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ASSAM ACT NO. V OF 2005

(Received the assent of the Governor on 13th January, 2005)

THE ASSAM IRRIGATION WATER USERS ACT, 2004.

AN ACT

to provide for farmers' participation in the management of irrigation systems and for matters connected therewith or incidental thereto.

Whereas it is expedient to provide for farmers' participation in the management of irrigation system for ensuring efficient and equitable supply and distribution of water through farmers' Organisations to optimise agricultural productions ;

It is hereby enacted in the Fifty-fifth Year of the Republic of India as follows :-

CHAPTER - I

PRELIMINARY

- Short title, extent and commencement. 1.(1) This Act may be called the Assam Irrigation Water Users' Act, 2004.
- (2) It extends to the whole of Assam.
- (3) It shall come into force on such date as the Government may, by notification in the Assam Gazette, appoint :

Provided that different dates may be appointed by the Government for different areas and for different provisions of the Act.

- Definitions 2. In this Act, unless the context otherwise require, -
- (a) "area of operation" in relation to Water Users' Association means a continuous block of land in the command area of an irrigation system as may be notified for the purposes of this Act ;
- (b) "ayacut road" means a road within the area of operation of Water Users' Association for the purpose of irrigation and agriculture but do not include a road vested in Gram Panchayat, Municipality, Municipal Corporation or the Public Works Department of the Government ;
- (c) "command areas" means an area irrigated or capable of being irrigated either by gravitational flow or by lift irrigation or by any other method from a Government or a Government aided source and includes every such area whether it is called ayacut or by any other name under any land for the time being in force ;
- (d) "competent authority" means the authority appointed under section 21 ;

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(iii) Project Committee at Section 7.

(h) "field channel" includes a chann the Government or by the land ho and distribute water from a outlet,

(i) "field drain" includes a channel exc land holder or by any other agency t water from the land holding under a escape channels and other similar works e

"financial year" means a year commencing relevant year to the 31st March of the ensui

"financing agency" means any commercial ba society or any other bank or organisation establ under any law for the time being in force, which development of the area of operation of the Water

- (e) "District Collector" means the collector of the district in which the irrigation system is situated and includes any officer specially notified by the Government to perform all or any of the functions of the District Collector under this Act;
- (f) "drainage system" in relation to an irrigation includes, -
 - (i) escape channels from an irrigation or distributory system and other works connected therewith, but does not include works for removal of sewage;
 - (ii) channels either natural or artificial for the discharge of waste or surplus water and all works connected therewith;
 - (iii) all connecting drains and main drains to drain off surplus water from field drains; and
 - (iv) all field drains, related structures under outlets.
- (g) "farmers' organisation" wherever it occurs, shall mean and include -
 - (i) Water Users' Association consisting of all the water users as specified under section 3,
 - (ii) Distributory Committee at the secondary level as constituted under section 5,
 - (iii) Project Committee at the project level as constituted under Section 7.
- (h) "field channel" includes a channel existing or to be constructed by the Government or by the land holders or by any agency to receive and distribute water from a outlet;
- (i) "field drain" includes a channel excavated and maintained by the land holder or by any other agency to discharge waste or surplus water from the land holding under a outlet and includes drains, escape channels and other similar works existing or to be constructed.
- (j) "financial year" means a year commencing from the 1st April of the relevant year to the 31st March of the ensuing year;
- (k) "financing agency" means any commercial bank or any co-operative society or any other bank or organisation established or incorporated under any law for the time being in force, which lends money for the development of the area of operation of the Water Users' Association;

- (l) "distributory system" means and includes :-
- (i) all main canals, branch canals, distributories and minor canals constructed for the supply and distribution of water for irrigation;
 - (ii) all works, structures and appliances connected with the distribution of water for irrigation; and
 - (iii) all field channels and other related channels and structures under an outlet.
- (m) "Government" means the State Government of Assam ;
- (n) "hydraulic basis" means the basis for identifying a viable irrigated area served by one or more hydraulic structures such as head works, distributaries, minors, outlets and the like;
- (o) "irrigation system" means major, medium and minor irrigation systems for harnessing water for irrigation and other allied uses from Government or Government aided source and includes reservoirs, open head channels, diversion system, lift irrigation scheme, tanks, wells and the like ;

Explanation :

- (1) "major irrigation system" means system under major irrigation project having irrigable command area of more than 10,000 hectares;
 - (2) "medium irrigation system" means irrigation system under medium irrigation project having irrigable command area of more than 2,000 hectares and up to 10,000 hectares ;
 - (3) "minor irrigation system" means irrigation system under minor irrigation project having irrigable command area up to 2,000 hectares.
- (p) "land holders" means an owner or a tenant recorded as such in the records of rights under the Assam Land and Revenue Regulation, 1886 (as amended) and the Assam (Temporarily Settled Areas) Tenancy Act, 1971 (as amended) in respect of land in the notified ayacut. Regulation 1 of 1886 Assam Act No. XXIII of 1971.
- (q) "maintenance" means execution of such works on the irrigation system as are necessary to ensure that the physical system designed to the standards operates for proper distribution of water to the areas of operation ;
- (r) "notification" means a notification published in the Assam Gazette and the expression "notified" shall be construed accordingly ;
- (s) "operation plan" means a schedule of irrigation deliveries with details of the mode and duration of supplies drawn up for regulation of irrigation in the command area of an irrigation system ;
- (t) "prescribed" means prescribed by the Government by rules made under this Act ;
- (u) "warabandi" means a system of distribution of water allocation to water users by turn, according to an approved schedule indicating the day, duration and the time of supply ;

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Delineation of water users' area and constitution an Association.

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- (v) "water user" means and includes any individual or body corporate or society using water for agriculture, domestic, power, non-domestic, commercial, industrial or any other purpose from a Government or Government aided source of irrigation;
- (w) "water allocation" in relation to an irrigation system means distribution of water determined from time to time by Water Users' Association in its area of operation.
- (x) "Water Users Association" means the Association constituted under sub-section (3) of Section 3.

CHAPTER - II

FARMERS' ORGANISATION

Delineation of water users' area and constitution an Association.

- 3. (1) The District Collector may, by notification and in accordance with the rules made under this Act in this behalf, delineate every command area under each of the irrigation system on a hydraulic basis except the command area of the shallow tube wells installed outside the command area of the irrigation schemes, installed by the individual farmers or by the Pathar Parichalana Samities registered by the Department of Agriculture, which may be administratively viable and declare it to be a water users' area for the purpose of this Act.
- (2) Every water users' area shall be divided into constituencies which shall not be less than four but not more than ten, as may be prescribed.
- (3) There shall be a Water Users' Association called by its local distinct name for every water users' area delineated under sub-section (1).
- (4) (a) Every Water Users' Association shall consist of the following members, namely:
 - (i) all water users who are land holders in a water users area provided that where both the owner and tenant are land holders in respect of the same land, the tenant;
 - (ii) five ex-officio members, namely one Sectional Assistant and one Junior Engineer from the Irrigation Department, who shall act as coordinator between the Government Departments and the Farmers' Organisation and two from the Agriculture Department in the rank of village Level Extension Worker (VLEW) and Agriculture Extension Officer and one Elected Gaon Panchayat Member/Gaon Panchayat President of the Gaon Panchayat concerned;

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- (v) "water user" means and includes any individual or body corporate or society using water for agriculture, domestic, power, non-domestic, commercial, industrial or any other purpose from a Government or Government aided source of irrigation ;
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- (x) "Water Users Association" means the Association constituted under sub-section (3) of Section 3.

CHAPTER - II

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Delineation of water users' area and constitution an Association.

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- (2) Every water users' area shall be divided into constituencies which shall not be less than four but not more than ten, as may be prescribed.
- (3) There shall be a Water Users' Association called by its local distinct name for every water users' area delineated under sub-section (1).
- (4) (a) Every Water Users' Association shall consist of the following members, namely:—
- (i) all water users who are land holders in a water users area provided that where both the owner and tenant are land holders in respect of the same land, the tenant;
 - (ii) five ex-officio members, namely one Sectional Assistant and one Junior Engineer from the Irrigation Department, who shall act as coordinator between the Government Departments and the Farmers' Organisation and two from the Agriculture Department in the rank of village Level Extension Worker (VLEW) and Agriculture Extension Officer and one Elected Gaon Panchayat Member/Gaon Panchayat President of the Gaon Panchayat concerned;

(3) All the Presidents of the Water Users' Association in the distributory area so long as they hold such Office, shall constitute the General Body of the committee including two nominated official members. One of them shall be an Assistant Engineer of Irrigation Department who shall work as a coordinator between the various departments, Water Users' Associations and Distributory Committees and the second member shall act as adviser who shall be from Agriculture Department in the rank of Agriculture Extension Officer.

Election of President and Constitution of Managing Committee.

6. (1) There shall be a Managing Committee for every Distributory Committee.
- (2) The District Collector shall make arrangement, in the manner prescribed, for the election by the method of secret ballot, of the President and members of the Managing Committee who shall not be more than five from among the members of the General Body of the Distributory Committee provided that the Government for the reasons to be recorded in writing, may postpone elections if situation demands so.
- (3) If, at an election held under sub-section (2), the President and the members of the Managing Committee are not elected, fresh election shall be held in the prescribed manner.
- (4) The term of office of the President and the members of the Managing Committee shall, if not recalled earlier be for a period of 3(three) years from the date of its first meeting.
- (5) The Managing Committee shall exercise the powers and perform the functions of the Distributory Committee.

Delineation of project area and constitution of Project Committee.

7. (1) The Government may, by notification and in accordance with the rules made under this Act in this behalf, delineate every command area or part thereof of an irrigation system and declare it to be a project area for the purpose of this Act.
- (2) There shall be a Project Committee called by its district name for every project area declared under sub-section (1).
- (3) All the Presidents of the Distributory Committee in the project area, so long as they hold such office, shall constitute the General Body for the Project Committee. The Project Committee shall have two nominated members one of whom shall act as a coordinator between various departments and farmers' organisation and shall be an Executive Engineer of Irrigation Department and the second member shall act as adviser who shall be from Agriculture Department in the rank of District Agricultural Officer. The nominated members shall not have right to vote.

- (iii) members specified in clause (i) and (ii) shall constitute the General Body for the Water Users' Association.
- (b) A person eligible to become a member of more than one territorial constituencies of a Water Users' Association under (i) shall be entitled to be a member of only one territorial constituency and he shall exercise his option thereof as prescribed.
- (c) members specified in clause (i) shall alone have the right to vote.

Election of President and Members of the Managing Committee of Water Users' Association.

4. (1) There shall be a Managing Committee for every Water Users' Association. The member of the Managing Committee of the Water Users' Association shall be form the elected representative of the respective Water Users' Association and the size of the committee will vary from 4 to 10 members depending on the size of the territorial constituency.
- (2) The District Collector shall make arrangement for the election of the President of the Managing Committee of the Water Users' Association by direct election by the method of secret ballot in the manner prescribed.
- (3) The District Collector shall also make arrangement for the election of Managing Committee consisting of one member from each of the territorial constituency of water users' area by method of secret ballot in the manner prescribed.
- (4) If at an election held under sub section (2) and (3) the President or the Members of the territorial constituency of Water Users' Association are not elected, fresh elections shall be held in the manner prescribed:

Provided that the Government for the reasons to be recorded in writing may, from time to time, postpone the election.

- (5) The President and the members of the Managing Committee shall, if not recalled earlier, be in office for a period of 3(three) years, from the date of the first meeting.
- (6) The Managing Committee shall exercise the powers and perform the functions of the Water Users' Association.

Delineation of distributory area and constitution of the Distributory Committee

5. (1) The Government may by notification and in accordance with the rules made in this behalf, delineate every command area of the irrigation system comprising of one or more Water Users' Association, and declare it to be a distributory area for the purpose of this Act.
- (2) There shall be a Distributory Committee called by its local distinct name for every distributory area declared as such under sub-section (1).

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8. (1) There shall be a Managing Committee for every Project Committee.

(2) The District Collector shall make arrangement in the manner prescribed for election by the method of secret ballot of the Chairman and Managing Committee consisting of not more than nine members from amongst the members of the General Body of the Project Committee :

Provided that the Government for the reasons to be recorded in writing may, from time to time, postpone election.

(3) If, at an election held under sub-section (2), the Chairman and the members of the Managing Committee are not elected, from election shall be held in the prescribed manner.

(4) The term of office of the Chairman and members of the Managing Committee, shall, if not recalled earlier, be for a period of 3(three) years from the date of its first meeting.

(5) The Managing Committee shall exercise the power and perform the functions of the Project Committee.

Apex Committee

9. (1) The Government may by notification constitute an Apex Committee with the following Members :

- (i) Minister, Irrigation Department - Chairman ;
- (ii) Five persons from amongst the Chairman of the Project Committees ;
- (iii) Two persons from the Local Non-Government Organisations (NGOs) who are active in water management and agricultural activities ;
- (iv) Three persons from Officers not below the rank of Secretary or Chief Engineer from the Irrigation and/or Agriculture Department;
- (v) The elected Gaon Panchayat President of the Gaon Panchayat as Ex-officio Member ;
- (vi) The Members may be increased by such numbers as may be considered by the Government.

(2) The Committee, constituted under sub-section (1) may exercise such powers and functions as may be necessary to -

- (a) laydown the policies for implementation of the provision of this Act,
- (b) give such directions to any farmers' organization as may be considered necessary, in exercising their powers and performing their functions in accordance with the provisions of this Act.

Procedure for recall: 10. (1) A motion for Committee, a made by givi less than on organization:

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Constitution of sub-committee in farmers' organisation. 11. The sub-org

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Changes in farmers' organisation. 13.

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Procedure for recall.

10. (1) A motion for recall of a Chairman or President or a Managing Committee, as the case may be, of a farmers' organization may be made by giving a written notice as may be prescribed, signed by not less than one third of the total number of members of the farmers' organization who are entitled to vote :

Provided that no notice of motion under this section shall be made within one year of the date of assumption of office by the person against whom the motion is sought to be moved.

- (2) If the motion is carried with the support of majority of the members present and voting at a meeting of the General Body specially convened for the purpose, the District Collector or the Government as the case may be, shall by order remove him from office and resulting vacancy shall be filled in the same manner as a casual vacancy.

Constitution of sub-committee in farmers' organisation.

11. The Managing Committee of farmers' organization may constitute sub-committees to carry out all or any of the functions vested in each organisation under this Act.

farmers' organisation to be a body corporate.

12. Every farmers' organisation shall be a body corporate with a distinct name having perpetual succession and a common seal and subject to the provisions of this Act vested with the capacity of entering into contracts and of doing all things necessary, proper or expedient for which it is constituted and it shall sue or be sued in its corporate name represented by the Chairman or the President as the case may be :

Provided that no farmers' organisation shall have the power to alienate in any manner any property vested to it.

Changes in farmers' organisation.

13. The Government may in the interest of the farmers' organisation in the command area by the notification and in accordance with the rules made in this behalf -

- (a) form a new farmers' organisation by separating the area from any farmers' organisation,
 - (b) increase the area of any farmers' organisation,
 - (c) diminish the area of any farmers' organisation,
 - (d) alter the boundaries of any farmers' organisation or
 - (e) cancel a notification issued under this Act or rectifying any mistake :
- Provided that no such separation, increase, diminution, alteration and cancellation shall be effected unless a reasonable opportunity is given to the organisation likely to be affected.

Qualification of candidates or members.

14. No village employee and no officer or employee of the Government of India or any State Government or of local authority or an employee of an institution receiving aid from the funds of the Government shall be qualified for being chosen as or for being a Chairman, or President or a member of the Managing Committee.

Explanation - I

- (1) For the purpose of this Section the expression village employee means in relation to the State of Assam any person who holds any of the village offices such as Gaon Panchayat, Mahkuma Parishad or any such village office by whatever designation it may be locally known.
- (2) No person who has been convicted by a criminal court for any offence committed under any law for the time being in force involving moral turpitude shall be qualified for being chosen or for being a Chairman or President or a member of a Managing Committee.
- (3) A person shall be disqualified for being chosen as a Chairman or a President or a member of the Managing Committee if on the date fixed for scrutiny of nominations for election or on the date of nomination he is -
- (a) of unsound mind and stands so declared by a competent court.
- (b) a defaulter of land revenue or water tax or charges payable either to the Government or to the farmers' organisation.
- (c) interested in a subsisting contract made with or any work being done for, Gaon Panchayat or any State or Central Government or the farmers' organisation or Water Users' Association :

Provided that a person shall not be deemed to have any interest in such contract or work by reason only of his having share or interest in -

- (i) a company as a mere share holder but not as a Director, or
- (ii) any lease, sale or purchase of immoveable property or any agreement for the same, or
- (iii) any agreement for the loan of money or any security for the payment of money only, or
- (iv) any newspaper in which any advertisement relating to the affairs of the farmers' organisation is inserted.

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Explanation - I

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- (2) No person who has been convicted by a criminal court for any offence committed under any law for the time being in force involving moral turpitude shall be qualified for being chosen or for being a Chairman or President or a member of a Managing Committee.
- (3) A person shall be disqualified for being chosen as a Chairman or a President or a member of the Managing Committee if on the date fixed for scrutiny of nominations for election, or on the date of nomination he is -
- (a) of unsound mind and stands so declared by a competent court.
- (b) a defaulter of land revenue or water tax or charges payable either to the Government or to the farmers' organisation.
- (c) interested in a subsisting contract made with or any work being done for, Gaon Panchayat or any State or Central Government or the farmers' organisation or Water Users' Association :

Provided that a person shall not be deemed to have any interest in such contract or work by reason only of his having share or interest in -

- (i) a company as a mere share holder but not as a Director, or
- (ii) any lease, sale or purchase of immovable property or any agreement for the same, or
- (iii) any agreement for the loan of money or any security for the payment of money only, or
- (iv) any newspaper in which any advertisement relating to the affairs of the farmers' organisation is inserted.

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CHAPTER - III

- Objects and functions of the farmers' organisation.
16. The objects of the farmers' organisation shall be to promote and secure distribution of water among its users, adequate maintenance of the irrigation system, efficient and economical utilisation of water to optimize agricultural production, to protect the environment and to ensure ecological balance by involving the farmers, to develop a sense of ownership of the irrigation system in accordance with the water budget and the operational plan.
- Functions of Water Users' Association.
17. The Water Users' Association shall perform the following functions, namely :-
- (a) to prepare and implement a warabandi schedule for each irrigation season consistent with the operational plan, based upon the entitlement, area soil and cropping pattern as approved by the Distributory Committee, or as the case may be, the Project Committee ;
 - (b) to prepare a plan for the maintenance of system in the area of its operation at the end of each crop season and to carry out the maintenance works of both distributory system and minors and field drains in its area of operation with the funds of the Association from time to time ;
 - (c) to regulate the use of water among the various outlets under its area of operation according to the warabandi schedule of the system ;
 - (d) to promote economy in the use of water allocated ;
 - (e) to assist the Revenue Department in the preparation of demand and collection of water rates ;
 - (f) to maintain a register of land and holders as per revenue record ;
 - (g) to prepare and maintain a register of co-opted members ;
 - (h) to prepare and maintain an inventory of the irrigation system within the area of operation ;
 - (i) to monitor flow of water for irrigation ;
 - (j) to resolve the disputes, if any, between the Members and Water Users in its area of operation ;
 - (k) to raise resources ;
 - (l) to maintain accounts ;
 - (m) to cause annual audit of its accounts ;
 - (n) to assist in the conduct of election to the Managing Committee;
 - (o) to maintain other records as may be prescribed ;

Explanation - II

For removal of doubt it is hereby declared that where a contract is fully performed, it shall not be deemed to be subsisting merely on the ground that the Gram Panchayat the farmers' organisation, the State or Central Government has not performed its part of the contractual obligation.

- (4) A Chairman or a President or a member of Managing Committee shall also become disqualified to continue in office, if he -
- (a) is convicted in a criminal case involving moral turpitude, or
 - (b) remains absent for three consecutive meeting without reasonable cause :

Provided that such disqualification under item (b) shall not apply in the case of women who are in an advanced stage of pregnancy and for a period of three months after delivery.

Filling up of vacancies.

15. (1) A vacancy arising either due to disqualification under sub-section (4) of Section 14 or due to death or resignation or by any reason, such vacancy shall be filled up by nomination in the following manner :-
- (a) A vacancy in the Water Users' Association shall be filled up by nomination by the Managing Committee of the Distributory Committee in the manner prescribed ;
 - (b) A vacancy in Distributory Committee shall be filled up by nomination by the Managing Committee of the Project Committee in the manner prescribed ; and
 - (c) A vacancy in the Project Committee shall be filled up by nomination either by the Apex Committee or by the Government in the manner prescribed.
- (2) The District Collector shall take necessary steps to conduct election, to fill up any vacancy caused within a period of one month from the date of occurrence of such vacancy.
- (3) The term of office of a member or a President or a Chairman of the farmers' organisation elected under sub-section (2) shall expire at the time at which it would have expired, if he had been elected at the ordinary election.

Functions of Project Committee

19. The Project Committee shall perform the following functions, namely :-
- (a) to approve operational plan based on its entitlement area, soil, cropping pattern as prepared by the competent authority in respect of the entire project area at the beginning of each Irrigation season ;
 - (b) to approve a plan for the maintenance of irrigation system including the major drains within its area of operation at the end of each crop season and execute the maintenance work with the funds of the Committee from time to time ;
 - (c) to maintain a list of the Distributory Committees and Water Users' Association in its area of operation ;
 - (d) to maintain an inventory of the distributory and drainage system in its area of operation ;
 - (e) to resolve disputes if any, between the Distributory Committee ;
 - (f) to promote economy in the use of water ;
 - (g) to maintain accounts ;
 - (h) to cause annual audit of its accounts ;
 - (i) to maintain other records as may be prescribed ;
 - (j) to conduct General Body meeting as may be prescribed ;
 - (k) to cause regular water budgeting and also the periodical social audit as may be prescribed ; and
 - (l) to encourage avenue plantation in its area of operation .

Power to levy and collect fee.

20. A farmers' organization may, for carrying out the purpose of this Act and achieving the objects of the Association and performing its functions, levy and collect such fees as may be prescribed from time to time.

Appointment of competent authority and his functions.

21. (1) The Government may, by notification, appoint such officers from the Irrigation or any other Government or Government Aided Department as it may consider necessary to be the competent authority to every farmers' organisation for the purpose of this Act.
- (2) the competent authority appointed under sub-section (1) shall be responsible to respective farmers' organization in the implementation and execution of all decisions taken by the farmers' organisation. The office bearers of the committees of the farmers' organisation shall act voluntarily.

Resources of farmers' organisation.

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Offences and penalties.

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- (p) to abide by the decisions of the Distributory Committee and Project Committee ;
- (q) to conduct General Body meeting, as may be prescribed ;
- (r) to encourage avenue for plantation on canal bunds and tank bunds by leasing such bunds; and
- (s) to conduct regular water budgeting and also to conduct periodical social audit, as may be prescribed.

Function of
Distributory
Committee.

18. The Distributory Committee shall perform the following functions, namely :-

- (a) to prepare an operational plan based on its entitlement, area, soil, cropping pattern at the beginning of each irrigation seasons, consistent with the operational plan prepared by the Project Committee ;
- (b) to prepare a plan for the maintenance of both distributory and medium drains within its area of operation at the end of each crop seasons and execute the maintenance of works with the fund of the Committee from time to time ;
- (c) to regulate the use of water among the various Water Users' Association under its area of operation ;
- (d) to resolve disputes, if any, between the Water Users' Associations in its area of operation ;
- (e) to maintain a register of Water Users' Association in its area of operation ;
- (f) to maintain an inventory of the irrigation system in the area of its operation including drains ;
- (g) to promote economy in the use of water allocated ;
- (h) to maintain accounts ;
- (i) to cause annual audit ;
- (j) to maintain other records as may be prescribed ;
- (k) to monitor the flow of water for irrigation ;
- (l) to conduct General Body meeting as may be prescribed ;
- (m) to abide by the decision of the Project Committee ;
- (n) to cause regular water budgeting and also the periodical social audit as may be prescribed ;
- (o) to assist in the conduct of election to the Managing Committee; and
- (p) to encourage avenue for plantation in its area of operation.

CHAPTER - IV

RESOURCES

Resources of farmers' organisation. 22. The fund of the farmers' organisation shall comprise of the following, namely :-

- (i) grant received from the Government as a share of the water tax collected in the area of operation of the farmers' organisation;
- (ii) such other funds as may be granted by the State and Central Government for the development of the area of operation;
- (iii) resources raised from any financing agency for undertaking any economic development activities in its area of operations;
- (iv) income from the properties and assets attached to the irrigation system within its area of operation;
- (v) fees collected by the farmers' organisation for the services rendered in better management of the irrigation system; and
- (vi) amount received from any other sources such as grant/donation/loan on the basis of approval of the Managing Committee.

CHAPTER - V

OFFENCES AND PENALTIES

Offences and penalties. 23. Whoever without any lawful authority does any of the following acts, namely :-

- (a) damages, alters, enlarges or obstructs any irrigation system,
- (b) interferes with, increases, diminishes the water supply in or the flow of water from, through, over or under any irrigation system,
- (c) being responsible for the maintenance of the irrigation system neglects to take proper precautions for the prevention of wastage of the water thereof or interferences with the authorized distribution of water there from or use water in an unauthorized manner or in such manner as to cause damage to the adjacent land holdings,
- (d) corrupts or fouls, water of any irrigation system so as to render it less fit for the purposes for which it is ordinarily used,
- (e) obstructs or remove any Level Marks or Water Gauge or any other mark or sign fixed by the Authority or a Public Servant, and

(f) opens, shuts, or obstructs or attempts to open, shut or obstruct any sluices or outlets or any other similar structures in any irrigation system, shall, on a complaint made by a farmers' organization, if convicted, be punished with imprisonment which may extend to one year or with fines which may extend to five thousand rupees or with both.

Punishment under other laws not barred.

24. Nothing in this Act shall prevent any person being prosecuted and punished under any other law for the time being in force for any act or omission made punishable by or under this Act :

Provided that no person shall be prosecuted and punished for the same offences more than once.

Compounding of offences.

25. (1) Farmers' organization may accept from any person who committed or in respect of whom a reasonable belief can be inferred that he has committed an offence punishable under this Act of the rules made there under, a sum of money not exceeding Rupees two thousand by way of compounding of such offence. (iv)

(2) On payment of such sum of money, the said person, if in custody, shall be discharged and no further proceeding shall be taken against him in regard to the offences so compounded.

CHAPTER - V

CHAPTER - VI

SETTLEMENT OF DISPUTES

Settlement of disputes.

26. (1) Any dispute or difference touching the constitution, management, powers or functions of a farmers' organisation arising between members, shall be determined by the Managing Committee of the Water Users' Association.

(2) Any such disputes or differences arising between a member and the Managing Committee or a Water Users' Association or between two or more Water Users' Association shall be determined by the Managing Committee of the Distributory Committee.

(3) Any such dispute or difference arising between a member and the Managing Committee of a Distributory Committee or between two or more Distributory Committees shall be determined by the Managing Committee or the Project Committee.

(4) Any such dispute or difference arising between a member and Managing Committee or Project Committee or between two or more Project Committees shall be determined by the Apex Committee, whose decision shall be final.

Appeals.

(5) Every dispute or difference within 15 (fifteen) days of the date of the order.

27. (1) A party to a dispute or order passed by the Association may appeal to the Distributory Committee.

(2) Any party to a dispute or order passed by the Distributory Committee may appeal to the Managing Committee.

(3) Any party to a dispute or order passed by the Managing Committee may appeal to the Apex Committee.

(4) Any appeal filed under section (3) shall be decided by the Apex Committee.

(5) Every appeal filed under section (3) shall be decided by the Apex Committee.

Records.

28. (1) Each account shall be maintained in the following manner:

(a)

(b)

(c)

(d)

(e)

- (5) Every dispute or difference under this section shall be disposed of within 15 (fifteen) days from the date of reference of the dispute or difference.

Appeals.

27. (1) A party to a dispute or difference aggrieved by any decision made or order passed by the Managing Committee of a Water Users' Association may appeal within 15 days to the Managing Committee of the Distributory Committee whose decision there on shall be final.

(2) Any party to a dispute or difference aggrieved by any decision made or order passed by the Managing Committee of Distributory Committee may appeal to the Managing Committee of a Project Committee within 15 days whose decision thereon shall be final.

(3) Any party to a dispute or difference aggrieved by any decision made or order passed by the Managing Committee of a Project Committee may appeal to the Apex Committee within 15 days whose decision thereof shall be final.

(4) Any appeal made under sub-section (1) or sub-section (2) or sub-section (3) shall be preferred within 15 days of communication of the decision of the order to the person aggrieved.

(5) Every appeal under this section shall be disposed of within 15 days from the date of filing of the appeal.

CHAPTER - VII

MISCELLANEOUS

Records.

28. (1) Each farmers' organisation shall keep at its office the following accounts, records and documents, namely :-

- (a) an up to date copy of this Act ;
- (b) a map of the area of operation of the farmers' organisation along with the map of the structure and distributory networks prepared in consultation with the Irrigation Department ;
- (c) a statement of assets and liabilities ;
- (d) minutes book ;
- (e) books of accounts showing receipt and payments ;
- (f) books of accounts of all purchases and sales of goods by the Associations ;
- (g) a register of measurement book, level field books, work orders and the like ;

- (h) copies of audit reports and enquiry reports ;
 (i) all such other accounts, records and documents as may be prescribed from time to time.
- (2) The books of accounts and other records shall be opened for information to the member of the farmers' organisation.
- Audit.** 29. Every farmers' organisation shall get its accounts audited in the manner prescribed.
- Recovery of dues.** 30. All the amounts payable or due to farmers' organisation shall be recovered as arrears of land revenue by local Land Revenue Officer as per rules.
- Meetings.** 31. The meeting of the farmers' organisation and the Managing Committee thereof at such intervals, the procedure, the presidency and the quorum thereof and the cessation of membership thereof shall be such as may be prescribed.
- Resignation.** 32. (1) A member of Managing Committee of farmers' organisation may resign his office by a letter sent by a registered post or tendered in person to the Chairman or President of the Managing Committee concerned.
 (2) The President of the Managing Committee of a Water Users' Association may resign his office by a letter sent by registered post or tendered in person to the President of the Distributory Committee concerned.
 (3) The President of the Managing Committee of a Distributory Committee may resign his office by a letter sent by registered post or tendered in person to the Chairman of the Project Committee concerned.
 (4) The Chairman of the Managing Committee of a Project Committee may resign his office by letter sent by registered post or tendered in person to the Chairman of the Apex Committee.
 (5) Such resignation as mentioned above shall take effect from the date of its acceptance or on the expiry of 30 days from the date of its receipt whichever is earlier.
- Appointment of a Commissioner.** 33. (i) The Government may by notification appoint a Commissioner to exercise general control and superintendence over the competent authorities and the District Collector in performance of their functions under this Act of the rules made thereunder.
 (ii) The powers to be exercised and the functions to be performed by the Commissioner shall be such as may be prescribed.

Transitional Arrangement. 34. The Government to exercise the organization and farmers' organisation Managing Com Act

Authentication of orders and documents of the farmers' organisation. 35. All permission farmers' organisation Chairman or Member of the Committee

Act not to be invalidated by informality or vacancy etc. 36. No act of the organisation the existence of said comm

Deposits and administration of the fund. 37. (1) The farm Bank or

(2) The fund by the in the

Sinking Fund. 38. (1) The

(2) The

Budget. 39.

Transitional Arrangement. 34. The Government may, by notification, appoint an officer or officers to exercise the powers and perform the functions of a farmers' organization and the Managing Committee thereof till such time such farmers' organisation are duly constituted or reconstituted and such Managing Committee assumes office under the provisions of this Act.

Authentication of orders and documents of the farmers' organisation. 35. All permissions, orders, decisions and other documents of the farmers' organisations shall be authenticated by the signature of the Chairman or President of the Managing Committee or any other Member of the Managing Committee authorised by the Managing Committee in this behalf.

Act not to be invalidated by informality or vacancy etc. 36. No act of proceedings of the Managing Committee of farmers' organisation or Committee shall be invalidated by reason only of the existence of any vacancy in or defect in the constitution of the said committee.

Deposits and administration of the fund. 37. (1) The farmers' organisation shall keep their funds in a Nationalised Bank or a Co-operative Bank.

(2) The fund shall be applied towards meeting of the expenses incurred by the Managing Committee of the concerned farmers' organisation in the administration of this Act and for no other purpose.

Sinking Fund. 38. (1) The Managing Committee of the farmers' organisation shall maintain a sinking fund for the repayment of the money borrowed and shall pay every year into the sinking fund such sum as may be sufficient for repayment within the period fixed of all the money so borrowed.

(2) The sinking fund or any part thereof shall be applied in or towards the discharge of the loan for which such fund was created and until such loan is wholly discharged, it shall not be applied for any other purpose.

Budget. 39. The Managing Committee of the farmers' organisation shall prepare in such form in every financial year a budget in respect of the financial year next, showing the estimated receipts and expenditure of the Committee and shall place before the General Body of the farmers' organisation for its approval as may be prescribed.

Power to
remove
difficulties.

40. (1) If any difficulty arises in giving effect to the provisions of this Act or as to the first constitution or reconstitution of any farmers' organisation after the commencement of this Act, the Government, as the occasion may require by order published in the Assam Gazette, do anything which appears to them necessary for removing the difficulty.

(2) All orders made under sub-section (1) shall as soon as may be, after they are made, be placed on the table of the Assam Legislative Assembly and shall be subject to such modification by way of amendments or repeal as the Legislative Assembly may make either in the same session or in the next session.

Savings.

41. (1) Nothing contained in this Act shall effect the right or properties vested in Gaon Panchayat, Municipality or Municipal Corporation under any law for the time being in force.

(2) Nothing contained in this Act, shall apply to the Minor Water Bodies in the Scheduled areas in the State of Assam.

Power to
make rules.

42. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

(2) All rules made by the State Government under this Act shall, as soon as may be after they are made be laid before the Assam Legislative Assembly while it is in session, for a total period of not less than fourteen days which may be comprised in one session or two or more successive sessions, and shall, unless some later date is appointed, take effect from the date of their publication in the Official Gazette subject to such modifications or annulments as the Legislative Assembly may, during the said period agree to make so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

Protection of
acts done in
good faith.

43. No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or under the rules made thereunder.

M. K. DEKA,
Commissioner & Secy. to the Govt. of Assam,
Legislative Department, Dispur.