

The West Pakistan Determination of Land Revenue and Water Rate Ordinance, 1959

[LV OF 1959]

[6th November, 1959]

An Ordinance to provide for
the separation of land revenue from water
rate and re-assessment of land revenue and water rate.

Preamble. WHEREAS in certain areas of the Province of West Pakistan a composite charge comprising land revenue and water rate is being imposed;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 19458, and having received the previous instructions of the President, the Governor of West Pakistan is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance:---

1. Short title and extent. (1) This Ordinance may be called the West Pakistan Determination of Land Revenue and Water Rate Ordinance, 1959.

2. It extends to the whole of West Pakistan, except the [Tribal Areas.]

(i) land which is occupied as the site of a town or village;

(ii) ghair mumkin Area;

(iii) land set apart for special and public purposes;

(iv) land cultivated exclusively by Well or Tubewells;

(v) barani and Sailabi lands;

(vi) other naqabuli land not let out.

(d) 'Assessing Authority' means the Assistant Collector, First and Second Grade, incharge of a Taluka or Mahal, having jurisdiction over the Assessment Unit or any other officer designated as such by the Board of Revenue from time to time;

(e) 'Assessment Unit' means Deh (Revenue Village);

(f) 'Authentication Authority' means the Assistant Commissioners having their jurisdiction over the assessment units or any other officer designated as such by the Board of Revenue from time to time ;

(g) 'Banjar Jadid' means land which has remained unsown for eight or more successive harvests, but less than 12 successive harvests;

(h) 'Bunjar Qadim' means land which has remained unsown for twelve or more successive harvests;

(i) 'Barani' means land dependent on rain fall;

(j) 'Established rice land' means the land which has sanctioned water supply from perennial canal for rice cultivation ;

(k) 'Flow' means land irrigated by flow mode of irrigation from canals;

(l) 'Ghair Mumkin' means land which has for any reason become permanently unculturable such as land under roads, buildings, streams, canals, karezes, tanks or the like, or land which is barren-sand or ravines.

(m) 'Jamabandi' means the aggregate demand of water rate for a year;

(n) 'Lift' means land irrigated by lifting canal water;

(o) 'Orchard' means sanctioned garden land under fruit trees, planted to a density of 25 trees or more per acre grown and planted by human effort;

(p) 'Sailabi' means land flooded or kept permanently moist by a river;

(q) 'Tail end' means survey numbers settled on a water course at or about the termination of the irrigation channels which in the opinion of the Assessing Authority, acting in consultation with Canal Officer not lower in rank than Executive Engineer, are subject to inequalities of canal water supply due to one or more of the following factors:---

(i) Length, or (ii) excessive absorption on account of sandy soil, or (iii) alignment of channel, or (iv) presence of sand drifts, or (v) high land. Such survey Nos. shall be approved and notified by the Board of Revenue from time to time;

(r) 'Produce Index Units' shall have the same meanings as are assigned to it in clause (19-A) of section 4 of the Act,

3. Assessing Authority and Authentication Authority. Assessing Authority and Authentication Authority shall exercise such powers and perform such duties as may be prescribed under these Rules.

4. Ascertainment of Rate. (1) The flat rate for supply of wafer shall for the first time be ascertained by dividing the average of water rates assessed in Jamabandi of the concerned deh for the three years ending with agricultural year 1970-71. By the average of the area of the respective deh for the same years expressed in terms of Produce Index Units.

(2) Form WR-I of ascertainment of flat rate for supply of canal water shall be prepared by Revenue Tapedar or such other official as the Assessing Authority may deem fit. The said Form WR-I shall be compared by another Tapedar and 100% checking carried out by supervisory Tapedar designated to the same. The responsibility for the correctness or otherwise of Form WR-I shall be that of the Assessing Authority.

5. Assessment of Water Rate. (1) The Water rate shall be levied on produce index units:---

(a) of the land excluding ghair mumkin land by the Khatedar occupant calculated on the basis of classification of soil as per Revenue records for Kharif 1970 and Rabi the classification carrying, the higher Produce Index Units shall be taken into account;

(b) if no entry is made with regard to Banjar Jadid or Banjar Qadeem, classification shall be made on the basis of cultivation details of the respective field survey numbers of the preceding years, Provided that:---

(i) for land under an orchard/sanctioned gardens and established rice lands, the khatedar shall be liable to a surcharge equivalent to the water rate for flow land in the same deh in addition to the ordinary assessment of water rate so [but the amount of water rate so assessed together with the surcharge shall, if the land was under orchard, sanctioned garden or established rice land during the Jamabandi year mentioned in sub-rule (1) of rule 4, not exceed the average amount assessed in the said Jamabandi year:

(ii) if land is partly cultivated by a private tubewell and partly by canal water, the rate shall be reduced 15% up to the maximum of 100 acres for operating tube-well subject to the certificate of installation by the Executive Engineer concerned

(iii) if there is change in tenurial position of not let out Naqabuli land, such land shall attract the rate prevalent in the same Assessment unit;

(iv) holder or occupier at tail end will not be liable to pay rate in excess of the average amount finally assessed during the jamabandi years mentioned in rule 4 (1);

(v) survey Nos. irrigated by lift only, in both the seasons, will get a rebate of 50% in water rate and S Nos. irrigated in one season by flow and in another by lift will get rebate of 25% of water rate, as certified by

(vi) that if new additional or improved irrigation facilities are provided to any land then proportionate increase in water rate will be determined by the Board of Revenue in consultation with Irrigation Department;

(vii) in case of irrigation by private pumps out of the river or depression, Khatedar will be charged half of the How rate of the same or adjoining canal irrigated assessment unit.

(viii) A Khatedar three fourth or more of whose land remains uncultivated during the Jamabandi years referred to in sub-rule (1) of rule 4 on first assessment for reasons of Sem, Thor, being under Hood water or non-supply of canal water, shall not on first assessment be liable to pay water rates in excess of the average amount assessed during the Jumabandi years :

Provided that if the land remain uncultivated due to shortage of canal water, the above mentioned concession may be allowed only after consultation with the Canal Officer not lower in rank than Executive Engineer.

(ix) Government may for reason stated in clause (viii) levy assessment in any assessment Unit or Units.

(x) Government may, in appropriate case of individual hardship, grant such relief as may be considered expedient in the circumstances of the case.

6. Making and operation of Assessment Lists. (1) An assessment list on Form WR-II shall be prepared on the basis of rates determined under rule 4 by the Assessing Authority on such date as may be notified by the Board of Revenue in accordance with the Rules hereunder for every assessment unit (Deh).

(2) The procedure mentioned in Rule 4 (2) will be applicable for the preparation of Draft Assessment List.

7. Publication of Draft Assessment List. (1) The Assessing Authority shall publish for each assessment unit (Deh) a Draft Assessment list in the manner provided in these Rules.

(2) Public notice (as Annexure to Form W-R-II) of the draft assessment list shall be given:---

(a) by publication in Sind Government Gazette; or

(b) by publication in or at least one Urdu and Sindhi, daily newspapers, and by one or more of the following methods:---

(i) by display in some conspicuous place or places in the taluka in the office of the Mukhtiar, Assistant Commissioner and Deputy Commissioner, having jurisdiction over the assessing unit, at the discretion of the Assessing Authority in some conspicuous portion of one or more buildings, used as Court, Post Office, Bank, Cooperative Society, Educational Institute, Office of the Local Body or (Tapedar's Dero) or public gathering place in the area;

(ii) by the beat of drum.

(3) The date of publication of the draft assessment list, (WR-II) shall be noted on the list.

(4) The draft assessment list (Form WR-II) shall be open to inspection by any khatedar of any land included in the said list, or his duly authorised agent at the office of the Assessing Authority, during office hours, and he shall be permitted to make extracts from it.

(5) No fees shall be charged for any such inspection but certified copies of entries in the assessment list (Form WR-II) will be granted on payment of usual fees.

8. Objections. (1) Any person aggrieved by notice served on him or by any entry in the draft assessment list (Form WR-II) or by insertion therein or omission therefrom of any matter, or otherwise with respect to the list; may in accordance with the Rules hereunder file an objection (Form WR-III) with the Authentication Authority at any time before the expiration of 30 days from the date on which the draft assessment list (Form WR-II) is published.

(2) A register of objections shall be maintained in Form WR-IV.

(3) Receipt provided on the Form WR-III (Form of objection) acknowledging the filing of objection and intimating the date fixed for hearing of the objection will be issued to the objector after taking his acknowledgement of the same in the appropriate space in form WR-III.

(4) Objections received through Registered post shall also be acknowledged in Form WR-III and the acknowledgement indicating the date of hearing shall be forwarded to the objector within two days of the receipt thereof.

(5) On the date or dates fixed for the hearing of objections to the draft assessment list or on succeeding days to which the proceedings may be adjourned. Authentication Authority or such other officers as may be appointed by Government in tills behalf shall proceed to dispose of the objections as expeditiously as possible.

(6) The Authentication Authority, or such other officer appointed in this behalf, on hearing an objection shall allow the objector, Canal Officer if necessary and other person who in the opinion of such authority, or officer, is likely to be directly interested in the result of the objection, or opportunity of being heard in person or by an authorised agent.

(7) The Authentication Authority or other officer appointed in this behalf on hearing objection may, at his discretion, hear and record oral or documentary evidence as may be relevant to the enquiry.

(8) When 1111 objection has been disposed of the order passed thereon shall be recorded together with the date of such order in the Register (in Form WR-IV).

(9) In case the objection is rejected the copy of the order shall be supplied to the objector free of cost on the day the order is passed.

9. Appeals. (1) Any person aggrieved by an order of the Authentication Authority upon an objection made before that Authority under Rule 8 may appeal against such order, at any time before the expiration of 15 days from the date of such order, to the Appellate Authority.

(2) An appeal under sub-rule (1) shall be preferred by means of memorandum, which shall be duly stamped as laid down in Article 11 (a) of Schedule 11 of the Court Fees Act and shall be accompanied by a certified copy of the order appealed against and be presented by the appellant in person, or through a duly authorised agent or be sent by registered post. All such appeals will be entered in the Register of Appeals in Form WR-V.

(3) The appeals delivered in the office of the Appellate Authority by hand shall be acknowledged, in Form WR-VI-forthwith. The date fixed for hearing of the appeal will be indicated in the acknowledgement Form.

(4) Appeals received through Registered post will also be acknowledged in Form WR-VI and the acknowledgement Forms indicating the. date of hearing will be forwarded to the Appellant by Registered post within two days of their receipt.

(5) The appeal shall be decided after due notice to the Authentication Authority, Executive Engineer concerned of the area, if necessary the appellant and to such other persons as may be directly interested as a necessary concerned party in the result of the appeal of being heard in person or by a duly authorised Agent. The Appellate Authority may, at its discretion, itself hold an enquiry or direct such enquiry to be held by any oilier officer, as may appear proper to the said appellate authority.

(6) The result of the appeal shall forthwith be communicated to the Assessing Authority under intimation to the Authentication Authority who shall attach the order to the record of the case and make necessary entries in relevant columns of the registers kept in Form WR-V.

(7) Within 7 days from the date of the receipt of the order passed by the Appellate Authority the Assessing Authority will furnish a certificate to the Appellate Authority under intimation to the Authentication Authority that the abstract of the appellate order has been recorded in column 8 of the Register in Form WR-V.

10. Pendency of Appeal. Notwithstanding pendency of the appeal or of any other proceedings the water rate may be levied as specified in the assessment list corrected by the Authentication Authority.

11. Approval and custody of Final Assessment List. (1) The Assessment list in Form WR-II shall be amended in accordance with the orders passed by the Authentication Authority/Appellate Authority.

(2) The Assessing Authority shall certify that the Assessment list has been so amended.

(3) The Assessment list thus amended shall be considered final after confirmation by the Board of Revenue, when notified by the Irrigation Department.

(4) The final assessment list of each assessment unit shall be available in the office of the Taluka Mukhtiar, office of the Deputy Commissioner, Executive Engineer and in such other place as may be prescribed by the Board of Revenue and shall be open to inspection.

12. Amendment of Current Assessment List. The Collector of the district may with the prior approval of the Board of Revenue:---

(i) correct any erroneous insertion or omission or any misdescription which may be necessary;

(ii) make such additions to or corrections in the list as appear necessary by reason of any authorised entry in the relevant revenue record;

(iii) the Board of Revenue may on reference from the Irrigation Department, direct the Deputy Commissioner to amend the Assessment list and fix such rate of assessment as it may direct, due to the provision of improved or additional irrigation facilities:---

Provided that a notice to the affected party of not less than 10 days will be given for making any such amendment as is referred to in Clauses (i) and (ii).

13. Issue of Bill of Assessment. (1) The Assessing Authority shall cause a bill of assessment to be issued to the Khatedar/occupant, indicating the assessment due from him in each of the year covered by the assessment period and directing him to pay the amount on the dates indicated therein.

(2) The bill shall be issued once only at the commencement of the Assessment period and not annually. Fresh or revised bill may however be issued at any time when so required on account of a change of ownership, occupancy and/or classification of any land or for any other reasons necessitating the issue of a fresh/revised bill of assessment.

(3) The Board of Revenue may by general or special order extend the date on which an instalment falls due in any particular area or for any class or classes of Khatedars.

14. Payment of Assessment. The assessed amount shall be payable by the Khatedar/occupant in two instalments:---

75% up to the 31st of January.

25% up to the 30th June.

15. Penalty for default in payment. (1) In case of default of payment by the due date the assessing authority shall recover as penalty a sum of 10% of the amount unpaid, in addition to the amount of the assessment payable by him.

(2) Any penalty imposed under sub-rule (1) shall be in addition to the action prescribed in the West Pakistan Land Revenue Act and the Rules framed thereunder. [For Forms W.R. I-W.R. VI, see Sind Gazettee, Extraordinary (Part IV-A), pp. 124-133].