

41-A. NOTIFICATIONS AND AMENDMENTS OF THE WBL & LR MANUAL.

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**Government of West Bengal
Land and Land Reforms department
Land Policy Branch
Writers' Buildings, Kolkata - 700001**

NOTIFICATION

No. 5904-LP/1A-2012 dated the 12th November, 2012. - Whereas the draft amendment was published as required by sub-section (1) of section 60 of the West Bengal Land Reforms Act, 1955 (West Ben. Act X of 1956) (hereinafter referred to as the said Act), vide Notification No.5482-LP/1A-4/2012 dated 10th October, 2012 in the Kolkata Gazette Extraordinary dated 10th October, 2012, inviting objection or suggestion from all persons likely to be affected thereby, within thirty days from the date of its publication;

And whereas no objection or suggestion has been received by the State Government till date;

Now, therefore, in exercise of the power conferred by Section 60 of the said Act, the Governor is pleased hereby to make, with immediate effect, the following amendments, in the West Bengal Land and Land Reforms Manual, 1991, as subsequently amended (hereinafter referred to as the said rules), namely :-

In the said Rules, in Chapter XVII, -

1. for rule 272, substitute the following rule :-

“Mode of settlement of fisheries :

272(i)(a) A committee consisting of Collector of the District, the District Land & Land Reforms Officer, the Deputy Registrar of Co-operative Societies/ Assistant Registrar of Co-operative Societies of the concerned zone/Region, the Assistant Director of Fisheries of the concerned district and Sub-Divisional officer of the concerned Sub-Division with Collector as Chairman and the District Land & Land Reforms Officer as Convenor of such Committee shall fix up the annual ‘standard quantity’ of production of fish of each Government fishery within the district based on the location, nature, quality and other considerations of such Government Fishery as per norms as may be fixed by the Fisheries Department of the State Government.

(b) On the basis of the prevalent average wholesale market rate of different fishes during preceding one year the said Committee shall fix up the ‘standard income’ of each Government Fishery from the average fish captured/ harvested including minor auto stocked fish species for the last three years or on the ‘standard quantity’ of fish as already fixed by the Assistant Director of Fisheries for the concerned Government fishery, whichever quantity is higher.

(c) The said Committee shall also fix up the cost of capture - culture-management of the Government fishery including wages to the active member fishermen and such cost plus 10% thereof (as the profit-margin) would be the annual ‘standard cost of production’.

(d) The different between the ‘standard income’ and the ‘standard cost of production’ would be the ‘net standard income’.

(e) The said Committee shall finalize the average ‘net income’ of each fishery on the basis of the ‘net standard income’ of the Government fishery and other income, if any, from the Government fishery. The ‘net income’ so fixed should be treated as the ‘economic rent’ which should be treated as ‘reserve-price’ for inviting auction/ bid.

(ii)(a) The District Land & Land Reforms Officer shall, before the commencement of the year, provide to the Director of Fisheries, West Bengal and Assistant Director of Fisheries of the concerned district a list of fisheries, in his district, along with the date of expiry of the existing term of lease in each case, so that, they can identify the functional Primary Fishermen's Co-operative Societies and Fish Production Group and get them apply for lease of fisheries when such lease falls due for resettlement. Similar list shall also be provided to the Collector of the District so that he can indentify the Self Help Groups within the District and get them apply for lease of fisheries when such lease falls due for resettlement.

(b) The District Land & Land Reforms Officer shall obtained from the Assistant Director of Fisheries of concerned district a list of functional Primary Fishermen's Co-operative Societies and Fish Production Groups in his districts, which is his opinion, are in a financial condition adequate for obtaining settlement of fisheries.

(c) The District Land & Land Reforms Officer shall obtain from the Collector of the district, a list of Self Help Groups within the district which, in his opinion, are in a financial condition adequate for obtaining settlement of fisheries.

(d) The Assistant Director of Fisheries of the concerned District and the Assistant Registrar of Co-operative Societies of the concerned Zone/Region may be requested to remain present during the settlement of a fishery.

(iii) Section of beneficiary shall be made by the Committee as constituted under sub-rule(i) with due observance of the provisions contained in the financial rules embodied in the West Bengal Financial Rules, Volume 1 as amended from time to time. Sealed tenders shall be invited by the said Committee so constituted for settlement of the Government Fishery from the Functional Primary Fishermen's Co-operative Societies and Fish Production Groups and Self Help Groups as identified under Clause (b) and (c) of sub-rule (ii) for the district. The highest tender shall be accepted if it is not less than the reserved price, which shall be equal to the economic rent as fixed under sub-rule (i).

(iv) If, however, the highest tender falls short of the reserve price, fresh tender shall be invited, in which the individuals/ entrepreneurs may also participate. If this also falls short of the reserve price, settlement shall be made by auction among the participating tenderers who had offered tenders, and the final settlement shall be made with the offerer concerned giving the highest bid, provided the bid is not less than 75 per centum of the reserved price.

(v) 25 per centum of the rent for the first year's settlement shall be deposited at the time of settlement and the balance shall be deposited before the beginning of the year. Rents for the successive years shall be deposited in full before the beginning of the respective year. Failure to comply with any of the provisions of this sub-rule shall make the lease liable to be cancelled.

(vi) The beneficiary with which lease is concluded shall make every effort to utilize the water area optimally. Failure to achieve minimum per hectare production as per norms to be fixed by the Fisheries Department of the State Government for two consecutive years shall make the lease liable to be cancelled. The beneficiary with which lease is concluded shall submit the production return to the District Land and Land Reforms Officer at least 15 days prior to the beginning of the next year through Assistant Director of Fisheries of the concerned district.

(vii) If during the lease period, it is reported/ observed/found by the Assistant Director of Fisheries or by the District Land & Land Reforms Officer of the concerned district that the culture right of the water body has been transferred to any individual or other, directly or indirectly and the Primary Fishermen's Co-operative Society/Fish Production Group/Self Help Group members have become passive and on inquiry by the Additional Director of Fisheries of the District the same is found to be true even by circumstantial evidence, shall also make the lease liable to cancelled.

(viii) In cases where water of the Government Fishery is also used for other activities by other Government Department viz. Agriculture/River Lift Irrigation etc., minimum threshold depth of average 5 ft. water in the summer months for the better survival of the fish has to be kept. A Monitoring Committee, consisting of the Collector of District as the Chairman, the District Land & Land Reforms Officer, the competent authority of the Water Lifting Authority Viz. Agriculture/ River Lift Irrigation of the respective District, as the case may be and the Assistant Director of Fisheries as the Convenor of such committee shall monitor to this effect.

Explanation. – For the purpose of this Rule, for being eligible for taking part in the process of tender or action:

(a) the Primary Fishermen's Co-operative Societies, Fish Production Groups or Self Help Groups shall mean having only active fishermen/women members, who take part in the fishery activities of the Society/Group regularly for their livelihood and duly certified to this extent by the respective local Government and Fisheries Extension Officer of the local Block and countersigned by the Assistant Director of Fisheries of the concerned district.

(b) the Functional Primary Fishermen's Co-operative Society shall mean, having the management of the Society was satisfactory for the last three years in terms of fruitful utilization of the water body for optimal fish production and providing livelihood to the members in the opinion of the Assistant Director of Fisheries of the concerned District, besides fulfilling other statutory criteria as per law.

(c) Individuals/ entrepreneurs shall mean any person or any organization having proper credentials in this regard duly accepted by the committee constituted under sub-rule (i) of rule 272.

2. for the first proviso to rule 273, substitute the following

"Provided that if more than 50% of water area of a private tank is vested, such tank shall not be settled with the private co-sharer. Instead the private co-share(s) shall form a Fish Production Group with the suitable number of local fishermen and if local fishermen are not available with local unemployed youths selected from out of the families living Below Poverty Line and take settlement. Settlement should not be given for more than 3 years. The annual rent payable shall be fixed in the manner as laid down in sub-rule(i) of rule 272 which shall be equal to the economic rent as fixed under the said sub-rule (i)"

3. for rule 275, substitute the following rule :-

"Period of settlement :

275. The period of settlement except in the case of settlement of part-vested water areas to a private co-sharer should be for a period not exceeding 3 (three) years."

4. for rule 276, substitute the following rule :-

"Prohibition of transfer of lease except by way of certain kind of mortgage :

276. The beneficiary with which lease is concluded shall not be entitled to transfer his rights except by simple mortgage or a mortgage by deposit of title deed in favour of a scheduled Bank or a Co-operative Society or a Corporation owned or controlled by the Central or the State Government or both for the purpose of obtaining loan for the development of the water area or for improvement of the water area."

5. for rule 278, substitute the following rule :-

"Financial Power to confirm settlement :

278. District Land & Land Reforms Officer are empowered to confirm settlement of Jalkars at a rent not exceeding Rs.20,000.00 and the Divisional Commissioners at a rent not exceeding Rs.50,000.00. Proposal for long term settlement of part vested water areas should, however, be sent to the Land & Land Reforms Department of the State Government for approval."

By order of the Governor

R.D.Meena

Pr. Secretary to the Govt. of West Bengal