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THE PUNJAB FLOOD PLAIN REGULATION ACT 2016 (XXVII of 2016)

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TEXT

¹THE PUNJAB FLOOD PLAIN REGULATION ACT 2016

(XXVII of 2016)

[20th April 2016]

An
Act

to regulate construction in the flood plains in the Punjab.

It is necessary to regulate construction in flood plains for flood mitigation and development of water resources; and, to deal with ancillary matters;

Be it enacted by Provincial Assembly of the Punjab as follows:

1. Short title, commencement and extent.— (1) This Act may be cited as the Punjab Flood Plain Regulation Act 2016.

- (2) It shall come into force at once.
- (3) It extends to whole of the Punjab.

2. Definitions.— In this Act:

- (a) “breaching section” means the section of a flood embankment or other flood protection work which is designated for effecting a controlled breach to release a part of flood under specified conditions;
- (b) “Canal Officer” means a Canal Officer appointed under the Act;
- (c) “Chief Engineer” means the Chief Engineer of the Irrigation Zone commanding the relevant river reach;
- (d) “committee” means a construction approval committee constituted under the Act;
- (e) “construction” means any excavation, clearing, laying of utility lines, road or rail line, construction of a bridge or any other physical structure;
- (f) “flood plain” means the land notified in the official Gazette as flood plain under section 3 of the Act;
- (g) “Government” means Government of the Punjab;

¹This Act was passed by the Punjab Assembly on 14 April 2016; assented to by the Governor of the Punjab on 19 April 2016; and, was published in the Punjab Gazette (Extraordinary), dated 20 April 2016, pages 4663-66.

- (h) "land" includes the land of any tenure and land submerged in water;
- (i) "pond area" means the area which is prone to flooding owing to back water effect of a dam or barrage;
- (j) "prescribed" means prescribed by the rules made under the Act; and
- (k) "river" includes a stream, nallah, hill torrent and any other natural water course conveying run-off from rain, snow melt or both.

3. Authority to designate flood plain.— (1) The Government may, by notification in the official Gazette, containing detail specifications of the land, declare any land as flood plain if the land falls under any of the following categories:

- (a) natural course of a river, area of a lake or wetland;
- (b) low plain which is adjacent to a river and is likely to flooding;
- (c) area which is likely to be inundated due to the operation of a breaching section;
- (d) pond area of a barrage or dam; and
- (e) area likely to be used for construction of a dam or a barrage.

(2) The Government may, by notification in the official Gazette, revise the extent of a flood plain at such intervals as may be prescribed.

4. Responsibility of Canal Officers.— (1) The Government shall appoint Canal Officer not below basic scale 18 for the performance of one or more functions under this Act.

(2) A Canal Officer shall have jurisdiction over such part of the flood plain as may be specified by the Government.

(3) Where a Canal Officer is on leave or he is absent from duty, a Canal Officer immediately superior to him shall be responsible for his assigned work.

5. Construction in the flood plain.— (1) Subject to subsection (2), the Government may, by notification in the official Gazette, declare that a person shall not undertake any type of construction in a flood plain without prior permission in writing of the Canal Officer.

(2) The Government may, by notification in the official Gazette, prohibit any particular type of construction in a flood plain.

6. Application for permission.— (1) A person may make an application for permission to construct in a flood plain to the Canal Officer in the prescribed manner.

(2) If an existing construction on a flood plain is an illegal construction under any law, the Government may, by notification in the official Gazette, require that the occupant of any category of such construction shall, within ninety days of the commencement of this Act, seek permission of the Canal Officer under the Act.

(3) The Canal Officer shall, without undue delay but within the time fixed by the Government, endorse his opinion on the application and submit it to the committee.

7. Construction approval committee.— (1) The Government may, by notification in the official Gazette, constitute one or more committees headed by Superintending Engineer consisting of such Canal Officers, other officials and experts in the relevant fields as it deems appropriate, to consider applications for permission to construct in a flood plain.

(2) The committee may, for reasons to be recorded, either rejects the application or grant permission subject to such conditions and restrictions as it may deem fit to achieve the objectives of this Act.

(3) While granting a permission to construct in a flood plain, the committee shall, among other things, consider the following matters:

- (a) the obstruction that the construction is likely to cause to the flow and its flood related impact;
- (b) the pressing need for such construction;
- (c) the safety of the construction and its impact on safety of other constructions or related areas; and
- (d) the opinion of the Canal Officer on the application for permission to construct in the flood plain.

(4) The committee shall decide the application within such time as may be prescribed or specified by the Government and convey its decision to the Canal Officer without unnecessary delay.

8. Formal permission to construct.— (1) The Canal Officer shall, in accordance with the decision of the committee and within forty five days of receipt of application, accept or reject the application for permission to construct in writing and convey it to the applicant.

(2) The Canal Officer shall keep complete record of all applications for permission to construct in a flood plain, proceedings on the applications and decision of the committee on the applications in the prescribed manner.

9. Public authorities.— This Act applies to public authorities including the Federal Government, a Provincial Government or a local government and a public authority

shall not finance or undertake any construction in the flood plain without the prior written permission of the Canal Officer.

10. Special building code.— Notwithstanding anything in any other law, the Government may prescribe special building code for construction in a flood plain in view of their particular requirements of the flood plain.

11. Flood plain surveys.— Each year in October or at such other time as the Government may specify, the Canal Officer shall carry out survey of the flood plain and submit report to the Government mentioning constructions required to be notified under section 5 of this Act.

12. Removal of unauthorized construction.— (1) Where a construction is undertaken otherwise than in accordance with the provisions of this Act, the Canal Officer may order its removal and cause it to be removed.

(2) For purposes of subsection (1), if considered necessary, a Canal Officer may request assistance from the District Collector, local police or an authority of the local government.

(3) The District Collector, local police or the local government shall render the assistance to the Canal Officer and shall, in case of inability to render immediate assistance, inform the Canal Officer in writing within three days of the request.

13. Power to arrest.— (1) If a person resists removal of unauthorized construction or assaults or threatens any person acting under the order of the Canal Officer, the person may be arrested.

(2) Where a person is arrested by a person other than a police officer under this Act, he shall immediately be handed over to the nearest police station.

14. Offence.— (1) A person who undertakes construction or commissions a construction in violation of the provisions of this Act shall be guilty of an offence punishable with imprisonment which may extend to thirty days and fine which may extend to two hundred thousand rupees.

(2) If a person occupies an illegal construction after ninety days of the commencement of the Act, he shall be guilty of an offence punishable with fine which may extend to one hundred thousand rupees.

15. Review Board.— (1) The Government shall constitute a Review Board headed by Chief Engineer and comprising such Canal Officers, other officials and experts in the relevant fields as may be prescribed, to review the order of the Canal Officer under section 8.

(2) Any person aggrieved of the order of the Canal Officer under section 8 may, within thirty days, prefer an appeal to the Review Board in the prescribed manner.

(3) The Review Board shall decide an appeal for review of an order of the Canal Officer within thirty days from the date of filing of the appeal.

16. Appeal against order under section 12.— (1) Where a person is aggrieved by an order of Canal Officer under section 12, he may file an appeal to the Chief Engineer within thirty days of the passing of the order.

(2) The Chief Engineer shall decide the appeal within thirty days from the date of filling of the appeal.

17. Protection of actions.— No suit, prosecution or other legal proceeding shall lie against any person acting under this Act for anything done in good faith under the Act or any rules made or notification issued under the Act.

18. No liability.— (1) Notwithstanding anything contained in this Act, a Canal Officer or any other officer of the Government or the Government shall not be liable for any flood related or other damage occurring to any construction permitted under the Act.

(2) A court or tribunal shall not entertain any claim for compensation or damages for any damage mentioned in subsection (1).

19. Power to make rules.— The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

20. Overriding effect.— This Act shall prevail over all other laws and any law inconsistent with the Act shall not be enforced in a flood plain.