

A STATUTE TO PROVIDE FOR THE ESTABLISHMENT OF A DEPARTMENT OF IRRIGATION FOR THE [NAME OF THE PROVINCE] PROVINCE; FOR THE PLANNING, DESIGNING, IMPLEMENTATION, SUPERVISION AND MAINTENANCE OF IRRIGATION WORKS IN THE ... PROVINCE; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO. THIS STATUTE IS INCONSISTENT WITH THE PROVISIONS OF IRRIGATION ORDINANCE (CHAPTER 453).

BE it enacted by the [*Name of the Province*] Provincial Council of the Democratic Socialist Republic of Sri Lanka as follows: -

Short title. 1. This Statute may be cited as the [*Name of the Province*] Irrigation Statute, No. of 20...

Applicability of this Statute. 2. The provisions of this Statute shall apply to the planning, designing, implementation, supervision and maintenance of irrigation works and land development schemes within the [*Name of the Province*] other than irrigation schemes relating to rivers running through more than one Province or inter provincial irrigation and land development schemes:

Provided however, the provisions of Irrigation Ordinance may be applicable to the irrigation schemes and land development schemes initiated by the State within the [*Name of the Province*] Province.

Objectives of the Statute. 3. The objectives of this Statute shall be-

- (a) to implement sustainable irrigation systems;
- (b) to promote water management practices that optimize the volume and timing of water distribution; and
- (c) to increase the productivity of water use cultivation.

PART I

ESTABLISHMENT OF DEPARTMENT OF IRRIGATION

Establishment of a Department of Irrigation.

4. There shall be established a Department known as the Department of Irrigation of the [*Name of the Province*] (in this Statute referred to as the "Department") for the purpose of achieving the objects specified in section 3 of this Statute.

Appointment of Provincial Director of Irrigation etc.

5. (1) There shall be appointed a person to be the Provincial Director of Irrigation (in this Statute referred to as the "Provincial Director") who shall be the Head of the Department.

(2) There may be appointed an Additional Provincial Director of Irrigation and a Deputy Director of Irrigation and such other officers and servants as are necessary for the purpose of carrying out the functions of the Department.

(3) The provisions of Part IV of the Provincial Councils Act, No. 42 of 1987 shall apply to the appointment, transfer, dismissal and disciplinary control of the Provincial Director, Additional Provincial Director, Deputy Director and other officers and servants of the Department.

Powers, functions and duties of the Department.

6. The powers, functions and duties of the officers and servants of the Department shall be-

- (a) to plan, design, implement, supervise and maintain irrigation works in a productive manner within the [*Name of the Province*];
- (b) to rehabilitate and maintain the minor irrigation works;
- (c) to initiate irrigation and land development schemes within the [*Name of the Province*] by utilizing water from rivers flowing through [*Name of the Province*];
- (d) to plan, design, implement, supervise, maintain, rehabilitate, reconstruct and determine the irrigation boundaries relating to irrigation works, riverbeds, tanks systems, reservoirs, dams, canals,

springs, irrigation reservations, fountains and catchment areas;

- (e) to plan, design, implement, supervise, maintain, rehabilitate and reconstruct salt water exclusion schemes, drainage schemes or irrigation works and lagoon schemes in the [*Name of the Province*];
- (f) to plan, design, implement, supervise, maintain, rehabilitate and reconstruct roads within the boundaries of the irrigation works and drainage schemes;
- (g) to provide technical assistance for the purpose of planning, designing, implementation, and supervision and maintenance of irrigation works;
- (h) to take steps to obtain the participation of the [*Name of the Province*] Irrigation Committee, Irrigation Management and Development Committees and Irrigation System Management and Development Committees in respect of the rehabilitation, upgrading, maintenance of, and provision of security to, irrigation works;
- (i) to declare the irrigation reservations and to demarcate cultivation areas and extents;
- (j) to prepare and maintain the irrigation lands registers;
- (k) to prepare and implement the programmes relating to irrigation management;
- (l) to prevent environmental factors which are responsible for causing damages to the irrigation works;
- (m) to assist in the preparation of time schedules for undertaking cultivation in fields which are irrigated by irrigation works;
- (n) to engage in proper maintenance and updating of, data and statistics of the Department and information system of the Department;

- (o) to draft plans for the provision of guidelines to the Irrigation Management and Development Committees and Irrigation System Management and Development Committees and to provide advice to such committees regarding the preparation of action plans and procedures for the conduct of their meetings;
- (p) to establish regional and divisional offices of the Department for the management of irrigation works;
- (q) to formulate plans to make use of spare water in irrigation systems;
- (r) to extract soil or excavate mud from an irrigation works;
- (s) to establish and maintain the quality control of laboratories and hydraulic research centres;
- (t) to collect the revenue with the approval of the Board of Ministers of the [*Name of the Province*] Provincial Council;
- (u) to provide for matters pertaining to the sustainable development of the irrigation systems;
- (v) to impose an irrigation rate upon the land in respect of the cost of or incidental to, the construction or maintenance of any irrigation work and collect such irrigation rate;
- (w) generally, to do all such other things as are necessary to achieve the objects of the Department.

PART II

[NAME OF THE PROVINCE] PROVINCE IRRIGATION COMMITTEE

Establishment
of [Name of the
Province]
Province

7. (1) There shall be established a provincial irrigation committee called [Name of the Province] Province Irrigation Committee to facilitate the implementation and maintenance of the irrigation works in the Province.

Irrigation
Committee.

(2) The Secretary to the Ministry of the Minister shall be the Secretary to the [Name of the Province] Province Irrigation Committee.

(3) The [Name of the Province] Province Irrigation Committee shall conduct its activities in association with the Provincial Animal Production and Development Committee and the Provincial Agriculture Committee.

Composition of
the [Name of
the Province]
Province
Irrigation
Committee.

8. [Name of the Province] Province Irrigation Committee shall consist of the following-

(a) *ex-officio* members namely-

(i) the Provincial Director of Agriculture of the [Name of the Province] Province;

(ii) the Provincial Commissioner of Lands of the [Name of the Province] Province;

(iii) the; and

(b) four other members appointed by the Minister who shall possess academic or professional qualifications and have experience in the field of irrigation (hereinafter referred to as the “appointed members”).

Chairperson of
the [Name of
the Province]
Province
Irrigation
Committee.

9. (1) The Minister shall appoint one of the appointed members to act as Chairperson of the [Name of the Province] Province Irrigation Committee.

(2) The Chairperson may resign from his office by letter addressed to the Minister and such resignation shall be effective from the date on which it is accepted by the Minister.

(3) The Minister may for reasons assigned remove the Chairperson from the office of Chairperson.

(4) Subject to the provisions of subsection (2) and (3), the term of office of the Chairperson shall be the period of his membership of the [Name of the Province] Province Irrigation Committee.

(5) Where the Chairperson is temporarily unable to perform the duties of his office due to ill health, other infirmity, absence from Sri Lanka or any other cause, the Minister may appoint any other appointed member to act as Chairperson in addition to his normal duties as an appointed member.

Disqualification
from being a
member of the
[Name of the
Province]
Province
Irrigation
Committee.

10. A person shall be disqualified from being appointed or continuing as a member of the [Name of the Province] Province Irrigation Committee, if he-

- (a) is or becomes a member of Parliament or of any Provincial Council or of any local authority;
- (b) is not or ceases to be a citizen of Sri Lanka;
- (c) is under any law in force in Sri Lanka or any other country found or declared to be of unsound mind;
- (d) is a person who having been declared insolvent or bankrupt under any law in force in Sri Lanka and is an undischarged insolvent or bankrupt;
- (e) is serving or has served a sentence of imprisonment imposed by any court in Sri Lanka or in any other country;
- (f) holds or enjoys any right or benefit under any contract made by or on behalf of the [Name of the Province] Province Irrigation Committee; or
- (g) has any financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the [Name of the Province] Province Irrigation Committee.

Term of office of
members.

11. Every appointed member shall, unless he earlier vacates office by resignation, death or removal, hold office for a period of three years from the

date of his appointment and such member other than a member who has been removed from office shall be eligible for re-appointment.

Removal and resignation of members.

12. (1) Every appointed member may at any time resign from his office by a letter to that effect, addressed to the Minister, and such resignation shall be effective from the date on which it is accepted by the Minister in writing.

(2) Where any appointed member by reason of illness, infirmity or absence from Sri Lanka is temporarily unable to discharge the functions of his office, the Minister may, having regard to the provisions of paragraph (b) of section 8, appoint some other person to act in his place.

(3) The Minister may for reasons assigned, remove an appointed member from office.

(4) Where an appointed member dies, resigns or is removed from office, the Minister may, having regard to the provisions of paragraph (b) of section 8, appoint another person in his place and the person so appointed shall hold office for the unexpired period of the term of office of the member whom he succeeds.

Quorum and meetings of the [Name of the Province] Province Irrigation Committee.

13. (1) The meetings of the [Name of the Province] Province Irrigation Committee shall be held at least once in three months and the *quorum* for a meeting of the [Name of the Province] Province Irrigation Committee shall be one third of the total number of members.

(2) The Chairperson shall preside at every meeting of the [Name of the Province] Province Irrigation Committee. In the absence of the Chairperson from any meeting of the [Name of the Province] Province Irrigation Committee, an appointed member elected by the members present shall preside at such meeting.

(3) All questions for decision at any meeting of the [Name of the Province] Province Irrigation Committee shall be decided by the vote of the majority of members present and voting at such meeting. In the case of an equality of votes, the Chairperson shall, in addition to his vote have a casting vote.

(4) Subject to the preceding provisions of this section, the [Name of the Province] Province Irrigation Committee may regulate the procedure in relation to its meetings and the transaction of business at such meetings.

Acts or proceedings.

14. Any act or proceeding of the [Name of the Province] Province Irrigation Committee shall not be or deemed to be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of a member thereof.

Remuneration of the members.

15. The members of the [Name of the Province] Province Irrigation Committee shall be paid remuneration in such manner and at such rates as may be determined by the Minister, with the concurrence of the Board of Ministers.

Powers, functions and duties of the [Name of the Province] Province Irrigation Committee.

16. The powers, functions and duties of the [Name of the Province] Province Irrigation Committee shall be-

- (a) to submit recommendations and proposals for the construction or repair of irrigation works in conformity with the national policy;
- (b) to render appropriate advice to the Minister for the implementation of the provisions of this Statute;
- (c) to render necessary resources and assistance for the implementation of the provincial irrigation plans and to take follow up action and to evaluate progress in the implementation of such plans;
- (d) to settle any disputes that may arise when plans for irrigation works are formulated and implemented;
- (e) to submit recommendations prior to the initiation or commencement of an irrigation related project or programme within the [Name of the Province] Province by any person or body of persons;
- (f) to ensure the irrigated agricultural lands are used for cultivation to produce a maximum yield.

PART III

ESTABLISHMENT OF IRRIGATION MANAGEMENT AND DEVELOPMENT COMMITTEES

Establishment
of Irrigation
Management
and
Development
Committees.

17. There shall be established one or more Irrigation Management and Development Committees (in this Statute referred to as the "Development Committee) for an irrigated agricultural area in the Province as may be determined by the Provincial Director.

Registration of
Development
Committee.

18. Every Development Committee established under section 17 shall be registered at the office of the Provincial Director.

Membership.

19. Every person who is -

(a) a citizen of Sri Lanka;

(b) over eighteen years of age; and

(c) engaged in agricultural activities in lands which are situated within the administrative limits of the area for which the Development Committee has been established,

shall be entitled to obtain membership of a Development Committee.

Joint
membership.

20. (1) Where a person –

(a) owns a plot of agricultural land within the administrative limits of the Development Committee;

(b) resides within the said limits even though his means of livelihood is not the pursuit of agriculture;

(c) derives income from agriculture; or

(d) is engaged in the sale of agricultural products or produce by being a resident of such division,

such person shall be entitled to obtain joint membership of the Development Committee.

(2) Every person who holds joint membership may give advice and opinion to the Development Committee, if required and shall not have the right to vote or to hold any office in the Development Committee.

Working committee of the Development Committee.

21. A Development Committee shall elect as office bearers - a Chairperson, Secretary, Treasurer, Vice Chairperson, Assistant Secretary and six members to function as a working committee thereof and the term of office of the office bearers shall be for a period of one year from the date of such election.

Rules.

22. (1) The Provincial Director may with the concurrence of the Secretary to the Ministry make rules in relation to the election of office bearers, conduct of meetings, accounts of the Development Committee and other matters related to its activities.

(2) It shall be the duty of the members of the Development Committee to comply with such rules.

Powers, functions and duties of the Development Committee.

23. The powers, functions and duties of the Development Committee shall be-

(a) to provide facilities for the cultivation of crops in irrigated agricultural lands and the cultivation of paddy in irrigated paddy fields and to engage in extension activities and drafting of plans;

(b) to efficiently manage the supply of water through irrigation works for agricultural purposes;

(c) to take necessary action with the participation and contribution of the members for the maintenance, security and ensuring of water management of all canals and bunds of irrigation works;

- (d) to extend cooperation for the demarcation of the boundaries of irrigation works;
- (e) to control the spread of any invasive aquatic plants in irrigation works; and
- (f) to offer protection for irrigation works.

Meetings of the Development Committee.

- 24.** (1) The Development Committee shall meet at least once in two months.
- (2) The *quorum* of meetings of the Development Committee shall be not less than one third of the total membership of the Committee.
- (3) Any special meeting may be convened by the Secretary on the direction of the chairperson.

Water Manager.

- 25.** The Development Committee shall elect a Water Manager who shall hold the office for a period of one year from the date of election.

Resignation or vacation of the office of Water Manager.

- 26.** (1) The Water Manager may resign from the office by letter addressed to the Chairperson of the Development Committee.
- (2) The Irrigation Engineer may with the concurrence of the Development Committee remove the Water Manager from such office due to inefficiency or misconduct upon the findings of an inquiry conducted by the Provincial Director or any officer authorized by him.
- (3) Any person aggrieved by the decision of the inquiry conducted under subsection (2) may make an appeal to the Secretary to the Ministry. The decision of the Secretary shall be final and conclusive.

Powers, functions and duties of the Water Manager.

- 27.** The powers, functions and duties of the Water Manager shall be as may be prescribed by regulation.

PART IV

ESTABLISHMENT OF IRRIGATION SYSTEM MANAGEMENT AND DEVELOPMENT COMMITTEES

Establishment
of System
Management
Committee.

28. There shall be established an Irrigation System Management and Development Committee (in this Statute referred to as the "System Management Committee") in respect of an irrigation work as may be determined by the Provincial Director.

Registration of a
System
Management
Committee.

29. Every System Management Committee established under section 28 shall be registered at the office of the Provincial Director.

Members of the
System
Management
Committee.

30. The Chairman, Secretary and the Treasurer of the Development Committee administrative limits of which the irrigation work is situated shall be members of the System Management Committee.

Working
Committee of
the System
Management
Committee.

31. (1) A System Management Committee shall elect as office bearers a Chairperson, Secretary, Treasurer and other ... [*number*] members to function as a working committee thereof and the term of office of the office bearers shall be for a period of one year from date of such election:

Provided however, the office bearers of the working committee of the System Management Committee shall not be the office bearers of the Development Committee referred to in section 30.

(2) The Chairperson and Treasurer of the working committee of the System Management Committee shall be elected in the presence of the Irrigation Engineer.

Powers.
Functions and
duties of the
System
Management
Committee.

32. The powers, functions and duties of the System Management Committee shall be-

(a) to carry out all security functions of the irrigation works;

- (b) to determine the order of priority of the irrigation works related to rehabilitation and development undertaken under the irrigation system;
- (c) to protect the irrigation reservations under the irrigation system;
- (d) to provide necessary assistance for the development of high lands which are affiliated to the system within an entire irrigation work;
- (e) to assist the officers of the Department in respect of the allocation and protection of the courses that should exist in an irrigation system;
- (f) to manage as a single unit the entire system for the purpose of integrated development; and
- (g) to protect catchment areas where water collects.

PART V

GENERAL

Regulations.

33. (1) The Minister may make regulations in respect of matters required by this Statute to be prescribed or in respect of which regulations are authorized to be made.

(2) All regulations made by the Minister shall be published in the *Gazette* and shall be placed before the [Name of the Province] Province Provincial Council within a period of three months from the date of its publication in the *Gazette* for approval.

(3) Every regulation which is not approved by the [Name of the Province] Province Provincial Council shall be deemed to be rescinded from the date of such disapproval, but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation is deemed to be rescinded, shall be published in the *Gazette*.

Appointment of public officers to the Department.

34. (1) At the request of the Governor of the [Name of the Province] Province, any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister assigned the subject of Public Administration in the Cabinet of Ministers, be temporarily appointed to the staff of the Department for such period as may be determined by the Department or with like consent, be permanently appointed to such staff.

(2) Where any officer in the public service is temporarily appointed to the staff of the Department, the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis* apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Department, the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis* apply to and in relation to him.

(4) Where the Department employs any person, who has agreed to serve the Government for a specified period under any agreement, any period of service to the Department by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such agreement.

Expenses incurred by any person to be paid by the Department.

35. Any expense incurred by any person in any suit or prosecution brought against him before any court in respect of any act which is done by him or purported to be done by him under this Statute or on the direction of the Provincial Director shall, if the court holds that the act was done in good faith, be paid out by the Department, unless such expenses are recovered by him in such suit or prosecution.

Accounts.

36. Every Development Committee and System Management Committee may open and maintain one or more bank accounts in a State Bank.

Statements of Accounts.

37. Every Development Committee and System Management Committee shall render their statement of accounts within a period of two weeks from the expiry of a period of each year from the date of formation of such Committees to the Provincial Director, in accordance with the specimen format determined by the Provincial Director.

Agreements. **38.** The Development Committees and System Management Committees may enter into agreements subject to the general conditions determined by the general body and subject to the approval of the Provincial Director.

Approval for irrigation work. **39.** (1) No person shall engage in any construction or rehabilitation of irrigation works except with the approval of the Provincial Director. A construction or rehabilitation of irrigation works shall be carried out with the concurrence of the Development Committee. The procedure for such approval shall be as may be prescribed.

(2) It shall be the duty of the Provincial Director to ensure that a person engaged in construction or rehabilitation of irrigation works acts subject to the requirements and the sustainability of irrigation works.

Delegation of powers, functions and duties of the Department. **40.** (1) The Provincial Director may, subject to such conditions as may be specified in writing, delegate to an officer of the Department any of his powers, functions or duties under this Statute and the officer shall exercise, perform or discharge such power, function or duty subject to any special or general directions issued by the Provincial Director.

(2) Notwithstanding any delegation made under subsection (1), the Provincial Director may exercise, perform or discharge any such power, function or duty so delegated.

Offences. **41.** (1) Any person who causes obstructions or damages or interferes with a irrigation work, water channel, a tank bund, a tank, an entrance to a tank, a tributary, a spring, a reservoir, an irrigation reservation, a channel, a canal, a pond, a river, an irrigation construction or agricultural path way, commits an offence.

(2) Any person who encroaches, engages in cultivation or engages in activities connected with the removal of soil, sand, gravel or any other material from the connected areas without appropriate approval or makes arrangements for such removal, accumulates waste water, transports soil and gravel or similar materials from outside to the connected area and discharges same, releases or permits to release refuse or causes damage by means of vehicles, machinery or animals in an area of irrigation work, water channel, a tank bund, a tank, an

entrance to a tank, a tributary, a spring, a reservoir, an irrigation reservation, a channel, a canal, a pond, a river, an irrigation construction or agricultural path way, commits an offence.

(3) Any person who sinks or constructs or maintains agricultural wells contrary to the conditions specified by the Provincial Director commits an offence.

(4) Any person who acts in contravention of the decisions of the Development Committee commits an offence.

(5) Any person who commits an offence under the provisions of this Statute shall on conviction before a Magistrate be liable to imprisonment of either description for a term not exceeding two years or to a fine not exceeding five hundred thousand rupees or to both such imprisonment and fine.

Allocations.

42. It shall be the duty of the Department to obtain allocations for the purpose of implementing the proposals of development plans prepared under this Statute from the budget of the [Name of the Province] Province.

Annual report.

43. (1) The Provincial Director shall prepare and submit to the Minister in every year a detailed report of the activities of the Department relating to the previous year.

(2) The report under subsection (1) shall be forwarded to the Minister on or before the thirtieth of June every year.

(3) The Minister shall present such report to the [Name of the Province] Province Provincial Council.

Savings.

44. It is hereby declared as follows-

- (a) all movable and immovable property vested in the Department of Irrigation of the [Name of the Province] Province on the day preceding the date of operation, shall, with effect from the date of operation of the Statute vest in the Department;

- (b) all contracts, and agreements entered into by or with the Department of Irrigation of the [Name of the Province] Province and subsisting on the day preceding the date of operation, shall, with effect from the date of operation of the Statute, be deemed to be contracts and agreements entered into by or with the Department;
- (c) all actions and proceedings instituted by or against the Department of Irrigation of the [Name of the Province] Province and pending on the day preceding the date of operation, shall, with effect from the date of operation of the Statute, be deemed to be actions and proceedings instituted by or against the Department as the case may be, and may be continued and completed accordingly;
- (d) all officers and servants of the Department of Irrigation of the [Name of the Province] Province on the day preceding the date of operation of the Statute, shall, with effect from the date of operation of the Statute, be deemed to be officers and servants of the Department;
- (e) all judgments and orders made in favour of or against the Department of Irrigation of the [Name of the Province] Province and remaining unsatisfied on the date preceding the date of operation of the Statute, shall, with effect from the date of operation, be deemed to be judgments and orders made in favour of, or against the Department, as the case may be, and may be enforced accordingly; and
- (f) all liabilities of the Department of Irrigation of the [Name of the Province] Province on the day preceding the date of operation, shall with effect from the date of operation of the Statute, be deemed to be liabilities of the Department.

Interpretation.

45. In this Statute, unless the context otherwise requires-

“Board of Ministers” means the Board of Ministers of the [Name of the Province] Provincial Council;

“irrigation work” includes-

- (a) any tank, bund, anicut, ela, channel, distributary, field channel or watercourse comprised in or incidental or ancillary to the irrigation work;
- (b) any structure, road, bridge, sluice, gate or other engineering work comprised in, or incidental or ancillary to the construction or maintenance of the irrigation work; and
- (c) any structure, bund, sluice or other engineering work erected for the purpose of draining any cultivated area or of preventing or regulating the flow of salt water into or out of any such area;

“Minister” means the Minister in the Board of Ministers of the [Name of the Province] Province to whom the subject of Irrigation is assigned;

“sustainable maintenance” means, the proper, continuous and systematic maintenance of development;

“Water Manager includes Maintenance Manager or Cultivation Manager as the case may be;

... text to prevail in the case of inconsistency.

46. In the event of any inconsistency between the [*Sinhala and Tamil*] texts of this Statute, the text shall prevail.