



## The Sikkim Irrigation Water Tax Act, 2002

Act 2 of 2002

**Keyword(s):**

**Command Area, Fasli Year, Irrigation Channel**

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# SIKKIM

GOVERNMENT



GAZETTE

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GOVERNMENT OF SIKKIM  
LAW DEPARTMENT  
GANGTOK

NO. 2/LD/2002.

DATED : 10/4/2002.

## NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the governor on 30<sup>th</sup> day of March, 2002 is hereby published for general information :-

**THE SIKKIM IRRIGATION WATER TAX ACT, 2002**  
**(ACT NO. 2 OF 2002)**  
**AN**  
**ACT**

To provide for levy and collection of tax from the owners of the land using water from Government Irrigation Channels and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of Sikkim in the Fifty – third Year of the Republic of India as follows :-

**Short title extent  
and  
commencement.**

1. (1) This Act may be called the Sikkim Irrigation Water Tax Act, 2002.  
(2) It extends to the whole of Sikkim.  
(3) It shall come into force on such date as the State Government may be notification, appoint.

**Application.**

2. This shall apply to all the owners of the land who use water for Irrigation of their land from the irrigation channel constructed and maintained by the State Government.

**Definitions.**

3. In this Act, unless the context otherwise requires;
  - (a) “command area” means an irrigated area or capable of being irrigated by an irrigation channel as declared under sub-section (1) of the section 5 of the Act.
  - (b) “department” means the Irrigation and Flood Control Department of the State Government;
  - (c) “District Collector” means the Collector of the district having jurisdiction over the command area;

- (d) “fasli year” means a period of twelve months commencing from the first day of July every year;
- (e) “irrigation channel” means a channel constructed and maintained by the department for the purpose of irrigation the land;
- (f) “land” means the land held by individual owner as per the records of right prepared during the last cadastral survey and maintained in the office of the District collector which may be a paddy field or cardamom field or dry field;
- (g) “notification” means a notification published in the Official Gazette;
- (h) “owner” means the owner of the land and includes his agent, attorney or caretaker but does not include tenant or kutiyadar or adiyadar;
- (i) “prescribed” means prescribed by rules made under this Act;
- (j) “State Government” means the Government of the State of Sikkim;
- (k) “Year” means the financial year beginning on the first day of April and ending on the thirty first day of March next following.

***Incidence of Tax.***

4. On and from the date of commencement of this Act, there shall be levied and paid by every owner who hold land and uses water from the irrigation channel, a tax at the rate every year as specified in the Schedule appended to this Act.
  
5. (1) As soon as a new source of irrigation is augmented and constructed by the department it shall intimate in writing to the District Collector that the Irrigation Channel is ready to operation and also the command area proposed to be covered by the channel.
  - (2) The District Collector, on receipt of the intimation under sub-section (1) shall, by notification, declare the channel as the Government source of Irrigation and also declare the command area comprising the land belonging to such number of owners in the area as he may specify in the said notification.
  - (3) The District Collector shall, for the purpose of determining the number of owners, cause a list to be prepared of such owners in such manner as may be prescribed, containing the names of every owner of the command area and extent and category of lands held by every owner who propose to use the water from irrigation channel notified under sub-section (2) and the amount of tax payable him for every fasli year.
  - (4) A list prepared under sub-section (3) shall be published at such place and in such a manner as may be prescribed and on such publication, every owner who is liable to pay water tax under this Act, shall be deemed to have notice of such tax.

(5) Any person interested in objecting the water tax assessed and specified in the list published under sub-section (4) may make an application in writing to the District Collector within thirty days from the date of publication of the list.

(6) The District Collector, as soon as may be, after the receipt of the application under sub-section (5) and in any case not later than fifteen days from the date of receipt, shall consider the application, hear the applicant in person and pass such order thereon if he thinks fit which shall, subject to the provision of section 6, be final.

(7) If no objection is received under sub-section (5) within the specified period, the water tax specified in the list published under sub-section (4) shall, subject to the provisions of section 5, be final.

**Appeal.**

6. Any person aggrieved by the order of the District Collector under sub-section (6) of section 5 may, within thirty days from the date of order, appeal against the order to the Commissioner, Land Revenue Department, who shall, after considering the appeal and hearing the appellant within fifteen days from the date of receipt of such appeal, pass such order as he thinks fit, confirming, modifying or annulling such order which shall be final.

**Manner of collection of tax and maintainance of accounts.**

7. (1) The manner of payment of water tax, the form for maintainance of accounts of its collection and preparation of statement of yearly collection shall be such as may be prescribed.

(2) The District Collector shall forward the yearly statement prepared under sub-section (1) to the State Government at end of every year.

**Manner of distribution of water and the committee to decide the turn system.**

8. (1) The distribution of water in a command area shall be in the following manner, namely :-

(a) simultaneously to all lands if the water is sufficient to coup the whole command area at a time.

(b) on turn basis beginning from the land nearest to the source if the water is insufficient to coup the water command area at a time.

(i) A committee consisting of the following members belonging to that command area shall decide the turn system with the approval of the District Collector or an officer duly authorized by him :-

(c) Zilla Panchayat Member;

(d) President of Gram Panchayat;

(e) Two members from amongst the owners of the land; and

(f) Revenue Supervisor.

**Settlement of disputes.**

9. Any dispute arising out of the distribution of water between the owners or between the owners and the Committee constituted under section 8 shall be referred to the District Collector whose decision thereon shall be final.

**Bar to certain proceeding.**

10. No assessment made, proceedings taken or order passed under this Act shall be called in question in any court of law.

- Protection of action taken in good faith.** 11. No suit, prosecution or other legal proceedings shall lie against any officer or any other public servant for anything which is done in good faith or purported to be done under this Act or rules made thereunder.
- Officers to be public servant.** 12. Every officer of the State Government acting under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.
- Recovery of dues.** 13. Every amount due under the provision of this Act shall be recoverable as an area of public due under the provisions of the Sikkim Public Demand Recovery Act, 1988.
- Powers to remove Difficulties.** 14. If any difficulty arises in giving effect to the provisions of this Act, the same shall be referred to the State Government for decision.
- Power to exempt.** 15. If, in the opinion of the State Government, the enforcement of all or any of the provisions of this Act will cause hardship in any case or cases, the State Government may, by notification, setting out the grounds thereof, exempt permanently or for a specified period, such case or cases from all or any of the provisions of this Act, subject to such conditions, if any, as the State Government may deem fit to impose.
16. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.  
(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :-
1. manner of preparation of list of owners under sub-section (3) of section 5;
  2. manner of publication of the list under sub-section (4) of section 5;
  3. manner of keeping accounts and the form of register and statement under sub-section (1) of section 7;
  4. any other matter which may be or required to be prescribed.

**SCHEDULE**  
**(See section 4)**

Rate of tax payable by the owner of the land irrigated through irrigation channel per fasli year.

<b>Sl. No.</b>	<b>Category of Land</b>	<b>Classification</b>	<b>Rates per hectare.</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
1.	Paddy Field	(a) Class -I (b) Class - II (c) Class - III	One hundred rupees per hectare Eighty rupees per hectare Sixty rupees per hectare.
2.	Cardamom field	(a) Class - I (b) Class - II (c) Class - III (d) Class - IV	Two hundred and fifty rupees per hectare Two hundred rupees per hectare One hundred and fifty rupees per hectare One hundred rupees per hectare
3.	Dry field	(a) Class - I (b) Class - II (c) Class - III	Thirty rupees per hectare Twenty rupees per hectare Ten rupees per hectare.

BY ORDER OF THE GOVERNOR.

**T.D. RINZING,**  
**SECRETARY TO THE GOVT. OF SIKKIM,**  
**LAW DEPARTMENT.**

**F.NO. 16(82)LD/77-2002.**