

- (ii) in the case of a permit relating to a building such terms and conditions may include provision in respect of the purpose for which such building may be used and for a certificate of occupancy to be obtained from the Building Committee by the holder of the permit before the building to which the permit relates is occupied, and the form of such certificate for occupancy; and
- (iii) in the case of a permit relating to the division or subdivision of land for building purposes such terms and conditions may include provision for the laying out and construction of streets on the land to be divided or subdivided for building purposes at the cost of the person to whom the permit is granted;”

No. 11 OF 1938.

A LAW TO AMEND AND CONSOLIDATE THE IRRIGATION LAWS, 1931 AND 1934.

H. R. PALMER,]
Governor.

[21st April, 1938.

BE it enacted by His Excellency the Governor and Commander-in-Chief of the Colony of Cyprus as follows :—

Short title.

1. This Law may be cited as the Irrigation Divisions (Villages) Law, 1938.

Interpre-
tation.

2. In this Law—

“Commissioner” means the Commissioner of the district within which the irrigation division has been formed;

“committee” means a committee formed under the provisions of this Law to act in the irrigation division for which it has been so formed;

“irrigation division” means an irrigation division formed by the proprietors in a village or quarter of a village or group of villages under the provisions of this Law, operating within such village or quarter or group of villages;

“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 an owner of land situated within a village or quarter of a village or group of villages which is benefited or is capable of being benefited by any irrigation works.

3. It shall be lawful for the Commissioner of any district at his own instance or on the application in writing of not less than ten proprietors in any village or quarter of a village or group of villages as to him may appear likely to be benefited by any irrigation works, to call a public meeting of the proprietors of such village or quarter or group of villages for the purpose of determining whether an irrigation division 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 lying wholly or in part within the lands of such village or quarter or group of villages ;
- (b) The protection of common waters or watercourses and for the regulation of the use thereof ;
- (c) The maintenance or protection of the water rights of the proprietors.

4. The Commissioner shall at least one month before the holding of a public meeting cause a notice to be posted in a conspicuous place in every village or quarter of a village likely to be affected by any irrigation works, stating the day and place appointed for holding the meeting and the object thereof, and calling upon all proprietors in such village or quarter to attend in person or by proxy appointed in writing, at the meeting.

Notice of public meeting.

5. The Commissioner shall preside at every public meeting so convened which shall be held at the time and place appointed, and at such a meeting the proprietors or the authorized proxies thereof who are present shall decide by majority as provided in section 7—

Proceedings at the public meeting.

- (a) whether an irrigation division shall be formed, and
- (b) the purpose or purposes for which such division shall be formed, and
- (c) the village or quarter of a village or villages which shall be comprised in the irrigation division.

Right to
vote.

6. If at any public meeting any question is raised as to the right of any person to vote, the Commissioner may there and then make such inquiry as he may deem requisite and declare whether the person has the right of voting 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.

Majority
required
at a public
meeting.

7. All questions or resolutions proposed at any public meeting shall be determined by a majority of the persons present and entitled to vote.

Power to
Commis-
sioner to
adjourn
public
meeting.

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

Provided that at any adjourned meeting no object which was not contained in the notice convening the public meeting shall be discussed or considered.

Record of
proceedings
at a public
meeting.

9. The Commissioner shall keep or cause to be kept minutes of the proceedings at every public 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 publicly declare the result of votes given and shall cause copies of the minutes certified under his hand to be transmitted to the Colonial Secretary.

Election of
committee.

10.—(1) If the proprietors or the authorized proxies thereof decide at a public meeting to form an irrigation division, they shall proceed as hereinafter provided to elect a committee of not less than three and not more than five persons from among the proprietors in such village or quarter of a village or villages as may be comprised in the irrigation division, to serve upon the committee.

(2) Every election for a proprietor who may be proposed and seconded as a candidate at the meeting at which the election is held, shall be by open vote to be taken by the Commissioner in such manner as to him shall appear convenient.

(3) All proprietors present or the authorized proxies thereof shall be entitled to give one vote for each candidate whom they wish to be elected.

(4) 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.

(5) 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.

(6) 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.

(7) In addition to the elected members the Mukhtar of the village shall be an *ex officio* member of the committee :

Provided—

(a) that where there is in a village a Christian and a Moslem Mukhtar, both such Mukhtars shall be *ex officio* members of the committee ; and

(b) that where there are in a village more than one Christian Mukhtar or more than one Moslem Mukhtar or where an irrigation division is formed by a group of villages, the Commissioner may appoint such Mukhtar or Mukhtars of the village or villages concerned as to him may seem fit to be *ex officio* member or members of the committee.

(8) 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.

11. If it appears to the Commissioner that a committee elected under the provisions of section 10 or any member thereof has been guilty of a grave breach of duty he may dismiss such committee or member from office and appoint such person or persons as he may think fit to fill any vacancy thereby caused and such person or persons shall hold office until such time as a new committee may in due course be elected in accordance with the Rules of the irrigation division,

Power to
Commis-
sioner to
dismiss com-
mittees or
any member
thereof.

Vacancies in
a committee.

12. If any vacancy occurs in a committee otherwise than through the dismissal by the Commissioner of a member under the provisions of section 11, it shall be filled by the election of a proprietor by the remaining members thereof.

General
powers of
committee.

13. The Committee shall have the general supervision and control of the irrigation works and may, subject to the consent of the Commissioner—

- (a) contract a loan for any purpose approved by the Commissioner in connection with the operations of the irrigation division ;
- (b) appoint fit and competent persons to carry out any work in connection with the irrigation works within the irrigation division.

Commis-
sioner to
prescribe the
procedure,
etc., at the
meetings
of the
committee.

14. Upon the formation of a committee the Commissioner 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.

Committee
to prepare
list of
proprietors
and lands.

15. The committee as soon as possible after its formation shall prepare a list of the names and residences of the proprietors and of the lands and extent thereof which are to be benefited or are capable of being benefited by the irrigation works.

List to be
signed and
posted.

16.—(1) The list in section 15 mentioned, when made, shall be signed by the chairman and the committee and shall be posted in a conspicuous place in the village or quarter of a village or villages affected thereby.

(2) Any person who objects to such 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.

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

(6) The list shall be examined annually by the committee who shall have power to amend the same and the procedure provided in this Law for the making of, and the objections to, the original list shall be observed in all respects in case of any such amendment.

17.—(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 division has been formed under the provisions of this Law (hereinafter referred to as "the Rules").

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 ;
- (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 officers ;
- (c) prescribe the maximum rates or 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 16 for any purpose approved by the Commissioner in connection with the operations of the irrigation division provision for which is made in any estimates approved by the Commissioner :

Provided always that in prescribing such rates or charges regard shall be had to the proportion of the benefit derived or which could be derived by any proprietor or land from the irrigation works ;

- (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 in each year the list shall be examined by the committee under section 16 (6) ;

- (f) prescribe the date by which the annual estimates of the irrigation division shall be submitted to the Commissioner for approval ;
- (g) regulate the use of the water and the proportion in which water conveyed by the irrigation works shall be distributed ;
- (h) prescribe the manner in which the dissolution of the irrigation division 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.

Rules to be signed and posted.

18.—(1) The Rules when made shall be signed by the chairman and the committee and shall be posted in a conspicuous place in the village or quarter of a village or villages affected thereby.

(2) Within one month from the date of the first posting of the Rules any person who objects to any of the Rules may apply to the Governor for the amendment and rectification of the same.

(3) The Governor shall consider such application and his decision thereon shall be final and conclusive.

(4) If as a result of a decision by the Governor it becomes necessary to amend and rectify the Rules the Governor shall forthwith amend and rectify the same in such manner as he shall think fit and shall make such adjustments in all or any of the Rules as such amendment and rectification may necessitate and which the Governor under the circumstances shall deem right and proper.

Rules to be published in *Gazette*.

19. After all objections, if any, have been considered and determined the Rules shall be published in the *Gazette* and thereupon shall be binding and conclusive in respect of all matters therein.

Amendment of Rules.

20. The Rules may be amended from time to time by the committee and the procedure provided in this Law for the making of, and the objections to, the original Rules shall be observed in all respects in case of any such amendment.

Failure to pay rates or charges in time.

21. If the rates or 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,

22.—(1) The Comptroller shall, upon receipt of a certificate under the hand of the Commissioner that any rates or 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 authorizing the collection of such rates or charges together with any increase due under section 21 :

Collection of rates and charges.

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.

(2) Every such warrant shall be in the like form, with the necessary modifications, as a warrant issued under the Tax Collection Law, 1932, and shall be enforced and the like proceedings may be had thereon as if it were a warrant issued under the said Law.

70 of 1932

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

23. The committee shall, as soon as possible after its formation and annually thereafter, submit to the Commissioner for his approval estimates of the expenditure which it is proposed to incur on behalf of the irrigation division during the ensuing year, together with a statement of the division's estimated receipts and of the rates or charges which it is proposed to levy upon the proprietors in respect of the same period.

Estimates.

24.—(1) The accounts of every irrigation division 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 division.

Audit.

(2) There shall be paid by the committee of every irrigation division 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 division under sub-section (1) shall be forwarded to the Commissioner who shall cause

a copy of the same to be posted in a conspicuous place in the village or quarter of the village concerned or in the case of a group of villages, a copy thereof in each of the villages concerned.

Power to
Commis-
sioner to
surcharge.

25.—(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 division 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 division 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 Com-
missioner.

26. 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
division.

27. An irrigation division formed under section 10 shall bear the name "Irrigation Division of" (inserting the name or names of the village or quarter of the village or villages which are comprised in the irrigation division).

Actions
and legal
proceedings.

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

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

29. Notwithstanding anything contained in any Rules, the Governor in Council may order the dissolution of any irrigation division 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.

Supersession
of committee.

30.—(1) Where it is made to appear to the Governor that the committee of any irrigation division 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 division for any period specified in the Order.

(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 division under this Law or any Rules relating to such irrigation division.

(3) The Commissioner shall at the expiry of the period of office of any person or persons appointed under sub-section (1) of this section arrange for the election of a new committee in accordance with this Law or any Rules made in that behalf.

31. Whenever it shall be made to appear to the Governor that land is required for the carrying out of any irrigation works under this Law and there is a hindrance to the acquisition thereof, the Governor may declare that the land is needed for a public purpose, and may order proceedings to be taken for acquiring the same and for determining the compensation to be paid to the parties interested in accordance with any Law in force for the time being providing for the acquisition of land for public purposes.

Compulsory
acquisition
of land.

32. Any person appointed by the committee for the purpose of carrying out any work under the provisions of this Law or any Rules made thereunder may, by himself, his agents or contractors, after giving notice to the Mukhtar of the village or quarter of the village, enter upon any lands situated within such village or quarter for the purpose of carrying out the work, and do all things necessary for carrying it out, and cut down or remove all such trees, hedges, walls or other things as it may appear to him necessary to cut down or remove for the purpose of carrying out the work.

Power to
enter upon
land.

33.—(1) For all property destroyed or damaged in exercise of the powers conferred by section 32, compensation shall be made to the owner thereof by the proprietors.

Compensa-
tion to be
paid.

(2) Any person claiming compensation in respect of any such property shall give notice in writing thereof to the Mukhtar of the village or the quarter of the village in which the property is situate within thirty days of the destruction or damage.

(3) The nature and amount of compensation and the proportion in which each proprietor shall contribute thereto shall be determined by the Mukhtar and Azas of the village or the quarter of the village in which the property is situate within fourteen days of the date of the receipt by the Mukhtar of the notice in sub-section (2) mentioned,

(4) The decision of the Mukhtar and Azas in each case shall be reduced to writing in duplicate, and each copy thereof shall be signed or sealed by the Mukhtar and Azas. One of the copies shall be forwarded to the Commissioner of the district and the other shall be given to the person claiming compensation. The decision shall also be published in the village in such manner as the Mukhtar and Azas shall think fit.

(5) If the Mukhtar and Azas fail to perform the duties imposed on them by the preceding sub-section, the Commissioner may, on the request of any person affected, appoint two persons (hereinafter referred to as "the referees") to settle the nature and amount of the compensation to be made under the provisions of this section.

(6) The referees shall forthwith proceed to settle the nature and amount of the compensation; and if they cannot agree the matter shall be referred to the Director of Land Registration and Surveys or his duly authorized representative as umpire.

(7) The decision of the referees or of the Director of Land Registration and Surveys, or his duly authorized representative, as the case may be, shall be reduced to writing in duplicate and each copy thereof signed by the referees or the umpire, and one copy thereof shall be forwarded to the Commissioner and the other shall be given to the person claiming compensation. The decision shall also be published in the village in such manner as the Commissioner shall think fit.

(8) Every decision under sub-sections (4) and (7) 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.

34. Every sum assessed as compensation under the provisions of sections 31 and 33 shall be levied upon, and paid proportionately 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 sections such compensation shall be paid out of such funds.

35. 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 authorized agent, if any (whose receipt shall be a sufficient discharge for it), or in the absence of a guardian or a duly authorized 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.

How compensation to be paid if a person under disability.

36. 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.

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

37.—(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 division,

Offences and penalties.

shall be guilty of an offence and shall be liable to imprisonment for one year or to a fine of 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 of ten pounds.

Power to
Commis-
sioner to
depute
duties,
powers and
authorities.

38. 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.

No appeal in
certain cases

39. 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.

Disposal of
penalties.

40. 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 division concerned.

Exemption.

41.—(1) The provisions of this Law shall not be applied to any water which is by registered title or *ab antiquo* possession the property of any person, corporation or village, without the consent of such person, corporation or the majority of the householders in such village :

Provided that where any water is privately owned by a number of shareholders the provisions of this Law may be applied thereto with the consent of the holders of the majority of the shares in such water.

(2) In this section—

“householder” means every male inhabitant of the village of not less than eighteen years of age whether assessed for taxation or not and any female inhabitant of a like age who is assessed for any form of taxation.

(3) The views of the majority of the householders or of the shareholders, as the case may be, under the provisions of this section shall be ascertained by the Commissioner in such manner as he may determine.

42.—(1) If it is made to appear to the Governor in Council that there are in any town or quarter of a town any lands likely to be benefited by any irrigation works under the provisions of this Law, the Governor in Council may by an Order to be published in the *Gazette* authorize the formation of an irrigation division in any such town or quarter of a town.

Power to
apply Law
to towns
or quarters
of towns.

(2) Upon the publication of an order as in sub-section (1) hereof it shall be lawful for the Commissioner to call a public meeting in accordance with the provisions of section 3, and thereafter the provisions of this Law shall apply *mutatis mutandis* to the town or quarter of the town named in such order as if such town or quarter were a village or quarter of a village.

43. The Irrigation Laws, 1931 and 1934, are hereby repealed:

Repeal and
saving.

1 of 1931
17 of 1934

Provided that—

- (a) all irrigation divisions formed under the provisions of the Laws hereby repealed shall be deemed to be irrigation divisions formed under the provisions of this Law ;
- (b) subject to the provisions of sub-section (7) of section 10, all committees elected under the provisions of the Laws hereby repealed shall be deemed to be committees formed under the provisions of this Law ;
- (c) all irrigation works undertaken or constructed under the provisions of the Laws hereby repealed shall be deemed to have been undertaken or constructed under the provisions of this Law ;
- (d) all Rules made under the provisions of the Laws hereby repealed shall be valid and shall be deemed to have been made under the provisions of this Law ;
- (e) all loans or advances made or expenses or liabilities incurred in connection with any irrigation works undertaken or constructed under the provisions of the Laws hereby repealed shall be valid and effective and all sums or instalments due and payable thereunder shall be paid and collected as if this Law had not been passed.