

(RULES UNDER THE MYANMAR CANAL ACT.)

No. 7

THE MYANMAR GAZETTE, JANUARY 25TH, 1908.

[Amendment : 18.06.1989]

No. 7.- In exercise of the powers conferred by section 79 of the Myanmar Canal Act, 1905, (Myanmar Act II of 1905), and in supersession of the rules published in the Notifications cited in the margin, as amended and added to by subsequent Notifications, the Lieutenant-Governor is pleased to make the following rules under the said Act:-

RULES UNDER THE MYANMAR CANAL ACT

Rules relating to the Construction and Maintenance of Works (Chapter III).

<Amendment 18.06.1989>

1. Every order issued by a Divisional Canal Officer under the first paragraph of section 23 of the Act shall be in writing and shall be served on each person concerned or his representative as a revenue process through the Collector.
2. The notice of the time and place of an enquiry under section 29 of the Act to be given by the Collector to the Divisional Canal Officer under the second paragraph of that section shall be given not less than twenty days before the enquiry.
3. If the Divisional or Subdivisional Canal Officer holding an enquiry under section 24 of the Act anticipates a continued neglect or refusal to execute any work necessary for the maintenance of a water-course, he may, in his order, direct that the work be carried out by a Canal Officer in the event of such neglect or refusal by the persons interested, or at once, but he shall in such case also direct that the cost of the work be borne by the persons responsible for the maintenance of or making use of the water-course and the proportion of such cost to be recovered from each of such persons, and if he is a Subdivisional Canal Officer, he shall at once report such order to the Divisional Canal Officer.
4. Water shall not be admitted into any new water-course until all works, necessary for the passage across such water-course of water-courses existing previous to its construction, and of drainage intercepted by it, and for affording proper communication across it for the convenience of neighbouring land, are completed to the satisfaction of the Divisional Canal Officer.

5. All applications for water, or for the construction or improvements of water-courses, shall be in such form as may be prescribed by the Superintending Canal Officer.
6. The construction or extension of a water-course shall not ordinarily be permitted where the length of the water-course from its head to its point of contact with the fields, measured in a straight line, exceeds two miles.
7. Applications under section 21 of the Act shall not be granted when, in the opinion of the Divisional Canal Officer, loss from wastage is likely to occur. From his decision an appeal shall lie to the Superintending Canal Officer, whose decision shall be final. Such applications shall not ordinarily be granted in respect of lands where the available supply of water in the canal or water-course is already fully utilized.
8. No person shall construct any outlet or head works on any canal or reservoir constructed or controlled by Government for the storage of water. Such works will be constructed by the Divisional Canal Officer at suitable places selected by that officer.

Rules as to the Supply of Water (Chapter IV).

9. The Divisional Canal Officer shall not engage to grant water for the irrigation of any crop sown upon lands within any Cantonment or Municipal limit, if such irrigation is objected to by the Cantonment or Municipal Committee (or if there is no such Committee by the Deputy Commissioner) and the objection is approved by the Superintending Canal Officer and the Commissioner of the Division.
Should these officers differ in opinion, the question will be referred to the Local Government.
10. A Divisional Canal Officer may withhold or postpone the issue of water to any cultivator whose fields he may have ascertained by inspection to be unprepared for irrigation by the construction of small water-channels, leading from the main water-course.
An appeal against the orders of the Divisional Canal Officer may be preferred to the Superintending Canal Officer.
11. Tanks may be filled with canal water without charge, whenever water can be made available without injury to cultivation dependent on any canal, under the following conditions:-
 - (i) No tank shall be so filled unless it is exclusively used for domestic purposes and for watering cattle.
 - (ii) No tank shall be so filled which, intercepting any line of drainage, is liable to overflow from accumulation of water from natural causes.
 - (iii) No tank shall be so filled except on the written order of the Subdivisional Canal Officer, issued on the written application of the parties concerned.

(iv) No tank shall be so filled unless the water-course used to fill it and the tank itself shall be shown to the satisfaction of the Subdivisional Canal Officer to be in a sound condition.

(v) The privilege herein accorded may, by written order of the Divisional Canal Officer, be suspended for twelve months, for breach of any of the above conditions:

Provided that such order may be revised by the Superintending Canal Officer, and his decision thereon shall be final.

12. Tanks may be filled with canal water for other purposes than those specified in Rule 11, if the conditions (ii), (iii) and (iv) of Rule 11 are complied with. Such water will be charged for at rates and subject to conditions to be determined by the Local Government.

Irrigation may also be carried on from tanks filled with canal water with the previous sanction of the Subdivisional Canal Officer. Such sanction, when given should be reported to the Divisional Canal Officer and the Collector.

The rates sanctioned for irrigation from a canal will be charged for such irrigation from tanks.

13. The Divisional Canal Officer is empowered to supply canal water for miscellaneous purposes other than irrigation at the rates laid down in Rule 32, and also, with the previous sanction of the Superintending Canal Officer, to make contracts for purposes not specified in the same rule for any term not exceeding one year.

For any term exceeding one year the previous sanction and approval of the Local Government is necessary.

14. When water is supplied from a canal to forts or other military buildings, cantonments, civil stations, cities, towns, railways, public gardens or places of public resort, either by filling tanks or moats, or by direct flow, contracts at special rates may be accepted by the Divisional Canal Officer with the previous sanction of the Local Government.

15. The use of water power may be granted by the Divisional Canal Officer at such rates and under such conditions as may be sanctioned by the Local Government.

16. The Divisional Canal Officer is empowered for purposes of administration, repairs and maintenance, to order the closure of any canal or water-course for periods which shall not exceed ten consecutive days. For longer closures the authority of the Superintending Canal Officer is required.

17. Order for closures under Rule 16 must be made either-

(a) by notification in the Gazette; or

(b) by a special order.

Such notification or special order shall be in writing under the hand of the Divisional Canal Officer and a copy shall be conveyed by the Canal Establishment with due expedition to each village concerned and delivered to the headman or thugyi of the village.

A receipt shall be granted by each person to whom a copy of the notification or order is delivered and recorded in the Divisional Canal Office.

18. Stoppage of supply of water to any water-course under section 39 (a) (ii) may be enforced when the Canal Officer ordering the stoppage has satisfied himself by inspection that the water-course is not maintained in proper repair. Such stoppage shall be reported at once to the Divisional Canal Officer, who shall express his approval by the issue of a written order under his hand, and, if the stoppage exceeds ten days, will report it to the Superintending Canal Officer and explain the grounds for the stoppage. The Superintending Canal Officer's order shall be final.
19. Any Canal Officer may, in a case of pressing emergency, stop the supply of water to any canal or water-course. If such order is passed by an officer below the rank of a Divisional Canal Officer, it shall be reported forthwith to the Divisional Canal Officer for his order confirming the same; and, if the stoppage exceeds ten days in duration, to the Superintending Canal Officer.
20. The Canal Officer or any of his subordinates may temporarily close the supply to a water-course from which wastage or unauthorised irrigation is being carried on at the time the outlet is closed. Such closure shall be reported at once to the Divisional Canal Officer, who shall issue in writing the order required under Rule 18.
21. The Divisional Canal Officer is empowered to close the outlets of a canal or water-course in rotation. A scheme for such closure shall be reported to the Superintending Canal Officer and notice shall be given, as soon as possible, to all headmen concerned of the periods for which it is proposed to close the various outlets.
22. The Divisional Canal Officer is empowered to arrange the rotation of turns in which each shareholder of a water-course may receive his supply. Such rotation shall be notified to the shareholders of the water-course through the headman of the village, who shall post the notice on the village notice board.
23. The Canal Officer is responsible that the supply through the outlets is maintained in accordance with the requirements of the crops. It will be the duty, as far as possible, of the headman of the village or other

persons selected by the village in this behalf to inform the Canal Officer or subordinate when the area has been fully irrigated so that the outlet may be closed.

24. Water will be supplied at the level at which it is ordinarily maintained in the canal from which it is taken off. No earthen bunds or other works will be constructed or allowed to be constructed to raise the level of the water in the canal.

No right to flow-irrigation is conferred unless existing appliances admit of it.

Water-rates and Charges [Chapter V and Section 79 (4)].

25. (1) Areas of land on which rates for water supplied for the purpose of irrigation are chargeable shall be divided into two classes.

In Class I a separate water-rate shall be imposed by notification in the Myanmar Gazette issued under this rule, generally as the result of settlement enquiries carried on for the purpose of determining the rates of land revenue to be levied on the area concerned for a term of years. The notification shall specify the lift and flow rates leviable and also the initial remissions of water-rate which it may be considered necessary to give in order to encourage cultivation.

In Class II no separate water-rate should be levied. Water-rate shall be amalgamated with the land revenue, but for the purpose of calculating the credit due to the irrigation department and of action under the Canal Act where it is necessary to determine the exact amount of water-rate, a fixed proportion of the consolidated rate levied under the authority of settlement notifications shall be notified in the Myanmar Gazette as the share of the consolidated rate to be taken as land-revenue. The remaining share shall be water-rate.

Until altered by notification in the Myanmar Gazette, all existing rates shall remain in force.

- (2) A schedule of water-rates per acre for each kind of crop shall be prepared for each district or area falling under Class II referred to in sub-rule (1) and kept up to date by the Deputy Commissioner concerned.

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26. The special rates chargeable under Rules 27, 28, 29, 30 and 31 shall be in addition to such penalties as may be imposed under section 75 of the Act, and in addition to the ordinary water-rate leviable.

The entries of the charges under these rules will be made in the assessment rolls on the receipt of a report from the Divisional Canal Officer.

27. Persons taking water out of their turn as notified under Rule 22, or at times prohibited by proper authority, shall be chargeable by order of the Divisional Canal Officer (in addition to the ordinary water-rate leviable on the area irrigated) with an additional special rate equal to the above ordinary rate and chargeable for each separate and distinct occasion on which the water is so used.
- The order of the Divisional Canal Officer shall be at once communicated to the Collector.
28. Persons irrigating from a canal without permission, or taking water at times prohibited by the Divisional Canal Officer, shall be chargeable, firstly with the ordinary water-rate which would be chargeable for the authorized irrigation of the area irrigated, and secondly with a special additional rate equal to the above ordinary rate and chargeable for each separate and distinct occasion on which water is so used without permission.
29. Persons liable for water used in an unauthorized manner or suffered to run to waste shall be chargeable (in addition to the ordinary water-rate ordinarily leviable on the area flooded) with an additional special water-rate equal to the above ordinary water-rate and chargeable for each separate and distinct occasion on which water is so used or suffered to run to waste. The area shall be measured, and notice issued to the person or persons chargeable that they will be charged accordingly.
30. If the water runs to waste into tanks or depressions, the person chargeable therefor shall be chargeable (in addition to the ordinary water-rate for water in bulk under rule 32) with an additional special rate equal to such ordinary rate.
31. When a field is irrigated which has not been prepared for irrigation by the construction of small water-channels leading from the main water-course, an additional special charge (in addition to the ordinary water-rate) may be imposed not exceeding half the amount of water-rate leviable on the field. The area shall be measured and notice issued to the person or persons chargeable that they will be so charged.
32. On water in areas of both the classes referred to in Rule 25 supplied for miscellaneous purposes other than irrigation, the following rates shall be levied:-

				Rs.	A.	P.	
Brick-making, etc,	...	...	...	0	4	0	
							per 100 c. ft.
Laying concrete and masonry	...	...	...	0	3	0	

Metalling roads	...	...	...	15	0	0	per mile.
Water in bulk	...	...	...	1	8	0	per 2,500 c. ft.
Watering trees	...	...	...	0	0	9	per tree per annum.

33. The charge for water supplied from an escape channel shall be the same as for water from other parts of the canal, unless the supply is intermittent, in which case the charge shall be reduced by such a percentage as the Collector and the Divisional Canal Officer may agree upon, or failing such agreement by such percentage as the Superintending Canal Officer and the Commissioner may agree upon, or failing such agreement by such percentage as the Local Government may fix.
34. If a natural drainage channel or reservoir not being part of a canal is used as an escape-channel at the request of persons desirous of irrigating from it, the same rates shall be chargeable for irrigating from it as for irrigation from an escape channel. Provided that the area, if any, irrigated from it previous to the introduction of canal water, shall not be liable to water rates.
- The amount of such area shall be determined by the Collector. In all cases in which water is supplied under this rule, a written contract shall be executed setting forth the terms on which it is supplied.
- No earthen banks or other works will be allowed to be constructed in such channels to raise the level of the water, whether it is natural drainage water and not liable to water-rate or is supplied from a canal.
35. If water from a well or any other source (including natural drainage) is conveyed in the same channel as canal water in the course of the same season, the whole of the irrigation from that channel during such seasons is liable to be treated as irrigation from the canal.

Assessment, Liability for, date of Payment and Collection of Water- rates, etc. (Chapter V).

36. The assessment and collection of water- rates shall be made by Revenue Officers and the procedure therefor shall be that prescribed for the assessment and collection of land revenue.
37. The water-rate assessment rolls shall be based on the register of occupiers prepared under Rule 80 of the Rules under the Upper Myanmar Land and Revenue Regulation, 1889.

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38. Objections to the demand statements, whether as to the fact of the land having been irrigated or as to the measurement and entries of class or crop, must be presented within thirty days of the date of the

receipt of the demand slip; but this period may be extended where reasonable cause for delay can be established.

39. In respect of any irrigated land, the person deemed to be the occupier for the purpose of land- revenue assessment shall also be liable to water-rate.

40. The liability in respect of the payment of the occupier's rate of the various persons referred to in section 44 of the Act shall be joint and several.

41. Water-rate shall be paid for each crop on the date prescribed by the Financial Commissioner under Rule 148 of the Rules under the Upper Myanmar Land and Revenue Regulation, 1889, for the payment of land revenue on that crop.

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42. Water-rate shall be paid in cash to the thugyi at his headquarters or to such other officer and at such other place as the Collector may appoint.

43. On payment in full of the water-rate due by any person he shall be furnished by the thugyi with a receipt in a prescribed form.

Remission of Water-rates, and Compensation for Interruption of Supply [Section 39, clauses (b) and (c)].

44. In areas of Class II remission of water-rate under section 39 (b) of the Act shall not be granted separately, but shall be included in the remissions granted under the Upper Myanmar Land and Revenue Regulation, 1889. In areas of Class I claims to remission of water-rate under section 39 (b) shall be dealt with on the same principle and with the same procedure as applications for remission of land-revenue except as provided in Rules 45 and 46.

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45. The water gauges on canals, distributaries, or other channels shall be held to give authoritative data for all calculations of discharge required to verify claims for remission of water-rate on account of failure of supply.

46. Claims to remission of water-rates under section 39 (b) shall only be admitted on proof of actual loss caused by failure of supply. On proof of such loss, the whole or any part of the rates may be remitted.

47. Before awarding compensation under section 39 (c), the Collector shall obtain the written opinion of the Divisional Canal Officer, and such opinion shall form part of the record of the proceedings. All applications for compensation under section 39 (c) must be made not less than twenty days before the crop is cut.

Maintenance and Obtaining Labour (Chapter IX).

48. All canals, channels and reservoirs for the storage of water, maintained or controlled by Government, except those classed as Minor Canals, shall be in charge of the Divisional Canal Officer.
- All original works connected with and ordinary repairs to such works shall be carried out by the Divisional Canal Officer.
49. Emergent repairs shall, on the requisition of the Divisional Canal Officer, be carried out by labourers called out under the provisions of Chapter IX of the Act.
50. The Collector shall keep or cause to be kept a list for each village in the canal tract of the numbers who, by custom or otherwise, are liable to be called out for the duties described in Rule 48. Duplicates of such lists shall be furnished to the Divisional Canal Officer. The list shall include all residents in the village, whether agriculturists or not, but the following persons shall be exempted from service:-
- (a) All women.
 - (b) Children under 14.
 - (c) All men 60 years of age and upwards.
 - (d) Thugyis.
 - (e) All members of the Buddhist priesthood.
 - (f) Soldiers, reservists and military pensioners belonging to the Indian Army, and retired non-commissioned officers and men of the Kashmir Army.
51. In calling out the villagers to perform the duties described in Rule 48, the Divisional Canal Officer shall call them out in rotation of villages, or parts of villages. He shall at the same time report to the Collector the names of the villages, the number of labourers requisitioned from each village, the period for which they will probably be required and the arrangements made for their remuneration.
52. If an accident has happened to any weir or bank, or other important work belonging to a canal or reservoir for the storage of water under the control of the Divisional Canal Officer, or if any serious damage has occurred which needs immediate repair, any officer subordinate to the Divisional Canal Officer may call upon the headman of the nearest village to furnish the necessary labour to repair the damage.
- The subordinate shall in every such case make immediate report to the Divisional Canal Officer.

Offences and Penalties (Chapter XI).

53. Any person who commits a breach of Rule 8, or who takes water out of his turn as notified under Rule 22 or at times prohibited by proper authority shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty rupees or to imprisonment for a term, not exceeding one month or to both.
54. No person shall, without the permission in writing of the Divisional or Subdivisional Canal Officer, pass or cause any animal or vehicle to pass, on or across any of the works, banks or channels of a canal or drainage-work after he has been desired to desist therefrom by a general notice published in the Township headquarters and the villages, except by means of such bridges, fords and ferries and their approaches as are provided by the Divisional Canal Officer.
55. No persons employed on a canal, unless especially exempted by the Local Government from the operation of this rule, shall own or occupy for cultivation or otherwise, any land watered by any of the canals on which he is employed, or have any private interest in the distribution of water from any of the canals or purchase or bid for any Government property sold thereon either in his own name, or in the name of another, or jointly or in shares with others.

Appeals.

56. An appeal shall lie to the Divisional Canal Officer from any executive order passed by a Subdivisional Canal Officer.
57. An appeal shall lie to the Superintending Canal Officer from any order passed by the Divisional Canal Officer under Rules 4, 6, and 17, clause (b).
58. No appeal under Rule 54 shall be brought after the expiration of 15 days from the date of the order complained of. No appeal under Rule 55 shall be brought after the expiration of thirty days from the date of the order complained of.
59. In computing the period prescribed for an appeal under these rules, the day on which the order was given and the time requisite for obtaining a copy of such order shall be excluded.
60. Any appeal under these rules may be admitted after the period of limitation prescribed therefor, when the applicant satisfies the officer to whom he appeals that he had sufficient cause for not presenting the appeal within such period.
61. The Local Government may at any time call for any case which has come before a Superintending or Divisional Canal Officer and pass such orders thereon, consistent with the Act and Rules made thereunder, as may seem proper.

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