

ශ්‍රී ලංකා ප්‍රජාතාන්ත්‍රික සමාජවාදී ජනරජයේ ගැසට් පත්‍රය

අති විශේෂ

The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 1462/11 – 2006 සැප්තැම්බර් 12 වැනි අඟහරුවාදා – 2006.09.12

No. 1,462/11 – TUESDAY, SEPTEMBER 12, 2006

(Published by Authority)

PART IV (A) — PROVINCIAL COUNCILS

Provincial Council Notifications

My No.: 1/6/5/1.

PROVINCIAL COUNCIL OF THE NORTH WESTERN PROVINCE

North Western Provincial Irrigation Management Statute No. of 2006 of the Provincial Council of the North Western Province

IT is hereby notified for general information that the North Western Provincial Irrigation Management Statute No. of 2006 of the Provincial Council of the North Western Province published below, will be tabled in the Council at the expiration of a period of thirty days from today. Any person interested in making any representation on any provision thereof should address me on the matter before the expiry of that period.

R. D. WIMALADASA,
Minister of Land, Agriculture, Irrigation
and Animal Production Services (N.W.P.).

30th August, 2006.

NORTH WESTERN PROVINCIAL IRRIGATION MANAGEMENT STATUTE

A statute to upgrade the production of agricultural and ancillary products for the benefit of cultivators of North Western Province and to formulate plans, implement, renovate, maintain and supervise Irrigation schemes, cascade systems, tanks, anicuts, streams and springs and irrigable areas except the irrigation schemes connected to rivers flowing through the Province, to establish Irrigation Committees relating to those activities and to determine their powers and to provide for matters connected therewith or incidental thereto by executing powers conferred by Articles 9 and 19 of the 1st list of 9th Schedule of the 13th Amendment to the Constitution of the Government of Sri Lanka.

This statute is inconsistent with the Irrigation Ordinance, No. 32 of 1946, Irrigation (Amendment) No. 1 of 1951, Irrigation (Amendment) No. 48 of 1968, Irrigation (Amendment) No. 37 of 1973 and Agrarian Development Act, No. 40 of 2002.

Be it enacted by the North Western Provincial Council of the Democratic Socialist Republic of Sri Lanka as follows :-

- Short title. 01. This statute may be cited as North Western Provincial Irrigation Management Statute No. of 2006.
- Date of operation. 02. It shall come into operation on such date as the Governor of North Western Province may approve it after being approved by the North Western Provincial Council.

CHAPTER I

- Establishment of the Department. 03. There shall be established a Department called "Provincial Irrigation Management Department" for the implementation of the provisions of this statute.
- Appointment of the Head of the Department. 04. (1) There shall be appointed an officer called and known as "Provincial Director of Irrigation Management" for the purpose of enforcing powers conferred on the "Provincial Irrigation Management Department".
- Appointment of Officers. (2) There is provision to appoint two Deputy Directors, Assistant Directors and a sufficient number of technical officers as are required for the purpose of efficient administration and Management of activities relevant to Provincial Irrigation Management works.
- Public Officers may be appointed. (3) Where it is necessary to appoint Public Officers as officers of North Western Provincial Irrigation Department for the purpose of working with a proper management and co-ordination, there is provisions to appoint them after obtaining approval from the Secretary of the relevant Line Ministry.
- Officers are subject to directions of the Secretary. (4) All officers including the Provincial Director of Irrigation Management shall be subject to the directions of the Secretary to the Ministry in Charge of the subject.
- Officers to be liable to the provisions of the Penal Code (5) All officers appointed for the purposes of this statute shall be deemed to be Public Officers within the meaning of Penal Code.

CHAPTER II

- Names of Irrigation works to be published in the Gazette. 05. (1) The North Western Provincial Director of Irrigation Management shall published in the *Gazette* a list of all types of Irrigation works coming under the purview of the Department and operating within Grama Niladhari Divisions of each Divisional Secretariat of the province.
- (a) This list can be revised as and when required to do so.
- (2) On publication of the list of names of Irrigation works, such irrigation works shall be subject to the administration and supervision of the North Western Provincial Council.

- | | |
|---|---|
| <p>(3) If any institution, organization, or a group intends to renovate, develop or preserve an irrigation work of any description published in the <i>Gazette</i> as aforesaid, such institution, organization or group shall obtain written approval from the Director of Irrigation Management for such purpose.</p> | <p>Renovation of Irrigation works without permission.</p> |
| <p>06. (1) The Director of Irrigation Management shall formulate annual short term and medieval plans for the renovation, development and conservation of Irrigation systems of the Province.</p> | <p>Formulation of plans.</p> |
| <p>(2) Before obtaining funds required for the implementation, such plans should be submitted to the Provincial Plan Committee and approval should be obtained.</p> | <p>The plans to be approved by the Provincial Plan Committee.</p> |
| <p>07. North Western Provincial Director of Irrigation Management shall on his own direction —</p> | |
| <p>(i) plan Irrigation works in a much more meaningful way ;</p> | |
| <p>(ii) plan new Irrigation works in a much more meaningful way ;</p> | |
| <p>(iii) ensure the participation of farmers for the renovation, maintenance and conservation of Irrigation works ;</p> | |
| <p>(iv) prevent and minimize environmental damages which leads to dilapidate and destroy the Irrigation works ;</p> | |
| <p>(v) prepare cultivation periods for cultivation of paddy under irrigation systems and to take steps to enact the relevant regulations.</p> | |

CHAPTER III

- | | |
|---|--|
| <p>08. There shall be appointed a committee called "Irrigation Management and Development Committee" for each tank, anicut or Irrigation works which shall function under the guidance of Director of the North Western Provincial Irrigation Management Department.</p> | <p>Committees to be setup at "yaya" level.</p> |
| <p>09. (1) Every person whose livelihood is agriculture and who is —</p> <p>(a) a citizen of Sri Lanka ;</p> <p>(b) and whose age is not less than 16 years of age ; and</p> <p>(c) residing in the area of authority of the Irrigation Management and Development Committee of which he is seeking membership or he has engaged in agricultural activities in such area of authority for a period of more than 2 years,</p> <p>is eligible for membership of the Irrigation Management and Development Committee established under Subsection (1) above.</p> | <p>Membership.</p> |
| <p>(2) The associate membership of a Irrigation Management and Development Committee established under Subsection (1) above can be obtained —</p> <p>(a) by the owner or occupier of any agricultural land whose main livelihood is not agriculture but residing within the area of authority of the Committee ;</p> | <p>Associate Membership.</p> |

(b) by any person who is engaged in any income earning agricultural production or selling of agricultural products or commodities.

(3) Every Irrigation Management and Development Committee shall elect its officers. Regulations may be made in respect of the manner in which the officers are elected, there terms of office, the business at the meeting of the committee, the functions of the Committee, accounting and auditing of the account of the committee.

(4) Every Irrigation Management and Development Committee shall within its area of authority—

(a) encourage cultivation of paddy or any other crops in agricultural lands or paddy fields and develop such cultivations ;

(b) enforce Establish customs affecting such cultivations ;

(c) ensure proper timing of agricultural operations ;

(d) cause efficient management of irrigation water and water use for agricultural purposes ;

(e) take steps for conservation of soil and protection against pests and disease ;

(f) take steps to cut and remove the branches of trees situated in lands adjoining paddy fields and to clear any shrubs found close to a paddy field or a land which is a disturbance to the cultivation in such paddy field or land ;

(g) may summon meetings of owner cultivators and occupiers of agricultural lands within its area of authority for the purposes of making rules relating to the development of agricultural lands and joint agricultural activities.

The member of the above Committee shall elect by majority vote a person called and known as “Irrigation Management Yaya Representative”. This Yaya Representative can be elected from among persons elected as Chairman, Secretary, Treasurer or Members of the Committee who will be elected in terms of regulations to be made in future.

10. (1) The ‘yaya’ representative shall hold office for a period of three years from the date of his appointment unless —

(a) he has submitted a letter of resignation to the Director ;

or

(b) he is removed from his post on matters disclosed at an inquiry held by the Director or an officer authorize by him on inefficiency or misconduct.

(2) Yaya Representative shall prepare a list of agricultural lands with the assistance of other officers of the Committee.

(3) ‘Yaya’ Representative shall assign to each owner or occupier of agricultural lands whose names appear in the register of agricultural lands, a portion of area of the main irrigation dam or main distribution channel according to the extent of land given to such owner or occupier.

(4) Every owner or occupier of an agricultural land to whom a portion of area has been assigned by the Yaya Representative shall mark such area using wooden metes or boundary marks made of cement or metal and such marking should be visible about the ground level.

- (5) Before the beginning of any season, owners or occupiers of agricultural lands shall cut the shrubs and clear the jungle in the bund and fill the parts of the bund damaged by soil erosion with soil obtained from the reservation or from the irrigation area.
- (6) If any owner or occupier of agricultural land fail to clear the area assign to him, the Irrigation Management and Development Committee shall clear that area and inform the person who defaulted to pay the amount of money spent for clearing.
 - (a) If such person fails to make payment within 21 days of the receipt of the notice, action should be taken to recover that some of money by filling a plaint in the relevant magistrate's Court.
 - (b) The Magistrate shall recover that sum of money as a fine imposed by that Court and cause that amount to be credited to the Committee.
- (7) It is the duty of 'Yaya' Representative to safeguard irrigation works, take legal action against any person who violate the established customs, to protect water issued from irrigation tanks and irrigation works, to cause proper timing of agricultural operations.
- (8) In regard to the performance above duties, each owner, occupier or tenant cultivator shall pay to the 'Yaya' Representative a prescribe a portion of his harvest as a remuneration.
- (9) Any owner, occupier or tenant cultivator of an agricultural land who fails to pay the aforesaid remuneration shall be guilty of an offence under this statute.

Failure to make payment.

11. Based on the geographical situation of the area of authority of the Irrigation Management and Development Committee established under Section 9(1) above, a Committee called "Irrigation Systems Management and Development Committee" shall be established in respect of such irrigation works or cascade system.

12. In order to represent every irrigation works, at least one person out of Chairman, Secretary or Treasurer of Irrigation Management and Development Committee should become a member of the aforesaid Irrigation and Management and Development Committee.

1. (a) In order to represent main irrigation works, three officers, namely Chairman, Secretary and Treasurer should be appointed to this Committee.
- (b) Including the above three officers, there shall be a Committee of eleven persons appointed to the Irrigation System Management and Development Committee.
2. (a) to work for the reservation of whole irrigation system ;
- (b) to decide on the priority of irrigation works of the sytem in renovation and development of such works ;
- (c) to protect Irrigation reserves within the system ;
- (d) to assist Development of high lands adjacent to all irrigation works of the system ;
- (e) to assist the officers of the department to separate and protect components of an irrigation system as required by rules and regulations ;
- (f) it is duty of this Committee to use this system as one unit for joint Development.
3. Irrigation Management and Development Committee of any description shall register at the Office of the Director of North Western Irrigation Management.

This Irrigation Management and Development Committee is a corporation with perpetual succession and common seal, and may sue and be sued in the name assign to it.

13. (1) Irrigation Management and Development Committee of any description may open and maintain accounts in any bank recognized by the government.
- (2) The Accounts of the Committee shall be audited in the same manner as prescribed for auditing of account of Public Corporations provided for in Article 164 of the Constitution.
- (3) The Irrigation Management and Development Committee established by this statute shall be a "Farmers Organization" within the meaning of Agrarian Development Act, No. 46 of 2002 and Treasury Circular No. 352 and its amendments.
- (4) Irrigation Management and Development Committee of any description is empowered to enter into any agreement under limitations imposed heretofore or any limitation that will be imposed in future.
- (5) Every land owner or occupier or tenant cultivator shall pay a service charge prescribed by the Provincial Director of Irrigation Management in respect of the service rendered by the Government or Provincial Council or by any Government or non Governmental Organization for renovation, reservation and conservation irrigation works and their maintainers and for ensuring their future existence.
- (6) 'yaya' representative shall collect this service charge and credit it to a prescribed fund.

CHAPTER IV

Every person who —

- (a) blocks ;
 - (b) obstructs ;
 - (c) encroaches upon ;
 - (d) causes to be in any way blocked up, obstructed encroaches upon;
 - (e) causes damages to ;
 - (f) willfully and mischievously cause waste of water conserved by any irrigation work
in any irrigation work, channel or water course, bank, reservation, tank, bund, access to a tank or irrigation complex.
- (1) cultivate in any tank or channel within an irrigable land, without written permission of the North Western Provincial Director of Irrigation Management ;
 - (2) removes soil or sand or causes removal of soil or sand from any tank, channel in irrigable area, irrigation work, water course, bund, bank, reserve, dam, access to a tank or irrigation complex ;
 - (3) releases or cause the release of waste matter into any irrigation work, channel, water course, irrigation reserve or paddy field ;
 - (4) digs or construct or maintain any well for cultivation purposes without written permission of the Director of Irrigation Management and contrary to the conditions imposed by him ;

- (5) lets animals stray in such a way so as to cause a damage to any irrigation work, channel, water course, irrigation reserve or any paddy field ;
- (6) does cultivation work in the bank of an irrigation system relevant to this statute without written permission of the Director ;
- (7) cultivate any crops other than paddy contrary to any decision taken at a meeting or cultivate rotation crops with out permission ;
- (8) makes use of a paddy land which is specified in paddy lands register for any purpose other than cultivation or filling of such paddy land using soil, metals stones or any other material or causing such paddy field to be filled without obtaining written permission of the Director ;
- (9) unduly interferes with the right of cultivation, threshing of paddy harvest, use of 'kamatha' increasing the productivity of agricultural produce or use of a road for agricultural purposes.
shall be guilty of an offence under this statute.
- (10) Any person who commits an offence under this statute or any regulation made thereunder shall be guilty of an offence and shall on conviction before a Magistrate be liable to a fine not exceeding rupees ; five thousand or imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

CHAPTER V

14. The Minister shall make regulation in respect of all matters prescribed by this statute.

15. Every regulation made by the Minister shall be published in the *Gazette* and shall come into force on the date of its publication or on such later date as may be specified.

16. Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be brought before the Provincial Council for approval. Every regulations not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to any thing previously done thereunder. Notification of the date on which any regulation is deemed to be rescinded shall be published in the *Gazette*.

17. (1) Notwithstanding the provision of any written law, the provision of this statute shall prevail over the provision such written law.
- (2) If there is any inconsistency between the Sinhala and Tamil texts of this statute, the Sinhala texts shall prevail.
- (3) In this statute, unless he context otherwise requires –

“Provincial Council” means North Western Provincial Council ;
“Minister in Charge of the subject” means the Minister in charge of subject of irrigation in the Provincial Council.
- (4) “Secretary” means the Secretary of the Minister in charge of the subject of Irrigation in the Provincial Council.
- (5) “Provincial Irrigation Management Department” means the Department established for the subject or Irrigation Management of the North Western Province ;
- (6) “Director” means the Director of Provincial Irrigation Management Department.

- (7) “Deputy Director” “Assistant Director” means Deputy Director and Assistant Director of the Provincial Irrigation Management Department ;
 - (8) “Engineer” means any engineer appointed for the development activities of the Provincial Irrigation Management Department ;
 - (9) “Paddy Land” means land used or capable of being used for paddy cultivation within the meaning of this statute and shall include private land, lands alienated under the Land Development Ordinance or State Lands Ordinance or any other enactment.
 - (10) “Occupier” shall means the person who cultivate a land by himself or as the lessee or usufructuary mortgagee and shall include a person in use and occupation of agricultural lands alienated under the Land Development Ordinance or State Lands Ordinance or any other enactment and includes a tenant cultivator within the meaning of this statute.
 - (11) “Irrigation Tank” means any irrigation tank legally not include as an inter provincial irrigation work in the register of agricultural lands ;
 - (12) “Cascade or Irrigation system” means a water course starting from any precipice area and flowing towards any direction and in the process collecting water from irrigation works and which over flows by rain water rather than water from irrigation works and ultimately joins a river or tank and having irrigation systems consisting of a tank, an Irrigation work, irrigable areas reservation channels and paddy fields ;
 - (13) “Yaya” representative” means a person elected by owners and occupiers of agricultural lands from among themselves by a majority vote for the development of productivity of their agricultural activates through irrigation works referred to above and to formulate a proper programme for such activities and to co-ordinate with officers ranging from the Irrigation Development Committee to the Secretary to the Ministry ;
 - (14) “Irrigation System Development Committee” means a committee comprising of ‘yaya’ representatives appointed from among owners and occupiers of agricultural lands representing all irrigation works included in the irrigation system interpreted as cascade and irrigation system above and a limited number of officers nominated by the Director of Irrigation Management and Development or any officer authorized by him.
 - (15) “Remuneration” means a part of harvest given by cultivators on their own accord during any season to ‘yaya’ representative for the responsibility held by such ‘yaya’ representative when owners or occupiers cultivate their lands and for maintaining irrigation works which help cultivators ;
 - (16) “Service Charge” means a sums of money determined according to the area of land of a cultivator and imposed legally by regulations made by the Minister in charge of the subject in accordance this statute and which is contributed to a fund initiated and maintained for the purpose of renovation of irrigation works as a result of inadequacy or not receiving the funds normally received from the Government or Provincial Council or any other Organization for the maintenance of minor irrigation works, anicuts channels, bunds, by the aforesaid irrigation Development Committee ;
- “Share” means the portion of land assigned to each farmer from the main bund or main channel for renovations which portion is decided according to the number of farmers specified in a register of agricultural lands which receive water from minor irrigation works and the area of total paddy fields.
- “Kamata” means a block of land prepared or used for threshing of paddy harvest physically by farmers or using cattle or using machinery or using winnowing fans.