

CAP. 341.

CYPRUS

GOVERNMENT WATERWORKS

CHAPTER 341 OF THE LAWS

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1959

CHAPTER 341.

GOVERNMENT WATERWORKS.

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TO PROVIDE FOR THE VESTING AND CONTROL OF WATER, THE CONSTRUCTION OF WATERWORKS AND FOR OTHER PURPOSES RELATING THERETO.

[12th May, 1928.]

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Short title.

1. This Law may be cited as the Government Waterworks Law.

Interpretation.

2. In this Law—

“Commissioner” means the Commissioner of the district within which any waterworks constructed or

to be constructed and any land acquired or to be acquired are situated;

“land” includes land (with the grazing rights over such land) buildings, trees, easements, standing crops and water or water rights other than water or water rights deemed to be the absolute property of the Government under this Law;

“person” includes any body of persons, corporate or unincorporate, and any ecclesiastical or pious foundation;

“persons interested” include all persons claiming an interest in compensation to be made on account of the acquisition of land under this Law; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;

“water” means water for which provision is made in section 3 of this Law;

“waterworks” 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 for the storage, conveyance, supply, distribution, measurement or regulation of water which are so used or have been constructed by or on behalf of the Government under this Law.

3. (1) Notwithstanding anything to the contrary contained in any other Law now in force in the Colony—

Vesting of
water in
Government.

- (a) all underground water (including second water) for which no measures have hitherto been taken enabling such water to be brought or raised to the surface or to run on the surface; and
- (b) all water running to waste from any river, spring, stream or watercourse; and
- (c) all other waste water,

shall be deemed to be the absolute property of the Government, and no person shall take or utilize or take measures to utilize such water without the written permission of the Commissioner first obtained:

Provided that no permission under this sub-section shall be required in respect of any water from any well or line of wells sunk or constructed in virtue of a permit of the Commissioner issued under the provisions of the Wells Law.

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Cap. 351.

(2) All water in any river, spring, stream or watercourse, whether the subject of private rights or otherwise, in respect of which any waterworks are undertaken shall, after making such provision as is in this Law enacted for the supply of, water to persons or lands possessing the right to take water from such river, spring, stream or watercourse, be deemed to be the absolute property of the Government, and no person shall take or utilize such water save as is hereinafter provided.

Powers of Government to take, store or divert water, to construct waterworks, acquire land and remove obstructions.

4. For the purpose of taking or utilizing water, the Government may—

- (a) store, divert, or otherwise deal with or control such water as may appear to the Government expedient;
- (b) construct any waterworks;
- (c) acquire any land for the construction and maintenance of any waterworks;
- (d) remove or interfere with any building or structure or other obstruction to any waterworks.

Governor to order execution of waterworks.

5. The Governor shall from time to time determine the waterworks to be undertaken under the provisions of this Law.

Water Commissioners to record water rights.

6. Whenever it appears that any existing water rights will or may be injuriously affected by the carrying out of any waterworks under this Law, the Governor shall nominate and appoint three Water Commissioners in order to ascertain and record the nature, extent and situation of the said rights in the manner hereinafter provided.

Registration of water channels.

7. The Water Commissioners shall ascertain and record in a book, in this Law referred to as "the Register"—

- (a) every channel used at the date of the inquiry by any person in the exercise of a water right which, in the opinion of the Water Commissioners, is liable to be so injuriously affected as aforesaid;
- (b) the average area which, during the five years immediately preceding the date of the inquiry, has been lawfully watered by each channel, such average being computed on the basis of the three years in which the most extensive area has been watered;
- (c) the average number of times such area has been

watered in each year during the said period, and whether the waterings have been used for winter or summer cultivation;

(d) every channel the use of which has been abandoned at the date of inquiry, and the average area of land lawfully watered by such channel, and whether the land has been watered for winter or summer cultivation, if it is proved—

(i) that the channel has, at any time during the ten years immediately preceding the date of the inquiry, been used in the exercise of a water right;

(ii) that the abandonment thereof has been caused by the minority, mental or physical incapacity, absence from Cyprus or lack of means on the part of the person entitled to use it;

(iii) that the channel is liable to be affected by the proposed waterworks;

(e) every right to take water for the service of any mill or machine or for any purpose, and the nature and extent of the right.

The Water Commissioners shall cause to be prepared and attached to the Register a plan showing the position and course of each channel and the situation and extent of the land watered by each channel as aforesaid. •

8. The Water Commissioners shall, at least one month before the holding of an inquiry, cause a notice to be published in every village likely to be affected by the inquiry, calling upon all interested persons to appear before the Water Commissioners with the evidence upon which they rely to support their claims; and, for the purposes of the above inquiry, the Water Commissioners may require by summons the attendance of any person whose presence or evidence they may consider necessary for the investigation or settlement of any question arising during the inquiry, and any person refusing to attend on such summons or to answer any question material for the purpose of the inquiry, or to produce any document he may be required to produce, shall be liable to a fine not exceeding ten pounds.

Power to
compel
attendance
of witnesses.

The Water Commissioners may, for the purpose of the inquiry, take evidence on oath or affirmation; and any person wilfully giving false evidence upon such oath or

affirmation shall be liable to the same penalties as if he had given false evidence in a judicial proceeding.

Deposit of
Register
with Com-
missioner.

9. On the completion of the inquiry with reference to any waterworks under this Law, the Water Commissioners, or, if they disagree, the majority of them, shall sign the Register and deposit one copy of it with the Commissioner, and another copy with the mukhtar of every village in which any water right is found to exist, and shall cause to be posted in every such village a notice stating that copies of the Register have been so deposited, and that all persons objecting to the rights as therein recorded must carry in their objections within two months from the date of the notice.

Power to
object to
Register.

10. The Director of Lands and Surveys on behalf of the Government, or any persons whose rights are affected by the record in the Register contained, may, at any time within two months from the date of the notice of the deposit of the Register with the Commissioner, object to the Register in the manner hereinafter provided:

Provided that, with the consent of any interested party, the Director of Lands and Surveys may, in his discretion, amend the Register at any time.

Hearing of
objection.

11. Every such objection shall be brought by an application claiming the rectification of the Register, to be commenced in the District Court of the district in which the Register is deposited, by the person objecting to the Register as Applicant against the Water Commissioners signing the Register as Respondents, and the decision of every such Court on any such objection may be appealed from in the same manner and subject to the same restrictions as though it was a decision in an ordinary civil action:

Provided that the District Council shall have unlimited jurisdiction to hear and dispose of all applications under this section.

Register
when
binding.

12. At the expiration of two months from the deposit of the Register as aforesaid, the Register, except so far as it may have been thus objected to, and subject to the powers of rectification conferred upon the Director of Lands and Surveys by section 10, shall be binding and conclusive on all persons, and shall, for the purposes of this Law, be deemed to be final and conclusive evidence of all matters therein recorded.

13. (1) Notwithstanding anything contained in this Law and for the purpose of ascertaining the practicability or expediency of determining whether any waterworks should be undertaken under the provisions of this Law in relation to any water, subject to private rights, it shall be lawful for the Director of Water Development—

Certain powers to the Director of Water Development and consequential action.

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- (a) to enter upon and survey any land, take levels and conduct therein or thereon such experiments and in such manner and by such means as may be necessary for examining the flow of such water and ascertaining and measuring the amount of water at any particular point or points and to erect or install provisionally on any such land any structure, machinery or instruments in connection therewith;
- (b) to regulate, stop or deviate provisionally the flow of such water;
- (c) to provide a passage for materials and for all persons connected with the aforesaid purposes;
- (d) subject to the provisions of subsection (2), to hold an enquiry for the purpose of ascertaining the existence, nature and extent of any water right in relation to such water and the persons entitled thereto;
- (e) to do all such other things as may be incidental to, or necessary for, the purposes aforesaid:

Provided that—

- (i) the Director of Water Development and persons acting by his authority shall not enter upon any land without the consent of the occupier thereof unless at least twenty-four hours prior notice in writing is given to the occupier;
- (ii) the Director of Water Development and persons acting by his authority shall not enter into any building without the consent of the occupier thereof unless the approval of the Commissioner is obtained and unless at least twenty-four hours prior notice in writing is given to the occupier; and
- (iii) compensation shall be paid in accordance with subsection (8).

(2) Every enquiry held for the purposes of paragraph (d) of subsection (1) shall be held in accordance with the provisions of section 8 which shall apply *mutatis mutandis*

to any such enquiry and for this purpose the Director of Water Development shall have and exercise all the powers which any Water Commissioners would have and would be entitled to exercise under that section.

(3) Upon the completion of the experiments or the enquiry as in subsection (1) provided, the Director of Water Development shall make report thereon to the Governor and, if the Governor determines that any waterworks should be undertaken in connection with any water in respect of which the experiments were conducted or the enquiry held, the Director of Water Development shall proceed to prepare a statement wherein he shall record the amount of water to which and the particular point at which, every person or group of persons appear to be *prima facie* entitled, in accordance with the evidence obtained at any enquiry held and by any experiments conducted, by the Director of Water Development.

The Director of Water Development shall cause a copy of such statement to be posted in a conspicuous place in the village in which the water affected thereby is situate and any person objecting to the contents of the statement must bring his objection within one month from the date of the posting.

(4) Every such objection shall be brought by application claiming the rectification of the statement to be commenced in the District Court of the District in which the water is situate, by the person objecting as applicant against the Director of Water Development as respondent and the decision of every such Court on any such objection may be appealed from in the same manner and subject to the same restrictions as though it were a decision in an ordinary civil action:

Provided that a District Court shall have unlimited jurisdiction to hear and dispose of all applications under this section.

(5) At the expiration of one month from the posting of the list as hereinbefore provided, the statement, except in so far as it may have been objected to, shall be binding and conclusive on all persons and shall, for the purposes of this Law, be final and conclusive evidence on all matters therein recorded.

(6) The Governor may nominate and appoint three Water Commissioners in order to ascertain and record the value, extent and situation of the individual rights to the

amount of water recorded in the statement of the Director of Water Development and, for this purpose, the provisions of sections 7, 8, 9, 10, 11 and 12 shall apply *mutatis mutandis* to this section as they apply to the said section.

(7) If, as a result of an inquiry by the Water Commissioners under the provisions of this section, it is found that the amount of water recorded in favour of any person or group of persons under the statement of the Director of Water Development is more than the amount to which such person or group of persons is or are in fact entitled, the amount recorded in such statement shall be reduced accordingly, any surplus being utilized by Government for the purposes of the waterworks.

(8) Every person who shall sustain any loss or damage by reason of the exercise of any of the powers conferred by subsection (1) shall be entitled to receive such compensation for the same as may be agreed upon between the claimant and the Commissioner or as may be assessed in accordance with the provisions of subsection (9):

Provided that no compensation shall be payable unless a claim therefor is made in writing to the Commissioner within two months after completion of the act, matter or thing in respect of which such compensation is claimed.

(9) (a) If, within one month from the date of the receipt of the claim for compensation made in pursuance of the provisions of subsection (8), the claimant does not agree with the Commissioner as to the amount of compensation, the Commissioner shall apply to the District Court of the District in which the property in respect of which compensation is claimed is situate to refer the assessment of such compensation to arbitrators; and the Court shall thereupon fix a day for the appearance of the parties before the Court and shall cause a notice of such date to be served on the Commissioner and on the person claiming compensation.

(b) (i) On the day so fixed, if all the parties appear and each names a person as arbitrator on his behalf, the District Court shall appoint such persons as arbitrators;

(ii) if any party fails to appear or refuses to appoint an arbitrator, the District Court shall appoint an arbitrator on behalf of such party;

(iii) on appointing the arbitrators, the District Court

- shall limit the period within which the award shall be filed and may at any time extend such period;
- (iv) the award of the arbitrators shall be filed as directed by the District Court;
 - (v) if the arbitrators fail to agree or to file their award within the period or extended period fixed by the District Court, the Court shall be the sole arbitrator;
 - (vi) the District Court may make any order it may think right as to the course and costs of the proceedings, including the amount of fees or expenses to be paid in connection with the arbitration and award, and may direct by whom they are to be paid;
 - (vii) the decision of the arbitrators, if they agree, or of the District Court, if such Court has acted as sole arbitrator, shall be final and conclusive and no appeal shall lie therefrom;
- (10) For the purposes of this section—
 “ District Court ” includes any member of a District Court.

Water rights
to be
satisfied.
2 of 24/49.

14. Where water is deemed to be the absolute property of the Government by reason of any waterworks undertaken in respect thereof, Government shall provide for the satisfaction of the water rights recorded in the Register or the statement of the Director of Water Development, as the case may be, but, subject to this, all water in respect of which any waterworks are undertaken may be sold or disposed of by the Government.

Specification
to be pre-
pared by
Water Com-
missioners.

15. As soon as possible on the completion of any waterworks the Water Commissioners appointed under section 6, or specially appointed for the purposes of this section, shall from time to time as occasion may require, draw up a record, in this Law referred to as “ the Specification,” specifying—

- (a) the lands, and the extent of such lands in each case, benefited or capable of being benefited by any waterworks and the names of the proprietors or possessors thereof;
- (b) the names of the persons benefited or capable of being benefited by any waterworks.

The Water Commissioners may, for the purposes of drawing up the Specification, take evidence upon oath or affirmation, and any person wilfully giving false evidence upon such oath or affirmation shall be liable to the same penalties as if he had given false evidence in a judicial proceeding.

16. On completion of the Specification hereinbefore mentioned the Water Commissioners shall deposit a copy of the Specification with the Commissioner, and thereupon the provisions of sections 9, 10, 11 and 12, so far as they can be made applicable thereto, shall be applied to the Specification.

Provisions applicable to the Specification.

17. The Director of Public Works or other officer by the Governor entrusted with the supervision of any waterworks shall have power to recommend that any land be acquired for the purpose of constructing thereon waterworks; or he may recommend that any building or structure, or other obstruction to the waterworks be removed or interfered with.

Recommendation to acquire land or remove obstruction.

On any such recommendation the officer by whom it is made shall forward to the Commissioner a copy of the recommendation together with a plan of the land to be acquired or of the building or structure, or other obstruction to the waterworks to be removed or interfered with.

18. The Commissioner before submitting the recommendation to the consideration of the Governor, shall cause a notice to be served on the persons interested in the land it is proposed to acquire, or in the building or structure or other obstruction to the waterworks it is proposed to remove or interfere with, advising them of the proposed acquisition, removal or interference and that they may examine the plan thereof and present any objections they may have to make thereto within six weeks from the service of the notice; at the expiration of the six weeks the Commissioner shall forward to the Governor the recommendation and plans, together with the objections, if any.

Notice to persons interested.

19. If the Governor approves the plan submitted and considers it expedient that the land in question shall be acquired or that the building or structure or other obstruction to the waterworks shall be removed or interfered with, he may, by notification published in the Gazette, sanction the acquisition, removal or interference; and thereupon the

Sanction by Governor.

land shall be acquired or the building or structure or other obstruction to the waterworks shall be removed or interfered with, and compensation (which may include compensation for damage occasioned by determination of a lease), shall be awarded for the acquisition, removal or interference as is hereinafter provided.

Vesting of land in Government and power of Director of Public Works to remove obstruction.

20. When the Governor has notified his sanction to the acquisition of any land it shall thereupon vest absolutely in the Government free from all encumbrances; and the notification of the Governor's sanction shall be sufficient authority to the Director of Lands and Surveys to amend the registration in accordance with the plan approved of by the Governor.

When the Governor has notified his sanction to the removal or interference with any building or structure or other obstruction to the waterworks, the Director of Public Works or other officer may forthwith proceed to remove or interfere with the building or structure or other obstruction to the waterworks in accordance with the plan approved of by the Governor.

Determination of compensation.
7 of 1st Sch., 43/55.

21. If, within one month from the date of the notification, the persons interested do not agree with the Commissioner as to the sum to be paid by way of compensation for the acquisition of the land or for the removal of or interference with the building or structure or other obstruction to the waterworks, such compensation shall be determined in accordance with the provisions of any Law, in force for the time being, providing for the acquisition of land for public purposes.

Power of Government to sell, etc.
6 of 2nd Sch., 43/55.

22. The Government may sell, lease or exchange any land acquired under the provisions of this Law in excess of the extent actually required for the purpose for which it has been acquired:

Provided that the person from whom the land or any part of it has been acquired shall have the right of pre-emption at the price or proportionate price at which it was purchased from him by the Government.

Accommodation work.

23. Whenever the construction of any waterworks causes the interruption of any right of way or of any right to the passage of water, the Governor, instead of sanctioning the acquisition of the right, shall, whenever he considers it

practicable so to do, provide for the construction and maintenance of such crossings, bridges, culverts, water-courses, or other passages as may be necessary for the purpose of making good the interruption and enabling the right to be enjoyed as before the construction of the waterworks or as nearly as may be.

For the purpose of furnishing such accommodation the Governor shall have power to acquire land as if it were required for the original waterworks.

24. All rates or charges leviable under this Law may from time to time be revised or amended by the Governor in Council. Revision of rates or charges.

25. All rates or charges leviable under this Law shall, subject to any prior charge secured by the Government Seed Loan Law, or any amendment thereof, be a first charge on the crops of the lands benefited or capable of being benefited by any waterworks. Priority of rates or charges. Cap. 67.

26. All rates or charges leviable under this Law may be levied and recovered in the same manner as any amount in respect of taxes or duty under the provisions of the Tax Collection Law, or any amendment thereof; and the certificate of the Commissioner that any rate or charge as aforesaid is due and unpaid shall be sufficient authority for the issue of a warrant by the Comptroller in accordance with the provisions of section 4 of the Tax Collection Law. Recovery of rates or charges. Cap. 329.

27. (1) Whenever any waterworks or any property in the vicinity of any waterworks are threatened by any sudden danger, the officer in charge of such waterworks may summon the able-bodied inhabitants of any village or place within six miles of such waterworks to assist in any work which may be undertaken in order to avert the danger. Power to requisition labour in cases of emergency.

(2) Such summons may be given by causing the bell of the village church to be rung, or by means of a public crier, or by any other means sufficient to give notice to the able-bodied inhabitants that their assistance is required for the purposes of this Law.

(3) The labour of all persons so employed shall be paid at the market rate current in the district where it is supplied.

(4) Any able-bodied inhabitant who when so summoned

to render assistance fails to do so without reasonable cause or excuse, proof whereof shall lie upon him, shall, on conviction, be liable to a fine not exceeding ten shillings.

“Able-bodied inhabitant.”

(5) “Able-bodied inhabitant” in this section means and includes every male person between the ages of eighteen and sixty residing within the limits of the village who is not disabled by any mental or bodily infirmity from manual labour, other than ministers of religion of all denominations, Mayors of Municipal Corporations, mukhtars, schoolmasters and persons permanently employed in the public service of the Colony.

Offences and penalties.

28. (1) Any person who wilfully damages or destroys any waterworks or any part thereof, or who wilfully interferes with the flowing or distribution of water connected with any waterworks, shall, on conviction, be liable to imprisonment for a period not exceeding twelve months or to a fine not exceeding ten pounds, or to both such penalties.

(2) Any person who by any negligent act or omission of duty damages or destroys any waterworks or any part thereof or interferes or causes an interference with the flowing or distribution of water connected with any waterworks shall, on conviction, be liable to a fine not exceeding ten pounds.

(3) Any person who steals or wrongfully takes or carries away or draws off or converts to his own use any water from any waterworks or any part thereof, shall, on conviction, be liable to imprisonment for a period not exceeding twelve months or to a fine not exceeding ten pounds, or to both such penalties.

(4) Any person who takes or carries away or utilizes or takes any measures to obtain or utilize any water without the permission of the Commissioner first obtained shall, on conviction, be liable to a fine not exceeding ten pounds.

(5) Any person who acts in contravention of or fails to comply with any Regulations made under this Law, shall, on conviction, be liable to a fine not exceeding ten pounds.

(6) In addition to any penalty prescribed by this Law any measures taken to obtain or utilize any water without the permission of the Commissioner shall be ordered by the Court trying the offence to be removed or extinguished at the expense of the person responsible therefor, unless the consent in writing of the Commissioner is otherwise granted:

Provided that the Commissioner may in granting such consent in writing as aforesaid impose such terms and conditions as to the Commissioner seems necessary or desirable.

29. (1) The Governor may make Regulations to be published in the Gazette for carrying out the purposes of this Law. Regulations.

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

(a) fix the maximum rates which may be levied, generally or in relation to any kind of crop, on land benefited or capable of being benefited by any waterworks; or

(b) fix the maximum rates which may be levied, generally or in relation to any kind of crop, on any person benefited or capable of being benefited by any waterworks:

Provided that in fixing such maximum rates regard shall be had to—

(i) interest on capital expended;

(ii) adequate provision for a sinking fund;

(iii) depreciation, cost of repairs and maintenance and administration; and

(iv) insurance;

(c) empower the Director of Agriculture to fix by order the actual rate (not being in excess of the maximum rate aforesaid) which shall be levied generally or in relation to any kind of crop on any land or person benefited or capable of being benefited by any waterworks:

Provided that any such rate as aforesaid may be commuted for a single payment, such payment to be equal to ten years' payment at the current maximum rate;

(d) prescribe the powers of and the procedure to be followed by the Water Commissioners in the preparation of the Specification under this Law.

30. Nothing in this Law shall be deemed to restrict the right of any person to drink water or to water animals or to take water in any jar, barrel or like vessel for domestic use Right to take drinking water from river, etc.

from any river, spring, stream, watercourse, lake or pool, but no person shall have any right to take any water for any purpose from any waterworks save as is provided in this Law.

Saving.

31. Nothing in the repeal of the Irrigation Law, 1897,* shall affect any works undertaken or constructed, or any Regulations made, under that Law, but any such works or Regulations shall be deemed to be waterworks constructed and Regulations made under the provisions of this Law.

* Repealed by this Law.