



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

IRRIGATION (AMENDMENT)
ACT, No. 23 OF 1983

[Certified on 13th July, 1983]

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Irrigation (Amendment) Act, No. 23 of 1983

[Certified on 13th July, 1983]

L. D.—O. 42/81.

AN ACT TO AMEND THE IRRIGATION ORDINANCE.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Irrigation (Amendment) Act, No. 23 of 1983.

Short title.

2. Section 65 of the Irrigation Ordinance (hereinafter referred to as the "principal enactment") is hereby repealed and the following section substituted therefor:—

Amendment of section 65 of Chapter 453.

"Removal of obstruction or encroachment and repairs to damage.

65. (1) Where any person obstructs or encroaches upon any *ela*, channel, watercourse or tank, or causes damage to any *ela*, channel, watercourse or tank or any irrigation structure connected to such *ela*, channel, watercourse or tank, it shall be lawful for the Government Agent, by notice in writing served on such person, to require him within such time as may be specified in the notice to remove or abate such obstruction or encroachment or to repair such damage.

(2) If any person served with a notice under subsection (1) refuses or neglects to comply with the requirements of such notice within the specified time, or if there is any doubt as to who is the proper person to be served with such notice, it shall be lawful for the Government Agent to cause such obstruction or encroachment to be forthwith removed or abated or such damage to be repaired; and for that purpose it shall be lawful for the Government Agent to enter any land or premises, with such workmen, instruments and things as may be necessary, and to proceed to do therein, or cause to be done, all such things as may be necessary for such removal or abatement or repair."

3. Section 66 of the principal enactment is hereby amended by the substitution, for the words and figures "The expenses incurred in effecting the removal or abatement of any obstruction or encroachment under section 65 shall be paid—", of the words and figures "The expenses

Amendment of section 66 of the principal enactment.

incurred in effecting the removal or abatement of any obstruction or encroachment or the repair to any damage under section 65 shall be paid—”.

Insertion of
new section
66A in the
principal
enactment.

4. The following new section is hereby inserted immediately after section 66 of the principal enactment and shall have effect as section 66A of that enactment:—

“Contraven-
tion of the
provisions
of section 11
or any
regulation
made under
section 64.

66A. Where any person—

- (a) cultivates any land in contravention of the provisions of paragraph (c) of subsection (5) of section 11;
- (b) obtains water from any irrigation works in contravention of the provisions of section 11 or any regulation made under section 64 and thereby causes any loss to any cultivator who is entitled to obtain such water,

it shall be lawful for the Government Agent to—

- (i) refuse the supply of water to the land referred to in paragraph (a);
- (ii) collect the harvest from the land cultivated by obtaining water in the manner set out in paragraph (b);
- (iii) recover from such person the loss incurred by the cultivator referred to in paragraph (b), and the value of the irrigation water obtained under that paragraph and compensate such cultivator with the money so recovered. The amount of the loss so incurred and the value of the irrigation water so obtained shall be assessed by a technical officer of the Irrigation Department on the basis of the extent of land that could be irrigated with such irrigation water and the average yield per acre in the area in which such land is situate. Such assessment shall be final.”.

5. Section 78 of the principal enactment is hereby amended as follows:—

Amendment
of section 78
of the
principal
enactment.

(1) in subsections (1) and (2) of that section, by the substitution, for the words "under this Ordinance by a person other than an allottee or tenant cultivator" wherever those words occur in those subsections, of the words "under this Ordinance by a person other than an allottee or a tenant cultivator or an owner cultivator or an unauthorized cultivator";

(2) in subsection (3) of that section by the substitution, for the words "Where the authority imposing any fine or penalty for any offence under this Ordinance by a person other than an allottee or a tenant cultivator", of the words "Where the authority imposing any fine or penalty for any offence under this Ordinance on a person other than an allottee, or a tenant cultivator or an owner cultivator or an unauthorized cultivator"; and

(3) by the substitution, for the marginal note to that section, of the following marginal note:—

"Recovery of contributions &c. from persons other than allottees, tenant cultivators, owner cultivators and unauthorized cultivators."

6. Section 78A of the principal enactment inserted therein by Act No. 48 of 1968, is hereby amended as follows:—

Amendment
of section 78A
of the
principal
enactment

(1) in subsection (1) of that section, by the substitution, for all the words from "Where default is made in the payment" to the words "or a tenant cultivator", of the words "Where default is made in the payment of any contribution of money or other sum due or deemed to be due under this Ordinance by an allottee or a tenant cultivator or an owner cultivator or an unauthorized cultivator,";

(2) in subsection (3) of that section, by the substitution, for all the words from "the Government Agent shall certify" to the words "other sum was due is situate," of the words "the Government Agent shall certify to the Magistrate's Court, having

jurisdiction over the place where the land or irrigation work in respect of which the contribution or other sum was due is situate”;

- (3) by the addition, at the end of that section, of the following subsection:—

“(4) For the purposes of subsection (3), the certificate of the Government Agent shall be prima facie evidence that the amount of the contribution or other sum specified therein is due or deemed to be due to the Government Agent from the person named therein.”; and

- (4) by the substitution, for the marginal note to that section, of the following marginal note:—

“Recovery of contributions &c. from allottees, tenant cultivators, owner cultivators and unauthorized cultivators.”.

Amendment of section 94 of the principal enactment.

7. Section 94 of the principal enactment is hereby amended by the substitution, for all the words from “shall be guilty of an offence” to the end of that section, of the words “shall be guilty of an offence triable by the Magistrate’s Court having jurisdiction over the place where the offence was committed, and the institution of any proceeding therefor shall be deemed not to affect in any way his civil liability to the person injured by his act or omission.”.

Amendment of section 95 of the principal enactment.

8. Section 95 of the principal enactment is hereby amended, by the substitution, for the words “Rural Court”, of the words “Magistrate’s Court.”.

Amendment of section 96 of the principal enactment.

9. Section 96 of the principal enactment is hereby amended by the omission of the words “or the Rural Court”.

Amendment of section 98 of the principal enactment.

10. Section 98 of the principal enactment is hereby amended as follows:—

- (1) by the substitution, for all the words from “In addition to the powers vested” to the words “shall have the following powers:—” of the words “Notwithstanding anything in any other law, a Magistrate’s Court in the exercise of any jurisdiction conferred on such court by this Ordinance shall have the following powers:—”;
- (2) in subsections (1), (2) and (3) of that section, by the substitution, for the words “Rural Court” wherever those words occur in those subsections, of the words “Magistrate’s Court”; and

- (3) by the substitution, for the marginal note to that section, of the following marginal note :—

“ Powers of
Magistrate’s Court ”.

11. Section 110 of the principal enactment is hereby repealed and the following section substituted therefor :—

Replacement
of section
110 of the
principal
enactment.

‘ Irrigation
Fines Fund.

110. (1) A Fund to be called the Irrigation Fines Fund (hereafter in this section referred to as the “ Fund ”) is hereby established.

(2) There shall be paid into the Fund all fines and penalties imposed under this Part and all expenses recovered under section 66.

(3) There shall be paid out of the Fund such sums of money as the Secretary to the Ministry of the Minister may consider necessary—

(a) to repair any damage caused to any irrigation structure ;

(b) to pay compensation in respect of any loss incurred by an allottee, or a tenant cultivator or an owner cultivator ;

(c) to meet the expenses incurred in assessing the damage referred to in paragraph (a) or the compensation referred to in paragraph (b).

(4) The Secretary to the Ministry of the Minister shall be responsible for the administration of the Fund.

(5) The accounts of the Fund shall be audited by the Auditor-General in accordance with Article 154 of the Constitution.

(6) The financial year of the Fund shall be the calendar year. ’

Amendment
of section
118 of the
principal
enactment.

12. Section 118 of the principal enactment is hereby amended, by the insertion, immediately after the definition of "tract" of the following definition:—

"unauthorized cultivator" means—

- (a) a cultivator of any State land not alienated under the Crown Lands Ordinance or the Land Development Ordinance or any other enactment; or
- (b) a cultivator of any State land alienated to an allottee under the Crown Lands Ordinance or the Land Development Ordinance or any other enactment and has been abandoned or unlawfully disposed of by such allottee.

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