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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART IV (A) - PROVINCIAL COUNCILS

Provincial Councils Notifications

WESTERN PROVINCE PROVINCIAL COUNCIL

I, Udaya Prabhath Gammanpila, Minister of Agriculture, Agrarian Development, Minor Irrigation, Industries, Environment, Arts and Cultural Affairs of the Western Province hereby notify that the Minor Irrigation Statute No. 03 of 2014 of Western Province Provincial Council described in the statute below has been passed by the Western Province Provincial Council on 19th of August 2014 and has been assented by the Hon. Governor of the Western Province on 21st October, 2014.

UDAYA PRABHATH GAMMANPILA,
Minister of Agriculture, Agrarian Development,
Minor Irrigation, Industries, Environment, Arts and
Cultural Affairs of the Western Province.

The Ministry of Agriculture, Agrarian Development,
Minor Irrigation, Industries, Environment, Arts and
Cultural Affairs of the Western Province Provincial Council.
Sir Marcus Fernando Mawatha,
Colombo 07,
13th November 2014.

Minor Irrigation Statute of the Western Province No. 03 of 2014

A STATUTE FOR THE ESTABLISHMENT OF LAW RELATING TO CONSTRUCTION, REHABILITATION AND MAINTENANCE OF MINOR IRRIGATION WORK INCLUDING PLANNING, DESIGNING, IMPLEMENTATION OF ALL MINOR IRRIGATION WORK IN THE WESTERN PROVINCE OTHER THAN IRRIGATION SCHEMES RELATING TO RIVERS RUNNING THROUGH MORE THAN ONE PROVINCE OR INTERPROVINCIAL IRRIGATION AND LAND DEVELOPMENT SCHEMES, AND ALLOCATE PROVISIONS FOR MATTERS RELATED OR CONSEQUENTIAL THERETO.

The Provisions of this statute are inconsistent with the Irrigation Ordinance (Chapter 453).

Be it enacted by the Provincial Council of the Western Province as follows :-



Short title and date of coming into force.

1. This statute may be cited as the Minor Irrigation Statute of the Western Province No. 03 of 2014 and shall come into force from the date of receipt of assent of the Governor.

PART I

ESTABLISHMENT OF IRRIGATION DEPARTMENT OF THE WESTERN PROVINCE AND ITS COMPOSITION

Establishment of Provincial Irrigation Department.

2. A department in the name of Western Provincial Department of Irrigation (hereinafter referred to as department) shall hereby be established.

Provincial Irrigation Director.

3. (1) The functions of administration and implementation of the department shall be assigned to the Western Provincial Director of Irrigation (hereinafter referred to as Director). Provincial Director of Irrigation shall be the Chief Executive Officer of the department and will be appointed by the Governor.

(2) The Governor shall appoint an officer of the Sri Lanka Engineering Service as the Provincial Director.

(3) The director may have the power of implementation of the provisions of the statute under the supervision of Secretary in charge of the subject of Provincial Irrigation.

Appointment of District Irrigation Engineers.

4. (1) For the purpose of this statute there may be appointed from time to time prescribed number of Civil Engineers to act as District Irrigation Engineers.

(2) Any person so appointed may exercise, perform and discharge any power, duty or function expressly conferred or imposed upon the District Irrigation Engineer and may subject to the directions and supervision of the Director or exercise, perform and discharge any power, duty or function conferred or imposed on the District Irrigation Engineer.

PART II

POWER AND FUNCTIONS OF THE DIRECTOR

Provincial Director's Powers and functions.

5. (1) The Director shall have the following powers :

- (a) To plan, design, construct, implement and supervise all minor irrigation work.
- (b) To develop, rehabilitate and maintain minor irrigation works within the Province.
- (c) Take measure to control floods and brine water inflow related to minor irrigation of the province.
- (d) Taking relevant steps to raise awareness and promote, encourage about the subject of irrigation in terms of protection and maintenance of the minor irrigation schemes within the province.
- (e) Providing knowledge to farmer organizations with regard to their duty and function under this statute.
- (f) Selection of farmer organizations required to accomplish tasks related to this minor irrigation, implementation of programmes and taking measures to activate farmer organizations when they have become inactive.
- (g) Coordinating with relevant institutions and authorities to solve problems encountered in programmes implemented to execute minor irrigation functions.

(2) All powers assigned to the Director by whatever section of this statute shall subject to the following limits. That is, the Director shall not sell, let on lease or utilize or allow to be utilized in any commercial aim or assigning a price with the intent of some commercial aim for any natural resource related to minor irrigation.

6. (1) A person authorized by the Director, subsequent to following the orders prescribed by the Director shall have power to enter on requirement, certain premises connected or adjacent to a minor irrigation scheme or providing direct access to such, at any time.

Power of access to minor irrigation.

(2) On an occasion where access to such premises had unjustly been rejected and the authorized person has taken action in conformity with the prescribed order and followed the said order to the satisfaction of the Director, the Director may obtain an order from the Magistrate Court delegating permission or authority to have access to the said minor irrigation scheme.

7. In conformity with the criteria specified by the Director, participation of Government or Non-governmental voluntary organizations may be encouraged in maintenance and construction of minor irrigation work.

Participation of other organizations.

PART III

OFFENCES AND PENALTIES

Any person who :

8. (a) Blocks up, obstructs, illegally encroaches upon, damaging or caused to be blocked up, obstructed, encroached upon or damaged certain irrigation canal, water course, bund, bank, dam, reservation, irrigation reserve or any other such irrigation work ;
- (b) Will fully or maliciously causes to waste in any manner, the water conserved in any minor irrigation work ;
- (c) Discharges, allows the flow of, releases, deposits any waste or dirty matter or cause to be discharged, allowed the flow of, released or deposited any such waste or dirty matter to a certain minor irrigation ;
- (d) Engages in any cultivation, removal of sand, soil or any other matter or causes such to be carried out in an area allocated for certain minor irrigation scheme or in reservation for minor irrigation scheme ;
- (e) Being the State Security Forces, for the purpose of transportation, steers a mechanically propelled vessel in certain irrigation scheme other than for the purpose of providing security ;
- (f) Engages in any commercial activity at a certain minor irrigation scheme or utilizes such irrigation scheme for any illegal activity ;
- (g) Damages such structure or part of such structure of an irrigation scheme or part of it, or causes damage to such, or removes such structure or part of it, or causes such removal ;

Block up, obstructing or illegal encroachment of minor irrigation schemes to be offences.

without the prior permission of the Director, shall be an offender for an offence stipulated under this statute.

Relief steps to be taken by the Provincial Director.

9. (1) Where the Director observes that certain person engages in an activity by contravening to provisions of Section 08, he shall immediately issue a written order to be served to the offender ordering him to prevent from prolonged carrying out of the act or acts specifically stated in that Section. Measures to be taken by that person in order to minimize damage should specifically be stated in the said order.

(2) For the task of confirming whether action is being taken as per the order issued by the Director under Sub-section (1) stated above, if such order was issued in relation to any irrigation channel, canal, water course, bund, bank, embankment, dam or irrigation reserve located within certain authorized officer's area of authority, such authorized officer is bound to execute the above order.

Court action to be taken upon non-conformity to orders.

(3) A final order shall be issued by the Director indicating that the person specifically stated in the above Section (1) failed to take steps stated specifically in the order to minimize faulty results and continue to proceed with the said specified faulty acts, and the matters stated therein shall be evidence.

(4) Every person failing to comply to act as per an order issued under the above Sub-section (1) commits an offence under this statute and upon conviction, shall subject to a penalty not exceeding One Hundred Thousand Rupees or imprisonment for a period not exceeding one year or both to the penalty and imprisonment.

Authorized Officers to be considered as Peace Officers.

(5) An authorized officer may take any person committing an offence formulated or regulated under this statute into custody without a warrant at an area where certain minor irrigation scheme exists and to present such offender before a Magistrate of said Jurisdiction.

(6) Where an offence has been committed under this statute or regulation formulated under it, confiscation of any commodity utilized to commit the said offence and detaining at a place specified by the Magistrate, is possible.

PART IV

GENERAL PROVISIONS

Farmer organizations to act in conformity to instructions.

10. (1) Farmer organizations shall function as per the instructions provided by the Director to a sufficient level for such organizations to function.

(2) Where the Director finds it not possible to accomplish his duties due to defaulting the functions to be performed under this statute by farmer organizations, on the consent of the General of Agrarian Services Department and in compliance to that Act, he should get the affairs to be accomplished.

Obstructions to officers.

11. (1) It is legal to order a person who is engaged in obstructing or illegally encroaching a canal, irrigation channel or water course or damaging ; or carries out an action causing possible damage to such ; by a written notice served to him, to remove or stop the said obstruction or illegal encroachment within a time period specified in the said notice.

(2) Any person receiving a notice under Sub-section (1) refuses to act in conformity to the orders specified by the said notice during a time period specifically stated therein or defaults such orders, or in case there exists a suspicion as to whom the said notice should be served, it is legal to take action by the Director to immediately remove or terminate the said obstruction or illegal encroachment and enter a land or premises required for the purpose of accomplishing that task to ensure that all necessary efforts will be taken for the removal or termination of such activity.

(3) Officer of the Department of Irrigation nominated in writing by the Director for the said task shall be an authorized officer to carry out the duty specified in Section 09 of this statute.

PART V

ENFORCEMENT OF ORDERS

12. (1) In relation to any matters required for the implementation of provisions of the statute, the minister can formulate regulations under Section 5, 6, 7, 11 of this statute.

Regulations may be formulated by the minister.

(2) Every regulation formulated by the minister shall be published in the Gazette paper. Every regulation published in the Gazette thus, shall come into force from the date of their publication or from a later date specifically stated in the Gazette.

(3) Every regulation formulated by the minister, subsequent to their announcement in the Gazette, shall as soon as possible be presented to the Provincial Council for approval. Any regulation failing to obtain approval thus, shall be considered as repealed without prejudice to any such executed under that previously.

(4) The date considered as the repealing date for the said regulation shall be made known through a Gazette notification.

PART VI

INTERPRETATIONS

13. In this statute unless the context otherwise requires :

Interpretation.

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| “Governor” | means the person holding the office of Governor of the Western Province at present in accordance to the constitution. |
| “Minister” | means the Provincial Minister in charge of the subject of Minor Irrigation schemes. |
| “Secretary” | means the Secretary of the Provincial Minister’s ministry that has been assigned with the subject of Minor Irrigation schemes. |
| “Police and Public Peace” | means the same interpretation as stated in the Clause I of the 9th Schedule to the 13th Amendment of the Constitution. |
| “Minor Irrigation” | means any other irrigation schemes carried out within the Western Province except irrigation schemes relating to rivers running through more than one province, interprovincial irrigation functions and land development schemes. |

“Minor Irrigation” means an irrigation scheme providing water to agricultural land up to 200 Acres in extent.

“To minor Irrigation” —

- any tank, anicut, canal, irrigation channel, distributor water course combined to a minor irrigation work or incidental or ancillary thereof ;
- any activity that combines construction or maintenance of minor irrigation work or incidental or ancillary thereof,

- (c) planning, designing, construction, maintenance, renovation of and rehabilitation of engineering work constructed to facilitate subsiding of brine water from a cultivated land or regularizing inflow of brine water to such area or outflow there from, or protection of such areas from floods are included.

“Minor Irrigation Scheme” means minor irrigation systems and natural water courses connected to minor irrigation activities.

“Pollution” means any direct or indirerct alteration of the physical, thermal, chemical or biological radioactive properties of any part of the environment by the discharge or the deposit of waste so as to effect any beneficial use adversely or to cause a condition which is hazardous or potentially hazardous to public health, safety or welfare or to animals, birds,wild life, aquatid life or to environment.

“Water Course” means a river, tributary, lake or canal within the Province, formed naturally for the water to flow.

“Province” Means the Western Province.