

CAP. 115.

CYPRUS

IRRIGATION ASSOCIATION

CHAPTER 115 OF THE LAWS

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CHAPTER 115.
IRRIGATION ASSOCIATION.
ARRANGEMENT OF SECTIONS.

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A LAW TO MAKE PROVISION FOR THE FORMATION OF
ASSOCIATIONS FOR THE BETTER REGULATION AND USE
OF COMMON WATERS.

26 of 49.
34 of 54.

[22nd August, 1949.]

Short title.

1. This Law may be cited as the Irrigation (Private Water) Association Law.

Interpre-
tation.

2. In this Law—

“Commissioner” means the Commissioner of the district within which the irrigation association is being or has been formed ;

“committee” means a committee of an irrigation association formed under the provisions of this Law ;

“irrigation association” means an irrigation association formed under the provisions of this Law by the proprietors of water held, possessed or used by them in common ;

“irrigation works” include all wells, bores, reservoirs, dams, weirs, tanks, cisterns, tunnels, filter beds, conduits, aqueducts, mains, pipes, fountains, sluices, valves, pumps, channels, engines and all other structures or appliances used or constructed under the provisions of this Law for the storage, conveyance, supply, distribution, measurement or regulation of water ;

“land” means land (with grazing rights over such land), buildings, trees, easements, standing crops and water or water rights and includes land belonging to any ecclesiastical or pious foundation ;

“proprietor” means a person entitled to be registered as the owner of a share in water held, possessed or used in common with any other person or persons, whether he is so registered or not, and includes a person entitled *ab antiquo* in common with any other person or persons to the enjoyment or use of any such water ;

“water” includes any stream, spring, well and any water rights, whether held together with, or independently of, any land.

3. It shall be lawful for the Commissioner, on the application in writing of not less than seven proprietors, to call a meeting of the proprietors of a common water for the purpose of determining whether an irrigation association shall be formed for all or any of the following purposes :—

Meeting of proprietors.

- (a) the construction, improvement, maintenance or repair of any irrigation works in connection with the common water ;
- (b) the protection of the common water or water-courses and for the regulation of the use thereof ;
- (c) the maintenance or protection of the water rights of the proprietors.

4. (1) The Commissioner shall, not less than one month before the holding of the meeting as in section 3 provided, cause a written notice thereof to be—

Notice of meeting.

- (a) published in a newspaper or newspapers ; and
- (b) posted in a conspicuous place in the town, village or quarter in which the water is situate.

(2) All expenses connected with the notices shall be paid for by the proprietors who have made the application as in section 3 provided but may be recovered by them from the funds of the irrigation association, if such association is eventually formed.

Proceedings
at the
meeting.

5. (1) The Commissioner shall preside at every meeting so convened and if any question is raised as to the right of a person to attend thereat or to vote, the Commissioner may there and then make such enquiry as he may deem requisite and declare whether such person has a right to attend or to vote or not and the decision so made shall be final ; and an entry shall be made in the minutes of the meeting of any such question and of the decision thereon.

2 (a) of 34/54.

(2) Subject to the provisions of the proviso to subsection (11) and of section 6, no business shall be transacted at any such meeting and no decision shall be taken thereat, unless more than one half of the aggregate number of the proprietors are present in person or are represented by a proxy appointed by an instrument certified by a mukhtar.

(3) The Commissioner shall call the persons who are present at the meeting and entitled to vote to decide whether an irrigation association shall be formed, the purpose or purposes for which such association shall be formed and the name of such association.

(4) All questions or resolutions proposed at any meeting shall be determined by a majority of the persons present and entitled to vote :

Provided that a proxy holding authority from more than one proprietor shall be entitled to vote in respect of every proprietor from whom he holds authority.

(5) If the persons who are present at the meeting and entitled to vote decide to form an irrigation association, they shall proceed to elect by an open vote to be taken by the Commissioner, as to him shall appear convenient, a committee of not less than three and not more than five persons from among the proprietors. Every candidate for such election shall be properly proposed and seconded at the meeting.

(6) Every proprietor present shall be entitled to give one vote for each candidate and every authorised proxy shall be similarly entitled to give one vote in respect of every proprietor from whom he holds authority.

(7) At the conclusion of the voting the Commissioner shall count the votes and the candidates who have received the greatest number of votes shall be declared to be elected as the committee and shall hold office for such period, not exceeding three years, as the committee may by Rules prescribe.

(8) In case a person elected as a member of the committee declines to act, the person who received the greatest number of votes next to such candidate shall be appointed by the Commissioner to be a member of the committee in the place of the candidate so declining to act.

(9) In case the number of candidates proposed and elected as members of the committee is not greater than the number of persons required as members of the committee and one or more of them declines to act, the Commissioner shall nominate another proprietor or proprietors to be a member or members of the committee in his or their place.

(10) The Commissioner shall keep or cause to be kept minutes of the proceedings at every meeting and shall enter or cause to be entered therein the questions or resolutions proposed thereat and the number of votes given for and against them and shall at the close of the meeting sign the minutes and declare the result of votes given.

(11) The Commissioner may at his discretion adjourn any meeting from time to time to a date and place to be declared by him at the meeting or the adjourned meeting and no further notice thereof shall be necessary :

Provided that—

2 (b) of 34/54.

(a) unless special notice is given therefor, no subject which was not contained in the notice convening the public meeting shall be discussed or considered at any adjourned meeting ;

(b) except for a meeting convened for the purposes of subsection (3), a business may be transacted at any adjourned meeting and a decision may be taken thereat irrespective of the number of the proprietors who are present in person or are represented by a proxy.

(12) The provisions of this section shall apply *mutatis mutandis* to any meeting convened by the Commissioner under the provisions of this Law.

Power to Commissioner to ascertain views when meeting insufficiently attended.

6. If at any meeting of the proprietors, a quorum is not present, the Commissioner may ascertain the views of the proprietors on any subject for which the meeting has been convened by calling on each one of them to state in writing his views thereon and if, as a result of such an enquiry, more than one half of the aggregate number of the proprietors express themselves in favour of such subject the same shall be carried out as if decided upon at any public meeting.

Chairman of the Committee.

7. The Commissioner shall be the chairman of the committee with a right to vote on all questions and in case of equality of votes he shall have a casting vote in addition to his own vote.

Vacancies.

8. If any vacancy occurs in a committee it shall be filled by the election of a proprietor by the remaining members thereof.

General powers of committee.

9. The Committee shall have the general supervision and control of the irrigation works and shall, subject to the provisions of paragraph (f) of subsection (2) of section 12, regulate the use of the water and may, with the consent of the Commissioner—

(a) contract a loan for any purpose approved by the Commissioner in connection with the operations of the irrigation association ;

(b) appoint fit and competent persons to carry out any work in connection with the irrigation works of the irrigation association.

Procedure, etc., at the meetings of the committee.

10. Upon its formation the committee shall prescribe—

(a) the procedure to be followed ; and

(b) the practice to be observed ; and

(c) the number of persons required to form a quorum, at the meetings thereof.

List of proprietors.

11. (1) The committee shall, as soon as possible after its formation, prepare a list (hereinafter referred to as "the list") of the names and residences of the proprietors and of the extent of the interest of each proprietor in the water.

(2) The list, when made, shall be signed by the chairman and the committee and shall be posted in a conspicuous place in the town, village or quarter in which the water is situate.

(3) Any person who objects to the list or whose rights are affected thereby may, at any time within ten days from the date on which the list has been posted as aforesaid, lodge his objection in writing with the Commissioner who shall decide upon the same and such decision shall be final and conclusive unless the person making the objection applies, within one week from the notification to him of the decision of the Commissioner, to the Governor for revision of same. The decision of the Governor on any such application for revision shall be final and conclusive.

(4) After all objections, if any, have been heard and determined, the list shall, subject to the provisions of subsection (5), be final and conclusive in respect of all matters therein, and a copy thereof signed by the chairman and the committee shall be kept by the Commissioner.

(5) Upon the production of an instrument of sale or transfer of any interest in the water as recorded in the list, the Commissioner shall cause an entry of the sale or transfer to be made in the list and, thereupon, the name of the purchaser or transferee shall be substituted for the name of the seller or transferor and, thereafter, such purchaser or transferee shall be deemed to be the proprietor of the water in respect of which the sale or transfer has been made.

(6) In any proceeding, in which any question may arise as to any of the contents of the list, a certificate under the hand of the Commissioner shall be received in all Courts of Law as conclusive evidence of the contents thereof.

12. (1) The committee shall, at a meeting convened for the purpose by the Commissioner, draw up Rules for carrying out the purposes for which the irrigation association has been formed under the provisions of this Law (hereinafter referred to as "the Rules").

(2) In particular and without prejudice to the generality of the foregoing power the Rules may—

(a) fix the period of office of the committee and provide for the mode of election of any subsequent committee ;

- (b) provide for the appointment of a treasurer and of such other officers as may be required and for the remuneration, if any, of such officers and prescribe the duties of such treasurer and of such other officers ;
- (c) prescribe the maximum charges which shall be levied on and paid by the proprietors mentioned in the list, as finally settled in accordance with the provisions of section 11, for any purpose approved by the Commissioner in connection with the operations of the irrigation association, provision for which is made in any estimates approved by the Commissioner :
Provided always that such charges shall be related to the interest in the water of each proprietor as recorded in the register ;
- (d) prescribe the manner in which and the date or dates upon which such rates or charges shall be levied and paid ;
- (e) prescribe the date by which the annual estimates of the irrigation association shall be submitted to the Commissioner for approval ;
- (f) regulate the use of the water and the proportion in which water conveyed by the irrigation works shall be distributed in accordance with the interest of each proprietor as recorded in the list ;
- (g) prescribe the manner in which the dissolution of the irrigation association may be decided upon, the procedure to be followed therefor and provide for the disposal of any moneys in the hands of the committee or the treasurer at the time of such dissolution.

(3) The Rules shall be published in the *Gazette* and thereupon shall be binding and conclusive in respect of all matters therein.

(4) The Rules may be amended from time to time by the committee.

Failure to
pay charges
in time.

13. (1) If the charges prescribed under the Rules are not paid on the date or dates in the Rules prescribed, the amount thereof shall be increased by twenty-five per centum and the original rates or charges, together with such increase, shall be due and recoverable as hereinafter provided.

(2) The Comptroller of Inland Revenue shall, upon receipt of a certificate under the hand of the Commissioner that any charges specified in such certificate payable under this Law though properly due by the persons named in such certificate are still unpaid, issue a warrant authorising the collection of such charges together with any increase due under subsection (1) :

Provided—

- (a) that the Commissioner may, whenever he sees fit, order the postponement of the issue and if issued the postponement of the execution of the warrant until such time as he may order ; and
- (b) that such warrant, when issued under such order as aforesaid, shall operate in all respects as if it had issued immediately in default of payment.

(3) Every such warrant shall be in the like form, with the necessary modifications, as a warrant issued under the Tax Collection Laws, and shall be enforced and the like proceedings may be had thereon as if it were a warrant issued under the said Laws. Cap. 329.

(4) All moneys recovered under any such warrant shall be paid to the treasurer of the committee to which the charges in respect of which the warrant was issued were due and unpaid.

14. The committee shall, as soon as possible after its formation and annually thereafter, prepare estimates of the expenditure which it is proposed to incur on behalf of the irrigation association during the ensuing year, together with a statement of the association's estimated receipts and of the charges which it is proposed to levy upon the proprietors in respect of the same period. Estimates.

15. (1) The accounts of every irrigation association shall be audited at such time, as the Commissioner may from time to time require, and by such person as the Commissioner may appoint and the treasurer of the committee shall be bound to produce to such person all the books and accounts of the irrigation association. Audit.

(2) There shall be paid by the committee of every irrigation association such audit fee as the Commissioner may from time to time direct.

(3) The report of the person appointed to audit the accounts of an irrigation association under subsection (1)

shall be forwarded to the Commissioner who shall cause a copy of the same to be posted in a conspicuous place in the town, village or quarter in which the water is situate.

Power to Commissioner to surcharge.

16. (1) If, after the receipt of the auditor's report, it appears to the Commissioner that any sum forming part of the funds of the irrigation association has been irregularly or improperly expended, he may surcharge the person responsible for such expenditure with the repayment of such sum to the funds of the irrigation association and shall, by notification in writing, call upon the person so surcharged to make good the sum within such period of time as may be specified in the notification.

(2) If the person so surcharged does not make good the sum within the period of time specified in the notification, it shall be recoverable from the defaulter as a civil debt at the suit of the Commissioner.

Money to be deposited in accordance with directions of the Commissioner.

17. All moneys in the hands of the treasurer of the committee shall be deposited in such place as the Commissioner may direct.

Name of irrigation association.

18. An irrigation association formed under the provisions of this Law shall bear the name "Irrigation Association of....." (inserting the name under which the irrigation association is formed).

Actions and legal proceedings.

19. All actions or other legal proceedings brought by or against an irrigation association shall be brought by or against the treasurer of the committee of such irrigation association as representing the proprietors thereof.

Power to Governor in Council to order dissolution of an irrigation association.

20. Notwithstanding anything contained in any Rules the Governor in Council may order the dissolution of any irrigation association and may give such directions as he may think fit with regard to the procedure to be followed consequent upon such order and for the disposal of any moneys in the hands of the committee and the treasurer at the time of such dissolution.

Loans to become due and payable on dissolution.

21. Upon the dissolution of an irrigation association and notwithstanding anything contained in this Law or any Rules made thereunder, the whole of any loan or advance and every instalment thereof then due and owing by or on behalf of such irrigation association shall become due and payable to the lender.

22. (1) Where it is made to appear to the Governor that the Committee of any irrigation association is not discharging its duties properly, he may, by Order published in the *Gazette*, dissolve the committee and appoint a suitable person or persons to manage the affairs of the irrigation association for any period specified in the Order.

Super-session of committee.

(2) Any person or persons appointed under this section shall be invested with all powers and shall have the same rights and duties as possessed by the committee of the irrigation association under this Law or any Rules relating to such irrigation association.

(3) The Commissioner shall, at the expiry of the period of office of any person or persons appointed under subsection (1), arrange for the election of a new committee in accordance with this Law.

23. Whenever it shall appear to the Commissioner that the laying of pipes, or the construction of any underground channel, under any land other than land covered with buildings or the repair or renewal of any such pipes or channel is necessary in the interests in an irrigation association, he may serve on the owner and the occupier of the land or affix on the land by means of a notice board a notice of his intention together with a description of the pipes or channel proposed to be laid or constructed ; and, if within fourteen days after the service or affixing of the notice the owner and occupier fail to agree with the Commissioner on the matter, the Commissioner may cause the pipes to be laid or the channel constructed or the pipes or channel repaired or renewed, as the case may be, subject always to the payment of compensation as in section 24 provided.

Laying of pipes.

24. (1) For all property destroyed or damaged in exercise of the powers conferred by section 23, compensation shall be paid to the owner thereof by the proprietors.

Compensation to be paid.

(2) Any person claiming compensation in respect of any such property shall give notice in writing thereof to the Commissioner and, if the owner and the Commissioner fail to reach agreement, the matter shall be referred to the Director of Lands and Surveys, or his duly authorised representative as umpire.

(3) The decision of the Director of Lands and Surveys, or his duly authorised representative, as the case may be,

shall be reduced to writing in duplicate and each copy thereof signed by the umpire, and one copy thereof shall be forwarded to the Commissioner and the other shall be given to the person claiming compensation.

(4) Every decision under subsection (3) shall be binding and conclusive on all persons affected thereby but any person affected may, within fourteen days from the date of the decision, apply in writing to the Governor for a revision of same, and the decision of the Governor in that behalf shall be binding and conclusive on all persons affected thereby for all purposes.

Compensation how paid and collected.

25. Every sum assessed as compensation under the provisions of section 24 shall be levied upon, and paid in proportion to their interest in the water by, the proprietors in addition to the amounts payable by them under the Rules and shall be levied and paid as the amounts under the Rules are levied and paid :

Provided that, when there are funds at the disposal of the treasurer or the committee sufficient to meet any amount payable as compensation under the provisions of the said section, such compensation shall be paid out of such funds.

How compensation to be paid if a person under disability.

26. In case any person entitled to compensation under this Law shall be under disability or absent abroad, any sum to which he may be entitled in respect of the compensation may be paid to his guardian or duly authorised agent, if any, (whose receipt shall be a sufficient discharge for it), or in the absence of a guardian or a duly authorised agent into the District Court of the district within which the property in respect of which it is paid is situate, to be disposed of as the Court shall direct for the benefit of the person entitled thereto.

Power to Commissioner to order removal or remove obstructions to irrigation works.

27. The Commissioner may give order verbally or by notice in writing to any person wrongfully obstructing or encroaching upon any irrigation works forthwith to remove or abate the obstruction or encroachment ; and if any such person to whom such order shall have been given shall refuse or neglect to comply with the same within a reasonable time, or if there be any doubt as to who is the proper person to whom the order shall be given, the Commissioner may cause the obstruction or encroachment to be forthwith removed or abated ; and for that purpose the Commissioner may, where necessary by himself or his agents, enter into any garden, enclosure or other premises

with such instruments and things as may be necessary, and proceed to do therein or cause to be done all such things as may be necessary for the removal or abatement of the obstruction or encroachment; and the Commissioner shall be entitled to recover the expenses which have been bona fide incurred in effecting the removal or abatement from the party on account of whose non-compliance with any such order the expenses are incurred, or from any person who shall be found to be the person to whom the order ought to have been given.

28. (1) Any person who—

- (a) wilfully interferes with the flow or distribution of water connected with any irrigation works; or
- (b) wrongfully abstracts or diverts to his own use or to the use of any other person any water, whether running or not, connected with any irrigation association,

Offences and penalties.

shall be guilty of an offence and shall be liable to imprisonment not exceeding one year or to a fine not exceeding ten pounds or to both.

(2) Any person who—

- (a) wilfully obstructs the Commissioner or any person deputed by him or his agents or contractors or any person appointed to carry out any work under this Law; or
- (b) acts in contravention of, or fails to comply with, any Rules made under this Law,

shall be guilty of an offence and shall be liable to a fine not exceeding ten pounds.

29. The Commissioner may at any time by writing under his hand depute to any person all or any of the duties, powers and authorities vested in him by the provisions of this Law.

Power to Commissioner to depute duties, etc.

30. Whenever in this Law it is provided that any decision or other act shall be final and conclusive no appeal shall lie therefrom to the Supreme Court or to any other Court.

No appeal in certain cases.

31. All penalties imposed in respect of any contravention of the provisions of this Law, or any Rules made thereunder, shall be paid to the treasurer of the committee of the irrigation association concerned.

Disposal of penalties.