investigate and adjudicate complaints on any disputes and/or differences under this Act between the different entities established under this Act and between such entities and individual or group of individuals;

(5) to prescribe the procedures for obtaining and filling of documentation regarding water allocation;

(6) to grant, renew or cancel the licences or leases as may be prescribed.

(C) CAPITAL OPERATIONS.

(1) To plan, design, construct, operate and maintain the irrigation drainage, storage reservoirs and flood control infrastructure including hill torrent control and development work for irrigation of lands including watershed management practices in catchment areas of any river hill torrents or streams;

(2) to maintain records, registers and Data banks as may be necessary for the effective performance of any or all of its powers and duties under this Act;

(3) to take all such steps as may reasonably be necessary for the removal and prevention of encroachments and un-authorized construction along or the properties of the Authority.

(4) to operate and maintain the equipment, machinery and stores of the Authority effectively, efficiently and in a business like manner.

(5) to under take or assign any person in the prescribed manner anti-erosion operations including conservation of forests and reforestation in the catchment areas of any river, hill torrents or streams and for the purpose of clearing or breaking of and as may be necessary be restricted or prohibited.

(D) FINANCE AND ADMINISTRATION.

(1) To under take any works, incur expenditure, procure machinery plant and stores required by the Authority;

(2) to negotiate, execute and adopt/rectify all such contracts as may be considered necessary or expedient for the purpose of this Act;

(3) to utilize the Authority Fund to meet the cost and expenses incurred on account of and in connection with the due performance of the various functions of the Authority under this Act including the payments of salaries, gratuity, pension and other remunerations to the officers, employees and other persons engaged by the Authority;

(4) to properly manage finances and maintain accounts and assets of the Authority;

(E) TRANSITION.

(1) to promote formation, growth and development of AWBs/FQs as self supporting and financially self sustaining entities and to ensure orderly and systematic induction thereof into the operations of the Authority.

(2) to prepare or cause to be prepared and regularly update or cause to be updated staffing and Operational and Financial Plans which will generally deal with and reflect such matters as may be prescribed by it;

(3) to formulate policies with a view to ensure that the Authority and other entities under this Act become fully operative and self supporting and financially self sustaining entities as regards Operation and Maintenance cost of Irrigation and Damage as defined in Chapter V within a period of seven to ten years.

(F) RESEARCH AND DEVELOPMENT.

(1) To formulate implement and regularly update policies, studies and research programmes with a view to solve/eliminate and prevent Water logging and salinity, and to develop irrigated agriculture;

(2) to conduct studies with a view to regularly analyse and evaluate the impact of the operations and policies of the Authority on the ecology the the environment with a view to establish the various available options for the minimization of the adverse impact of such operations and policies if and, and to adopt the optimal option (s) for further action;

(3) to coordinate/regulate the measures being undertaken/required to be undertaken for recording/gauging surface waters' monitoring of groundwater table and the quality of water and the compilation of data relevant thereto and in this regard to establish and regularly maintain proper liaison with similar work being undertaken in other Provinces;

(4) to publish or cause to be published the various policies, details data and information relevant to the affairs of the Authority on a regular basis and to ensure reasonable access of the public to the same.

9. CONTRACTUAL SERVICES.

The Authority may, under a written agreement as to the terms and conditions including the extent and manner of payment for the same' undertake execution of any scheme (s) of exercise technical supervision and administrative and financial control over the execution of any scheme(s) framed or sponsored by Government or any other Agency.

Acquisition
land by
the Authority

10. Acquisition of any land or any interest in land for the Authority for the proposes of or any scheme under this Act shall be deemed to be an acquisition of a public purpose within the scope and meaning of the Land Acquisition Act, 1894, the provisions whereof shall have effect accordingly.

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11. (1) As soon as any scheme has been completed by the Authority or at a late date, the Authority may arrange by a written agreement with a Local Council or other Agency within whose jurisdiction any particular area covered by the scheme lies, to take over and maintain any of the works comprising such scheme in the said area.

Arrange-
ment with
Local Bodies
for Other
Agencies

(2) Government may direct the Authority to hand over any scheme (s) completed by it to any agency of Government or a Local Council or takeover such scheme (s) completed by any agency on such terms and conditions as may be determined by Government;

(3) The Authority shall have the powers to check, monitor and suggest works carried out by WAPDA in the Province;

12. Subject to the relevant provisions in the Water Apportionment Accord (1991), the Authority shall have control over all the rivers canals, drains, stream, hill torrents, springs, except such reservoirs as are under the control of WAPDA and under ground water resources within the Province.

Control over
Provincial
Water
Resorces.

CHAPTER IV

ESTABLISHMENT

13. (1) Subject to any other provisions of this Act the Authority may from time to time employ such officers and servants, or appoint in accordance with regulations as it may consider necessary for the performance of its functions; provided that the Authority may appoint experts and consultants on such terms and conditions as it may deem fit.

Appointment
of 13,
Officers
Servants.

(2) Notwithstanding any thing contained in sub-section (1) any regulation made or orders or instructions issued by the Authority, the Authority may at time, for reasonable cause, relieve or remove from its service any person after giving him not less than ninety days, notice or pay, for the period by which such notice falls short of ninety days.

14. The Authority shall be competent to take disciplinary action against its officers and employees in accordance with the regulations.

Disciplinary
Powers.

15. (1) The Managing Director, Members of the Board Officers and employees of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of Section 21 of the Pakistan Penal Code.

Immunity
of the
Authority
and its
employees

(2) No suit, prosecution or other legal proceedings shall lie against the Authority, the Managing Director, Members or Officers and employees of the Authority in respect of any thing done or intended to be done in good faith under this Act.

