

People Irrigation Act, B.E. 2482 (1939)

Translation

In the name of His Majesty King Anada Mahidol

The Council of Regency (By notification of the President of the Assemble of the People's Representatives dated the 4th August B.E. 2480)

Aditya Dib Abha General Chao Phya Bijyendra Yodhin

Enacted on the 17th Day of October B.E. 2482;

Being the 6th Year of the Present Reign

Whereas the Assembly of the People's Representatives has passed a resolution that it is expedient to bring the people irrigation works under control so as to protect and safeguard the interests of the people;

Be it, therefore, enacted by His majesty the King, by and with the advice and consent of the Assembly of the People's Representatives, as follow:

Section 1

This Act shall be called the "People Irrigation Act, B.E. 2482 (1939)".

Section 2

This Act shall come into force on and from the date of its publication in the Government Gazette.

Section 3

The Act for the control of the construction of Irrigation Channels, Weirs, and Flood Embankments, B.E. 2577, the Amendment Act for the Control of the Construction of Irrigation Channels, Weirs, and Flood Embankments (Third Issue), B.E. 2480 and all laws, bye-laws and Regulations insofar as they deal with matters already governed by this Act, or are contrary to or inconsistent with the provisions of this Act shall be repealed.

Section 4

In this Act,

"Irrigation" means all kinds of work carried out by any person to supply water from any waterway or any source of water, such as rivers, streams, creeks, swamps, canals, marshes, for cultivation and includes those made for the purpose of protecting the cultivation from damage due to water.

"Private Irrigation" means irrigation constructed by one or more persons exclusively for his or her own cultivation.

"People Irrigation" means irrigation jointly constructed by the people for the benefit of the cultivation of the people within that locality.

"Contractual Irrigation" means irrigation constructed by any person for remuneration to be obtained from those, who are desirous of making use of water from such irrigation for their cultivation.

"Irrigation Area" means the area of land receiving benefit from irrigation.

"Accessory for irrigation" means any object used as accessory for the carrying out of irrigation works.

"Official" means Provincial Commission, commissioner of the Province, District Commission, District Officer, Village Headman, Village Elder, Chief of Irrigation or his Assistant and the Official controlling irrigation.

Section 5

For the purpose of diversion of water in time of drought or for the purpose of public safety or welfare, the Provincial Commission shall have power to order a temporary closing or suspension of the use of any part of irrigation of all categories or to order any alteration to the diversion of water for such purpose.

In case the diversion of water is made in time of drought the person who receives the benefit therefrom shall bear the expense himself.

Section 6

No person shall use water from any private or people irrigation more than that is necessary or shall allow such water to flow to waste when the Official has ordered him not to do so.

CHAPTER 1

Private Irrigation

Section 7

Any person desirous of constructing any private irrigation must apply for permission from the Official except when the work is constructed for the benefit of an area of not over 200 Rais or the work is of a temporary nature with no permanent structure thereon; in the latter case the work must in no way obstruct any public waterway or cause damage to some other people.

Application for permission must be lodged with local authorities and the District Commission shall put up a notice at the District Office and in the communes adjoining the place of construction for fifteen days. If any person considers that he will be adversely affected by the construction, then he can file a protest to the District Commission within the period stated. In case of emergency prior permission may be granted by the District Commission.

Permission under the provision in the foregoing paragraph may be granted as follows:

- (1) If the work is constructed for the benefit of an area not exceeding five hundred Rais located in the same District, the District Commission shall report the same to the Ministry for Agriculture.
- (2) If work is constructed for the benefit of an area not exceeding one thousand Rais located in the same province, the Provincial Commission shall consider the granting of permission and report the matter to the Ministry of Agriculture.
- (3) If the work is constructed for the benefit of an area exceeding one thousand Rais, or an area extending over two or more provinces, the Ministry of Agriculture shall consider the granting of permission. Owners of all private irrigation works already in operation before the date of enforcement of this Act shall apply for permission within twelve months from the date of its enforcement.

Section 8

The applicant under Section 7 shall comply with the following:

- (1) To submit a sketch map showing the following particulars viz.:
 - (a) The area of land cultivated at the time of application.
 - (b) The area of land which will receive benefit from such irrigation.
 - (c) The alignment of the waterway, source of water, villages, and such permanent structures as are situated in the area.
 - (d) The alignment and site of the irrigation work for which permission is applied.

- (2) To submit details on.
 - (a) the nature of the waterway to be used for such irrigation and how much water will remain therein during the dry season and how much is the normal supply of water in the Rainy season and the highest level of water measured from the bed of the waterway.
 - (b) the width, depth of the original waterway and the dimensions of the irrigation structures for which permission is applied for.
 - (c) the number of rice-field owners within the area which will receive water from such irrigation inclusive of both the original owners and new owners.
- (3) To state whether there are any other irrigation works already on such waterway, and, if any, to state the scope and the distance of the location of the one upstream and another one downstream of the work for which permission is applied for.

Section 9

In case where the Provincial Commission considers that any private irrigation possesses more water than necessary, it shall have power to order the distribution of water to the neighboring lands from time to time. But any person receiving the benefit under this Section shall render reasonable assistance to the owner or the controller.

With regard to private irrigation works in existence for not less than ten years, if the Provincial Commission deems it necessary to extend the irrigation area for the benefit of the majority of the people, it shall have power to order the conversion of such private irrigation into people irrigation by means of compensation being paid proportionately by the persons who will receive benefit therefrom.

If any disagreement arises as regards the amount of compensation, the Provincial Commission and the people who will receive benefit have the right to request the appointment of an Arbitrator.

In case where an arbitrator has to be appointed the provisions of the Civil Code on the appointment of arbitrator shall apply mutatis mutandis.

Section 10

The owner of the private irrigation shall act without causing damage to the interests of other persons and shall distribute water to other persons, having the lands nearby, who used to receive a reasonable share of water from such irrigation. If the owner or controller of the private irrigation acts or neglects to act in a way which will be detrimental to other persons or to any works of public utility, the District Commission shall have power to order him to do what is deemed reasonable. If beyond the period stipulated the owner or the controller fails to comply with such order, the District Commission shall have power to act to prevent any damage forthwith.

(There shall be added the following as Section 10 bis. and Section 10 ter by Section 3 of the People Irrigation Act (No.2), B.E. 2523.)

Section 10 bis

With regard to the construction of private irrigation under this Section, whether the permission under Section 7 is required or not, if the owner of the private irrigation has the necessity to train water through other person's land or the public domain, he may do so when he has applied for and received the permission from the Official but shall compensate the land owner.

Application for such permission in the first paragraph must be lodged with the District Officer of that locality in compliance with Section 8 (1) and the District Officer shall inform the matter to the owner and the occupant of the land where the waterway will be trained through by sending a registered letter to their domiciles and shall put up notices at the Provincial Land Office, Region Office, District Office, Village Headman's Office and at the

Provincial Land Office, Region Office, District Office, Village Headman's Office and at the site where the waterway will be trained through for fifteen days, if any person considers that he will be adversely affected by the waterway training, then he can file a protest to the District Officer within the period stated.

In case of emergency prior permission may be granted. In case the Official grants the permission being applied for, he shall put up a notice and shall inform the permission and its particulars to the land owner or the occupant by the means stated in the second paragraph at least seven days in advance.

In granting such permission in the first paragraph, Section 7 paragraph three shall apply *mutatis mutandis*; and the suitability of the irrigation practices and minimum damages to the land owner or the occupant shall be considered.

If any disagreement arises as regards the amount of compensation, the applicant may request a committee, comprising the Provincial Governor as Chairman, President of Provincial Commission as Deputy-Chairman, Provincial Land Officer, Provincial Agricultural Officer, Royal Irrigation Department Delegate and the District Officer or his assistant who is the Head of such Khing-Amphur as committee members, to fix the amount taking into consideration the nature of the land, the benefits that the applicant may receive and the damages that other land owner or occupant may sustain.

In case the Committee has fixed the amount of compensation as stipulated in the fifth paragraph but the land owner refuses the compensation, and the Official has put up the notice stipulated in the third paragraph *mutatis mutandis* and the compensation has been lodged with the Court, the applicant shall have the right to take action on the land.

In case the land owner disagrees with the amount of compensation fixed by the Committee as stipulated in the fifth paragraph, whether he has received the compensation lodged with the court or not, the land owner does not lose the right to go to the Court claiming for the amount he wishes to receive provided he does it within 180 days from the date at which the compensation is lodged with the Court. In the case the Court rules that the additional compensation shall be paid, the land owner shall be entitled to receive interest on the additional amount at the rate of 7.50% per annum accruing from the date at which the compensation is lodged with the Court.

Impeaching action of the land owner in the seventh paragraph shall not affect in any way the concession right to use the land of the applicant.

Section 10 ter

The waterway in Section 10 bit shall be used for the benefits of the land receiving water from such waterway. If such land no longer requires water from the waterway for cultivation and the land owner or occupant of the land where the waterway is trained through has applied for and received permission from the Official, the right to receive water from such waterway of the irritable land owner or occupant shall be ended.

During the time the waterway is used for benefits of the irritable land, the irritable land owner or occupant is entitled to perform any necessary action to maintain and use the waterway, causing minimum damages, in practices, to the owner or occupant of land having such waterway trained through.

CHAPTER 2

People Irrigation

Section 11

The commissioner of the Province shall, when deemed necessary for the benefit of irrigation, have power to fix the area of any river, stream, creek, swamp, canal, marsh, bog, source of water or any waterway, and to prohibit any action which may obstruct irrigation within such area.

Section 12

The people irrigation, which will be constructed, shall be executed with the approval of the majority of the people receiving benefit from such irrigation by means of voting under Section 22 (a) and one who has been given authority by the people and the Official shall act according to Section 7 except the last paragraph.

Section 13

The District Officer shall have power to appoint a suitable person to be Chief of irrigation or Assistant to the Chief of Irrigation as many as he deems reasonable upon approval of the majority of the people receiving benefit in the irrigation area and shall have power to remove the persons so appointed upon approval of the majority of the people.

Section 14

With regard to the compulsory requisition of service or accessories for any people irrigation in normal times, the District Officer shall be the person giving orders to that effect. In time of emergency the District commission, Village Headman, Village elder, or the Chief of Irrigation shall be the persons giving such orders to the people receiving benefit from such irrigation.

Section 15

With regard to the compulsory requisition of accessories for any people irrigation, the Official shall make calculations so as to be sufficient for the execution there of and shall determine the compulsory requisition in proportion to the cultivation area so that there shall be an equal part for each Rai. As to the fraction of one Rai or when the area of any person is less than one Rai, it shall be considered as one Rai.

Section 16

The compulsory requisition of service and the division of the work for any people irrigation shall be executed in proportion to the cultivation area of the owner or possessor of the land.

In case of an indivisible work the compulsory requisition of service and the division of work shall be executed by way of the following calculations.

For the owner or possessor of the land having the area not exceeding ten Rais, one person is required for the work, if the land exceeds ten Rais, the calculation shall be made increasingly at the rate of ten Rais for one person, the fraction of ten Rais shall be considered as one in case it reaches half thereof.

Section 17

In dividing the work and accessories for any people irrigation the Village Headman, Village Elder and the Chief of Irrigation or his Assistant within such irrigation area shall be the person who divides the work and exercises control over the same until the work is completed.

Section 18

With regard to the maintenance, repairs or alterations to any people irrigation, the people receiving benefit from such irrigation shall have the duty to work according to the orders concerning the compulsory requisition given by the Official.

In case a dispute arises, the District Officer shall have power to order the execution of work as he deems reasonable so as to have the work completed before the cultivation season.

Section 19

If there is no place of excavating the earth or for dumping the spoil in the construction area of any people irrigation, the District Officer shall have power to order the excavation of the earth or the deposit of spoil on the land next to or adjacent to the construction area of such irrigation not exceeding five meters in extent on either side.

Section 20

For the purpose of excavation, construction, repairs or alterations to any people irrigation the District Officer shall have power to order the cutting, lopping, lumbering of the preserved woods of the third category in the jungle as he deems reasonable.

Section 21

With regard to the diversion of water in any people irrigation it shall be the duty of the Village Headman, Village Elder or Chief of Irrigation or his Assistant to divide the same in proportion to the area of cultivation land, except in the case where no agreement can be reached, the District Officer or his Representative, the Village Headman, and the Chief of Irrigation concerned but not less than three persons, shall consider the matter and make a decision according to the majority.

When water is insufficient for distribution to the cultivation thoroughly, the District Officer of his Representative shall call a meeting of the Village Headman, the Village Elder and the Chief of Irrigation in such irrigation area to consider the matter and decide according to the majority. With regard to the matter under the second paragraph, if it is the case of dispute arising among the District Officers, Section 22 (b) and (c) shall apply *mutatis mutandis*.

Section 22

In changing, altering, amending, joining or abolishing any people irrigation within the area permitted, if no agreement can be reached, it shall be executed as follows:

- (a) If the dispute arises within the same district, the District Officer shall definitely decide according to the majority of the people receiving the benefit from such irrigation. The voting shall be governed by the following rules.

The owner of the land not exceeding ten Rais shall have one vote; if the land exceeds ten Rais, the calculation shall be made increasingly at the rate of one vote per ten Rais; the fraction of ten Rais shall be taken as one vote, if it reaches half thereof.

- (b) If the dispute arises between the districts in the same Provinces, the Commissioner of the Province shall appoint a Committee, to consider the dispute, composing of not less than five persons and the Commissioner of the Province shall definitely decide according to the majority.
- (c) If the dispute arises between the Province, the Commissioners of the Province concerned shall appoint three members of the Committee for each Province; and the Director-General of the Royal Irrigation Department shall appoint another member of the Committee and all of them shall from a committee which shall consider the dispute. The Commissioner of the Province shall definitely decide according to the majority.

Section 23

If there is any expropriation of immovable property of any person concerning any people irrigation, the Expropriation of Immovable Property Act shall apply *mutatis mutandis*

Section 24

Any person not being able to comply with the order concerning the compulsory requisition given by the Official, shall let another suitable person to act in his stead, or pay money as remuneration in proportion to the work done.

Section 25

When the District Commission deems that any person is unable to work and unable to find some other person to work in his stead, and has not enough money to pay for the remuneration, it may suspend the compulsory requisition under this Act for such person long as the necessity exists.

Section 26

If any work is divided by the Official to be the duty of any person and such person fails to comply with such order, no matter what the reason is, in addition to the punishment under Section 38 (a) the Official shall have power to let some other person to work in his stead

by fixing a reasonable rate for such remuneration, and that person shall be responsible for payment of the same.

Section 27

With regard to any matter concerning any people irrigation, if the Official has under this Act decided definitely according to Section 21 and Section 22 such decision shall be final.

Section 28

The persons having the duty to control over any people irrigation of any locality, shall be exempted from the compulsory requisition of service and accessories for the irrigation in such locality as follows.

- (a) Village Headman and Chief of Irrigation, thirty Rais for each person.
- (b) Village Elder and Assistant to the Chief of Irrigation, fifteen Rais for each person.

If in such locality the cultivation area does not exceed five hundred Rais, such person shall receive the exemption only for half of the rate fixed.

But if the people receiving benefit deems expedient to enjoy an exemption more than that provided in this Section, the District Officer shall allow an exemption according to the majority.

Section 29

Any person entitled under Section 28 has no cultivation area of his own or has not enough cultivation area according to his right, he shall be entitled to treat, with regard to the exemption, the cultivation area of other persons as his own for not exceeding three pieces of land, but the pieces of land in all shall not exceed the rate specified in Section 28.

CHAPTER 3

Contractual Irrigation

Section 30

Whoever being desirous of constructing any contractual irrigation shall apply to the Ministry of Agriculture for concession and he can construct the same only upon having received such concession, except when the work is of a temporary nature and there is no permanent structure to obstruct public waterways or cause damage to some other persons.

Section 31

The person applying for concession to construct any contractual irrigation shall comply with Section 8 and shall furnish the following particulars:

- (a) The rate of the remuneration which will be collected from the cultivator who receives water from such irrigation.
- (b) The amount of the existing cultivation area, which the cultivator is in favor of giving the remuneration.
- (c) The area of waste land which shall be turned into a cultivation area.
- (d) The period of the concession applied for.

Section 32

The concessionaire shall be entitled to demand remuneration from the person especially receiving water from the new irrigation system but he shall not be entitled to demand remuneration from the person already and usually receiving enough water before the construction of the new irrigation system, unless a contract is made specifically.

Section 33

The concessionaire shall act without causing damage to other persons.

Section 34

The concessionaire shall comply with the conditions specified in the concession.

Section 35

The concessionaire shall make a report showing the result of the work already executed to the Official controlling irrigation once a year unless otherwise ordered in writing by the Official controlling irrigation.

Section 36

The concessionaire shall allow the Official controlling irrigation to inspect the work executed at suitable times and shall explain and answer the questions concerning such work as required by such Official.

Section 37

The person making contractual irrigation before the enforcement of this Act shall apply for concession from the Ministry of Agriculture and shall comply with Section 31 within twelve months from the date of enforcement of this Act.

CHAPTER 4

Penalties

The provisions in Section 38, previous provision shall be repealed by Section 3 of the People Irrigation Act (No.3), B.E. 2526 and replaced by these provisions.

Section 38

Whoever:

- (a) Disobeys the orders of the Official as specified in Section 5, Section 6, Section 9, Section 11, Section 14, Section 18 and Section 21.
- (b) Does not comply with Section 7, first and last paragraphs and Section 10, Section 24, Section 35 and Section 36.
- (c) Does not allow the excavation of earth or depositing the spoil on his land under Section 19.
- (d) Abolishes, changes, or alters the work provided for the division of water definitely ordered by the Official under Section 21.
- (e) Extends the irrigation area without any permission being obtained as specified in Section 7.

Shall be punished with imprisonment not exceeding one month or with a fine not exceeding one thousand bath, or both.

(There shall be added the following as Section 38 bis and Section 38 ter of the People Irrigation Act (No. 2), B.E. 2523 as the following.)

Section 38 bis

When the compensation is paid or lodged with the Court, any land owners or occupants obstructing or not co-operating to the waterway raining in Section 10 bis or the waterway maintenance and utilization in Section 10 ter shall be punished with a fine not exceeding one thousand Baht or with imprisonment not exceeding one month or both.

Section 38 ter

Whoever obstructs such waterway in Section 10 bis or performs any actions causing decrease in benefits and convenience of the irritable land owner or occupant without reasonable explanation shall be punished with a fine not exceeding one thousand bath or with imprisonment not exceeding one month or both.

Section 39

Whoever constructs contractual irrigation without receiving concession, shall be punished with a fine not exceeding one thousand bath, or with imprisonment not exceeding three months, or both.

Section 40

Whoever does not apply for concession within the period specified in Section 37 shall be punished with a fine not exceeding five hundred Baht or with imprisonment not exceeding one month, or both.

Section 41

The concessionaire for contractual irrigation who does not comply with Section 34 shall be punished with imprisonment not exceeding one month or with a fine not exceeding five hundred Baht, or both.

Section 42

The Court may order the person acting in contravention of the provisions of this Act, apart from the punishment provided for in other section, to remove, abolish or alter or change the objects constructed by him.

CHAPTER 5

Execution of the Act

Section 43

The Minister of Agriculture shall have charge and control of the execution of this Act and shall have power to issue Ministerial Regulations and to appoint Officials controlling irrigation for the execution of this Act.

Such Ministerial Regulations shall come into force upon their publication in the Government Gazette.

Countersigned by

Gen. Pibulsonggram

President of the Council of Ministers

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