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THE PUNJAB KHAL PANCHAYAT ACT 2019

(XXV of 2019)

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TEXT

**'THE PUNJAB KHAL PANCHAYAT ACT 2019
(XXV of 2019)**

[13th December, 2019]

An
Act

to provide for the establishment of Khal Panchayats.

It is expedient to provide for the establishment of Khal Panchayats and to provide for the rights and the obligations thereof;

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

1. Short title, extent and commencement.— (1) This Act may be cited as the Punjab Khal Panchayat Act 2019.

(2) It extends to the areas in which canal irrigation system is maintained by the Government.

(3) It shall come into force at once and shall be deemed to have taken effect on and from 18 November 2019.

2. Definitions.— In this Act, unless the context provides otherwise:

- (a) “Act” means the Punjab Khal Panchayat Act 2019;
- (b) “Abiana” means water charges;
- (c) “Authority” means the Punjab Khal Panchayat Authority;
- (d) “Bandi” means canal closure;
- (e) “Canal Officer” includes the Superintending Canal Officer, Divisional Canal Officer and Sub Divisional Canal Officer as defined in the Canal and Drainage Act, 1873 (VIII of 1873);
- (f) “Government” means the Government of the Punjab;
- (g) “prescribed” means prescribed by the rules or the regulations;
- (h) “regulations” means the regulations framed under the Act;
- (i) “rules” mean the rules made under the Act; and
- (j) “warabandi” means a schedule of water availability to individual farmers.

3. Establishment of Khal Panchayat.— (1) There shall be a Khal Panchayat for each water course.

(2) Every farmer entitled to obtain water for irrigation purposes under the Act shall be a member of the Khal Panchayat of a water course.

¹This Act was passed by Provincial Assembly of the Punjab on 20 November 2019; assented to by the Governor of the Punjab on 10 December 2019; and, was published in the Punjab Gazette (Extraordinary), dated: 13 December 2019, pp.2541-2545

(3) Every Khal Panchayat shall have a President and a General Secretary to be elected through votes of all eligible members or the shareholders of a water course.

(4) The term of President and General Secretary shall be three years.

(5) The elections of a Khal Panchayat shall be conducted by a person nominated by the Authority.

(6) No person, who is in arrears of payment of abiana, shall be eligible either to vote or contest for the election of President or General Secretary.

4. Functions and duties of Khal Panchayat.— (1) Every Khal Panchayat shall submit a warabandi to the Sub Divisional Canal Officer on the prescribed form.

(2) The Sub Divisional Canal Officer shall approve the warabandi after such modifications and changes as he deems necessary.

(3) Where a Warabandi is not submitted to the Sub Divisional Canal Officer by Khal Panchayat within sixty days, the Sub Divisional Canal Officer shall formulate a Warabandi and provide a copy of such warabandi to the Khal Panchayat for its implementation.

(4) A Khal Panchayat may lodge complaint to the Sub Divisional Canal Officer or the Deputy Collector Irrigation that a warabandi is being violated or water theft is being committed.

(5) Every such complaint shall be duly inquired into as soon as practicable and the outcome thereof shall be communicated to the Khal Panchayat.

(6) The Sub Divisional Canal Officer shall inform the Khal Panchayat about rotational running of channels and the Khal Panchayat shall inform all members of the Khal Panchayat of such rotational running of channels.

(7) A Khal Panchayat shall mediate in disputes between farmers for equitable distribution of water.

(8) A Khal Panchayat shall check cattle trespassing on canal or drainage channels, right of way and report to the concerned Canal Officer for appropriate action.

(9) A Khal Panchayat shall help in preparation and distribution of abiana bill when so requested by the Sub Divisional Canal Officer.

5. Mediation of Disputes.— (1) A dispute regarding violation of warabandi may be referred to the Khal Panchayat by the Sub Divisional Canal Officer.

(2) When the Sub Divisional Canal Officer refers a dispute to the Khal Panchayat, the Khal Panchayat shall proceed to consider the matter and inform the Sub Divisional Canal Officer of its findings in the prescribed manner.

(3) On receipt of the findings of the Khal Panchayat, the Sub Divisional Canal Officer shall pass an order in terms of the findings of the Khal Panchayat unless he is of the view that the findings are perverse or are not based on facts.

(4) The affected party may lodge an appeal with the Divisional Canal Officer against the order of the Sub Divisional Canal Officer in accordance with the Canal and Drainage Act, 1873 (VIII of 1873).

6. Constitution of the Punjab Khal Panchayat Authority.– (1) There shall be an Authority to be known as the Punjab Khal Panchayat Authority.

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

7. Composition of the Punjab Khal Panchayat Authority.– (1) The Authority shall consist of such number of members, including at least two female members, as may be notified by the Government.

(2) The Minister for Irrigation shall be the Chairperson of the Authority.

(3) Not less than six members shall be farmers.

(4) In addition to the farmer members, there shall be two non-farmer members to be appointed by the Government.

(5) Secretaries, Irrigation, Agriculture and Finance Departments of the Government; and Managing Director of the Authority shall be the ex-officio members.

(6) In the absence of the Chairperson in a meeting, the members present in the meeting may elect a member from amongst themselves to act as the Chairperson for such meeting.

8. Managing Director.– There shall be a Managing Director of the Authority, to be appointed by the Government, who shall be responsible for the due administration of the Authority under the Act.

9. Board of Management.– (1) There shall be a Board of Management of the Authority consisting of three General Managers.

(2) The Board of Management shall assist the Managing Director in his work.

10. Powers and duties of the Authority.– The Authority shall have the powers and duties to:

(a) conduct elections of Khal Panchayat for selection of President and General Secretary of Khal Panchayat;

(b) ensure that Khal Panchayats act with fairness and transparency;

(c) settlement of water disputes of the individual farmers of Khal Panchayat;

(d) assist farmers for the implementation of warabandi;

(e) assist the Canal Officers in handling of water theft cases and their processing;

- (f) assist Canal Officers in controlling water theft and ensure equitable water distribution;
- (g) receive the complaints of farmers and settle them in consultation with the concerned Canal Officers of Irrigation Department;
- (h) communicate the decision of a Canal Officer to the farmers, wherever necessary;
- (i) spread awareness on the canal closure and monitoring of related issues during de-siltation;
- (j) resolve water disputes amongst farmers in accordance with the Act;
- (k) provide assistance in the preparation of rotational programs and sensitize the farmers;
- (l) distribute abiana bills and pursue the farmers for timely payments of abiana;
- (m) assist Canal Officer for checking and controlling cattle trespassing; and
- (n) utilize the Authority Fund to meet the cost and expenses incurred on account of and in connection with the due performance of various functions of the Authority under this Act including the payment of salaries and other remunerations to the management and employees of the Authority.

11. Right of entry.— (1) The Managing Director, or any other person authorized by him in writing, may, after reasonable prior notice to that effect, enter upon and survey any land, erect pillars for the determination of any matter within the jurisdiction of this Act.

(2) If the affected land does not vest in the Authority, the power conferred by the above subsection shall be exercised in such manner as to cause the least interference with and damage to such land and the rights of the owner thereof.

(3) When any person enters into or upon any land pursuant to subsection (1) above, he shall, at the time of such entry or as soon thereafter as may be practicable but in no case later than sixty days from the date of such entry, pay or tender payment for all necessary damage likely to be caused on account of any operations proposed to be carried out or carried out under subsection (1) above.

(4) In case of any dispute, the same shall be referred to the Collector or Deputy Commissioner of the district who shall decide the same within a maximum period of sixty days from the date of such reference.

12. Register of Khal Panchayats.— (1) Every Divisional Canal Officer shall maintain a register of Khal Panchayats in his area.

(2) The register shall contain such information as may be prescribed.

13. Appointment of officers, servants etc.— The Authority may employ such officers and servants, or appoint such experts or consultants as it may consider necessary for the performance of its functions, on such terms and conditions as it may deem fit.

14. Delegation of powers to Managing Director etc.– The Authority may, by general or special order, delegate to the Managing Director, a Member of the Board of Management or officer or servant of the Authority any of its powers, duties or functions, under this Act subject to such conditions as it may deem fit to impose.

15. Persons serving in the Punjab Irrigation and Drainage Authority.– (1) All employees of the Punjab Irrigation and Drainage Authority, except such employees as may be specified by the Government in this behalf, shall, subject to any other provisions contained herein, on promulgation of this Act, become the employees of the Authority.

(2) Employees under subsection (1) shall serve the Authority on such terms and conditions as may be prescribed, but in any case, not less favorable than their existing terms and conditions of service.

16. Authority Fund.– There shall be a fund to be known as the Punjab Khal Panchayat Fund vested in the Authority to which shall be credited all sums received by the Authority.

17. Budget, audit and accounts.– The budget of the Authority shall be approved and its accounts shall be maintained and audited in such manner as may be prescribed.

18. Transfer of rights and liabilities.– Upon coming into force of this Act all assets and liabilities and all rights and obligations of the Punjab Irrigation and Drainage Authority shall stand transferred to this Authority, on such terms and conditions particularly as regards use and disposal of the said assets as may be prescribed.

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

20. Regulations.– The Authority may by notification frame regulations not inconsistent with the provisions of this Act and the rules made thereunder for the administration and management of the affairs of the Authority.

21. Removal of difficulties.– If any difficulty arises in giving effect to any of the provisions of this Act, the Government may make such orders, not inconsistent with the provisions of this Act as may appear to it to be necessary for the purpose of removing the difficulty.

22. Repeal.– (1) The Punjab Irrigation and Drainage Authority Act, 1997 (XI of 1997) is hereby repealed.

(2) On the date of repeal of the Punjab Irrigation and Drainage Authority Act, all Farmers Organizations and Area Water Boards established under the said Act shall cease to exist.

23. Savings.– (1) All decisions taken by a Farmer Organization or an Area Water Board established under the Punjab Irrigation and Drainage Authority Act, 1997 (XI of 1997) shall continue to remain in force until modified in accordance with this Act.

(2) A decision of a Farmer Organization shall be deemed to be a decision of the Divisional Canal Officer and a decision of an Area Water Board shall be deemed to be a decision of the Superintending Canal Officer for purposes of appeal under the Canal and Drainage Act, 1873 (VIII of 1873).

24. Repeal.– The Punjab Khal Panchayat Ordinance 2019 (III of 2019) is hereby repealed.