

STATE IRRIGATION ACT

B.E. 2485

Whereas the Assembly of the People's Representatives has passed a resolution that it is deemed expedient to promote and control the State Irrigation Works so that the same may be properly proceeded with,

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 follows:

PRELIMINARY PROVISIONS

Section 1. This Act shall be called the "The State Irrigation Act B.E. 2485(1942)".

Section 2. It shall come into force on and from the date of its publication in the Government Gazette.

Section 3. The provisions of the Canals Conservation Act R.S. 121 shall not apply to the Irrigation Waterways under this Act.

All laws, byelaws and other regulations in so far as they deal with matters governed by this Act or are inconsistent with the provisions of this Act shall be repealed.

Section 4. In this Act,

"Irrigation" means any works constructed by the Government to supply water from any waterway or reservoir for cultivation and includes the prevention of damage to cultivation with regard to water as well as navigation within the Irrigation Area."

The previous definition of "Irrigation" was repealed by Section 3 of the State Irrigation Act (No.4) B.E. 2518 and superseded by the following.

"Irrigation" means any undertaking carried out by the Royal Irrigation Department to procure water or to retain, store, reserve, control, supply, drain or allocate water for agriculture, energy, public utilities or industry and includes the prevention of damage caused by water as well as navigation within the Irrigation Area.

"Irrigation Waterway" means any water course proclaimed by the Minister as Irrigation Waterway under Section 5.

"Irrigation Area" means the area of cultivated land which will receive benefit from irrigation.

"Working Area" means the area of land used for construction or maintenance of irrigation works, the boundaries of which have been determined by the Official.

"Navigation Lock" means any structure constructed in the waterway for the passage of craft through different water levels.

"Dam" means any structure constructed in the waterway for varying water from flowing through or over it.

"Weir" means any structure constructed in the waterway for irrigation water to be supplied to the irrigation area, so that surplus water may flow over it.

"Barrage" means any structure constructed with closing or opening spaces for irrigation or conserving water in the waterway which is the source of water to be supplied to the irrigation area.

"Regulator" means any structure constructed in the waterway with closing and opening spaces for irrigation, conservation, retention or drainage of water in places other than those which do not constitute the source of water to be supplied to the irrigation area.

"Syphon" means any structure constructed for the passage of water under or over any obstruction.

"Flume" means any structure constructed for water to flow over any waterway or over any low place.

"Fall" means any structure constructed for regulating the flow of water from the waterway of one level to that of another level.

"Embankment" means the mound of earth constructed longitudinally along the line of the canal.

"Berm" means the space between the embankment and the bank.

"Flood Embankment" means any structure constructed longitudinally along the surface of the land for flood protection.

"Official" means any Official of the Royal Irrigation Department having the duty concerning the irrigation works and includes those persons appointed by the Director General under this Act.

"Irrigation Engineer" means the Official who is the Chief for the control of the construction or the maintenance of the irrigation works.

"Director General" means the Director General of the Royal Irrigation Department.

"Minister" means the Minister of State in Charge of the execution of this Act.

CHAPTER I

General Provisions

Section 5. For the purpose of this Act, Irrigation Waterways shall be divided into four categories, viz.:

1st Category.

A waterway used for supplying, draining, conserving or retaining water for irrigation purposes.

2nd Category.

A waterway used for navigation in common with irrigation within the area benefited from irrigation works.

3rd Category.

A waterway reserved for irrigation purposes.

4th Category.

A waterway which is accessory to irrigation.

The Minister shall notify in the Government Gazette as to which waterway is the Irrigation Waterway and of what category.

Section 6. The Irrigation Engineer shall have the power to make use of the ground surface of the land without any construction thereon in the Irrigation Area from time to time for any necessary period by giving notice to the owner or possessor, of such land not less than seven days in advance. If it results in damage being caused, reasonable compensation shall be paid.

Section 7. In case of emergency, in order to prevent any danger affecting the irrigation works, the Irrigation Engineer shall have the power to make use of, as may be necessary, the land or articles of any person which are in the neighborhood or within the vicinity in which the danger may occur. If it results in damage being caused, reasonable compensation shall be paid.

The provision of Section 8 as amended by Section 4 of the State Irrigation Act (No.3) B.E. 2507 was repealed by Section 4 of the State Irrigation Act (No. 4) B.E. 2518 and superseded by the following.

Section 8. The Minister shall have the power to collect irrigation rates from the owner or possessor of the Irrigation Area, by prescribing the Ministerial Regulations specifying the following.

- (1) Each line or area of the Irrigation Waterway where irrigation rates are to be collected with a map showing the boundaries thereof.
- (2) Districts and precinct of each Irrigation Area where irrigation rates are to be collected with a map showing the boundaries thereof.
- (3) Irrigation rates to be collected from owners or possessors of the land in Irrigation Area or agricultural users outside the Irrigation Area.
- (4) Irrigation rates to be collected from users for factory waterworks or other purposes in or outside the Irrigation Area.
- (5) Rules, regulations and procedures for collecting or paying irrigation rates including exemption, reduction or installment plan of the irrigation rates.

The irrigation rates to be collected from the owner, of the possessor of the land or the land inside the Irrigation Area or the agricultural users outside the Irrigation Area, shall not exceed five Bath per rai per year.

The irrigation rates to be collected for water user for factory, waterworks or other purposes, shall not exceed fifty Stang per Cubic Metre.

(There shall be added the following as Section 8 bis by Section 5 of the State Irrigation Act.
(No.4) B.E. 2518)

Section 8 bis. There shall be established in the Royal Irrigation Department a revolving fund called the Revolving Fund for Irrigation.

The irrigation fee collected under section 8 shall be credited to the account of the Revolving Fund for Irrigation, and not be remitted to the Treasury as State revenue.

The payment of money from the Revolving Fund for Irrigation shall be made only for the irrigation pursuant to the rules prescribed by the Minister with the approval of the Ministry of Finance.

The Minister of Agriculture and Cooperatives shall, within ninety days after the end of every fiscal year, publish in the Government Gazette a report containing the receipts and expenditures of the Revolving Fund for Irrigation.

When the report of receipts and expenditures under paragraph four has been audited by the Audit Council, the Office of the Auditor-General, an auditing report shall be submitted to the Council of Ministers for further submission to the National Assembly for information.

Section 9. If it cannot be done by other means, in order to receive the benefit from the irrigation works, the owners of the land far away from any waterway or source of water shall have the right to make a waterway of not exceeding ten meters wide including the place of the deposit of spoil through another person's land upon authorization and determination of the Irrigation Engineer, the Commissioner of the Province or the District Officer. But reasonable compensation shall be paid to the owner and possessor of the land through which such waterway passes.

In giving authorization and determining such waterway, the benefit to the owner and possessor of the land through which such waterway passes shall be taken into consideration, and the place to be determined shall be that which will cause the least damage to the owner and possessor of such land.

CHAPTER II

Construction

Section 10. The Official shall, after giving reasonable notice in advance, have power to enter upon the land of any person to make survey and investigation in connection with the irrigation works. If it results in damage being caused, reasonable compensation shall be paid. The provision in Section 11 previous provision was repealed by Section 4 of the State Irrigation Act (No.5) B.E. 2530 and superseded by the following.

Section 11. When it is imperative to acquired the immovable property for the benefit of royal irrigation, if there is no agreement regarding the transfer has been concluded otherwise, the expropriation shall be carried out according to the law governing expropriation of immovable property.

The transfer of the immovable property acquired pursuant to paragraph one with expropriation according to the law governing expropriation shall be exempted from fees and duty stamps.

Section 12. The Official shall have power to take possession an make use of the land which has been expropriated under the law concerning expropriation of immovable property for irrigation purposes even the compensation has not yet been paid. But the Official shall inform the owner and possessor of the said land not less than thirty days in advance.

In case it is unable to send such notice to the owner or possessor of the land, such information shall be made know by posting up the notice on the said land, and after the expiration of forty-five days from the date of posting up such notice, the Official shall take possession and make use of the said land."

The previous provision was repealed by Section 1 of the Announcement of the Revolution Party No. 146 and superseded by the following.

Section 12. (The provision in Section 12 was repealed by Section 5 of the State Irrigation Act (No. 5) B.E. 2530.)

Section 12 bis. (The provision in Section 12 bis. was repealed by Section 5 of the State Irrigation Act (No. 5) B.E. 2530.)

CHAPTER III

Maintenance

The provision of Section 13 was repealed by Section 5 of the State Irrigation Act (No. 3) B.E. 2507 and superseded by the following.

Section 13. The Director General shall have power to appoint any person who is not an Official of the Royal Irrigation Department to be the Official having the duty in collecting the irrigation waterway maintenance fees or taking care of and maintaining the irrigation waterway, embankment, berm, dam, flood embankment, bench marks or structure in irrigation works as laid down by the Director General. The appointment shall be posted up publicly at Irrigation Office in that area.

The following was added as Section 13 bis. by Section 4 of the State Irrigation Act (No. 2) B.E. 2497.

"Section 13 bis. When it is deemed expedient to transfer the State irrigation works in any locality or on any State Irrigation Project to the status of people irrigation, this may be effected by the issue of a Royal Decree to demarcate the zone with limits of the State irrigation works to be transferred. After the issue of the Royal Decree on the said transfer, the State irrigation works so transferred shall be considered as people irrigation works under the People Irrigation Law from date of the Royal Decree becoming effective.

The following was added as Section 13 ter. By Section 6 of the State Irrigation Act (No. 3) B.E. 2507.

Section 13 ter. The Official, having the duty collecting in the irrigation waterway maintenance fees or taking care of and maintaining the irrigation waterway, embankment, berm, dam, flood embankment, bench marks or structure in irrigation works shall have the power and duty as follows:

- (1) Order the controller of craft passing or will pass through irrigation waterway to stop or park their craft when having cause to doubt of offense under this Act.
- (2) Inspect the irrigation waterway maintenance fees card, irrigation waterway navigation passport or license.
- (3) Arrest red-hand any person acting in offense under this Act.

The following was added as Section 13 quarter. By Section 7 of the State Irrigation Act (No. 3) B.E. 2507. Section 13 quarter. In carrying out under Section 13 ter, the competent official

shall show his identity card to those concerned at request.

The identity card of the competent official shall be in the form as specified in the Ministerial Regulation.

The following was added as Section 13 quinqué., by Section 8 of the State Irrigation Act (No. 3) B.E. 2507.

Section 13 quinqué. Motor or steam-vessels are prohibited from navigating in 1st Category Irrigation Waterway. Exemption can be made in writing from the Official from time to time as necessary. Motor or steam vessels with passengers, freight or hire for towing are prohibited from using in 2nd Category Irrigation Waterway, excepted with permission from the Official.

The navigation license for motor or steam vessels hired to transfer passengers, freight or tow in 2nd Category Irrigation Waterway are valid to 31st December of the issuing year.

The provision of Section 14, previous provision was repealed by Section 9 of the State Irrigation Act (No. 3) B.E. 2507 and superseded by the following.

Section 14. The Minister shall have the power to issue Ministerial Regulation for the following purposes:

(1) To lay down rules for the use of craft in the 1st and 2nd Category Irrigation Waterway.

(2) To lay down the procedures for requesting and allowing motor or steam vessel Transferring passengers, freights or towing other boat in the 2nd Category Irrigation waterway.

(3) To fix the rates of Irrigation Waterway maintenance fees which shall be collected from the persons using craft passing through the navigation locks, regulators, dams or over the regulators by means of a slipway at the rate of not more than those specified in the Schedule (A) annexed to this Act; and to specify the exemption of Irrigation Waterway maintenance fees for certain kinds of craft.

(4) To fix the rates of Irrigation Waterway maintenance fees which shall be collected on the annual basis from the licensee using motor or steam vessels transferring passengers, goods or towing boats in the 2nd Category Irrigation Waterway, at the rate of not more than those specified in the Schedule(B) annexed to this Act.

(5) To fix the rates of fees at the rate of not more those specified in the Schedule (C) annexed to this Act.

(6) To specify implements and modes of fishing and fishing restriction areas in such

waterway for the purpose of preventing damage to the irrigation works.

The provision of Section 15, previous provision was repealed by Section 10 and 11 of the State Irrigation Act (No. 3) B.E. 2507 and superseded by the following.

Section 15. For the benefit of the irrigation works, the Director General shall have the power as follows.

- (1) To close, retain or open water in the Irrigation Waterways.
- (2) To dredge, repair or remodel the Irrigation Waterway, or to have any structure constructed in such waterways.
- (3) To prohibit, restrict or lay down conditions for the passage of craft through the Irrigation Waterways under (1) or (2).

To invoke the power under this Act, a notification shall be posted up at places of Conglomeration of people in the locality for a period of not less than 7 days in advance, except in emergency case where the Director General shall have the power to proceed before the issue of notification.

The provisions of Section 15 and 16, previous provisions were repealed by Section 10 and 11 of the State Irrigation Act (No.3) B.E. 2507 and superseded by the following.

Section 16. The Director General shall have the power to prohibit, restrict of lay down conditions for the use of craft, the use and drainage of water or for other purposes in the 4th Category Irrigation Waterways, and it shall be notified at places of conglomeration of people in the locality for a period of not less than 7 days in advance.

The provision of Section 15 and 16, previous provision were repealed by Section 10 and 11.

Section 17. The Village Headman, Village Elder or the Municipal Councillor of the locality in the Irrigation Area shall have the duty of taking care of and maintaining the berms and the Irrigation Waterways which are in the area of the locality or the Municipality.

Section 18. The Director General shall have the power to grant exemption from irrigation rates to the Village Headman, Village Elder and Municipal Councillor mentioned in the foregoing Section or to the person nominated by the Village Headman, Village Elder or Municipal Councillor for exemption, wholly or partially, on his behalf at the following rates:

- (a) Village Headman and Municipal Councillor, fifty rai per person.
- (b) Village Elder, twenty-five Rai per person.

Section 19. In case of excavation and repair of Irrigation Waterways, if there is no place for the deposit of spoil, it may be deposited on the land which is close to it as may be necessary. In this case, if it causes damage to the crop or the structure which exists at the time, reasonable compensation shall be paid.

Section 20. When the Official supplies, drains or pumps water into any piece of land for agricultural purposes, no person shall close up or intercept water by any means whatsoever so as to cause water to be held back in its flow to the neighboring lands or to the destination.

The Official or the District Officer or his Deputy shall have the power, if he deems fit, to give orders in writing to the owner or possessor of land, or the person cultivating the land to remove anything, closing up or intercepting the water as may be determined, or have the same done by himself. For this purpose the Official or the District Officer or his Deputy shall have the power to enter upon any land for inspection and have the said arrangement carried out.

Section 21. In supplying or pumping water into any land for the benefit of cultivation, the Official or the District Officer or his Deputy shall have the power to order the owner or possessor of such land or the person cultivating the land within the area to be inundated, to do anything within the period to be determined to restrain water from flowing to waste so as to cause the neighboring land not to be reasonably inundated.

Section 22. In case any owner or possessor of the land fails to comply with the provisions of Section 20 Paragraph 1 or fails to comply with the order given under Section 20 Paragraph 2 or Section 21 the official shall, besides having him subject to punishment under the provisions of this Act, have the power to engage another person to work in his stead and charge the owner or possessor of the land, as the case may be, for labor according to the rate prevailing locally.

The provisions in Sections 23 and 25 were repealed by Sections 12 & 13 of the State Irrigation Act (No. 3) B.E. 2507 and superseded by the following.

Section 23. No person shall construct, or add any structures or other or cultivate crops, encroaching upon any Irrigation Waterway, Berm, limits of the Embankment of Flood Embankment unless authorization in writing has been obtained from the Irrigation Engineer. In case of offense, besides being subject to punishment under this Act, the Court shall order the offender to remove the encroachment when the complainant asked.

In case of emergency, in order to prevent harm to irrigation works, the Irrigation Engineer shall have the power to take any actions to get rid of anything encroaching upon any Irrigation Waterway, Berm, limits of the Embankment or flood embankment.

Section 24. If there is any tree in any piece of land encroaching upon the Irrigation Waterway or causing damage to the Irrigation Waterway, the Official shall have the power to order the owner or possessor of such land to cut down or remove such tree.

The previous provision of Section 23 and 25 were repealed by Section 12 and 13 of the State Irrigation Act (No. 3) B.E. 2507 and superseded by the following.

Section 25. No person shall do anything which obstructs the Irrigation Waterway unless he has obtained authorization in writing from the Irrigation Engineer. In case of offense, besides being subject to punishment under this Act, the Court shall order the offender to remove the obstruction at the request of the complainant.

In case of emergency, in order to prevent danger to irrigation works, the Irrigation Engineer shall have the power to take any actions to remove the obstruction from any Irrigation Waterway.

The previous provision of Section 26 was repealed by Section 8 of the State Irrigation Act (No. 2) B.E. 2497 and superseded by the following.

Section 26. No person shall dig a canal or waterway to join up with the Irrigation Waterway or any other waterway connecting with the Irrigation Waterway or do anything which causes leakage in the Irrigation Waterway to the detriment of irrigation works unless authorization in writing has been obtained from the Director General or any person deputized by him. Any offender shall, besides being subject to punishment under this Act, be ordered by the Court to close such canal or waterway in order to put a stop to any further leakage.

In order to prevent danger which may happen to the irrigation works the Director General shall have the power to order the person acting as stated in the first paragraph to close such waterway or do anything to prevent further leakage. In case of failure to carry out the order, the Director General shall have the power to order the Official to take action at once and, if necessary to use some land for the purpose, shall have the power to use the land near the canals or the waterway as far as necessary. The expenses involved in this connection including the compensation to be paid to the land owner shall entirely be reimbursed from the offender.

In regard to any canal or waterway which caused leakage in the Irrigation Waterway to the detriment of the irrigation works before the date of this Act coming into force, the Director General shall, If it is deemed fit, have the power to act under the provisions in the second paragraph *mutatis mutandis*.

Section 27. No person shall lead or allow his cattle to go down the first and second category Irrigation Waterway or to tread on the Embankment, Berm, or the compound of irrigation structures except in the fixed area where the same is allowed or upon authorization in writing from the Official.

The previous provision of Section 28 was repealed by Section 6 of the State Irrigation Act (No. 4) B.E. 2518 and superseded by the following.

Section 28. No person shall throw rubbish, carcass, waste crops, ashes or filth in the Irrigation Waterway or render the water harmful to cultivation or consumption.

No person shall discharge the liquid that may render the natural water polluted, harmful, or poisonous chemical into the Irrigation Waterway that may render the water harmful to agriculture, consumption, or health.

Section 29. No person shall cause damage to the Navigation Lock, Weir, Barrage, Regulator, water pipe, Syphon, Flume, Fall, telephone post or wire used for irrigation purposes so as to render its use dangerous or inconvenient.

Section 30. No person shall do anything which causes damage to the Embankment, Berm, Dam, Flood Embankment or bench mark used for irrigation purposes.

Section 31. No person shall do anything which obstructs the alignment already surveyed or causes the alignment already surveyed or the pegs marking the working area to be dislocated or lost.

The previous provision of Section 32 was repealed by Section 14 of the State Irrigation Act (No. 3) B.E. 2507 and superseded by the following.

Section 32. No person other than the Competent Official shall close or open the Navigation Lock, Barrage, Regulator, water pipe, Syphon, Flume, Fall or push and pull in a slipway in the area of Dam or Regulator.

Section 33. No person other than the Irrigation Engineer or those authorized by the Director General shall alter, modify or dismantle any irrigation structure.

Section 34. No person shall excavate or remodel the Irrigation Waterway which will cause damage to the irrigation works or bar the Irrigation Waterway, unless he has obtained authorization from the Director General.

Section 35. The Official shall have the power to order any person not to draw or make use of water in the Irrigation Waterway in a manner which may be detrimental to other persons.

CHAPTER IV

Penalties

The provision in Section 36, previous pervasion was repealed by Section 7 of the State Irrigation (No. 4) B.E. 2518 and superseded by the following.

Section 36. He who fails to pay the irrigation rates under the provisions in the Ministerial Regulation issued under Section 8(3) or (4) shall be punished with fine not exceeding ten times of the outstanding irrigation rates.

When the offender under paragraph one pays the outstanding irrigation rates, plus one time the amount to the Official within the specified time, he shall be forgiven of the punishment. There shall be added the following as Section 36 bis and Section 36 ter by Section 16 of the State Irrigation Act (No.3) B.E. 2507.

Section 36 bis. He who fails to pay the irrigation rates under the provisions in the Ministerial Regulation issued under Section 14(3) shall be punished with fine not exceeding two times of the payable irrigation rates.

When the offender under paragraph one pays the payable irrigation rates, plus fifty percent of the payable irrigation rates to the Official within the specify time, he shall be forgiven of the punishment.

Section 36 ter. He who acts in contravention of Section 13 quinqué, Section 20 paragraph one, or acts in contravention in the Ministerial Regulation issued under Section 14 (1) or (6), or acts in contravention of the prohibit on restriction, limiting or condition of Section 15(3) or Section 16, or acts in contravention of Section 13 tri (1) Section 20 paragraph two or Section 24 shall be punished with imprisonment not exceeding one month or fine not exceeding one thousand Baht, or both.

The provision in Section 37, previous provision was repealed by Section 7 of the State Irrigation Act(No. 4) B.E. 2518 and superseded by the following.

Section 37. He who acts in contravention of Section 23 paragraph one, Section 25 paragraph one, Section 28 paragraph one, Section 30 or Section 31 shall be punished with imprisonment not exceeding three months or fine not exceeding two thousand Baht, or both.

He who acts in contravention of Section 28 paragraph two shall be punished with imprisonment not exceeding two years or fine not exceeding one hundred thousand Bath, or both.

The previous provision of Section 38 and 39 were repealed by Section 11 of the State Irrigation Act (No. 2), B.E. 2497 and superseded by the following.

Section 38. He who acts in contravention of Section 21 or Section 35 shall be punished with fine not exceeding two thousand Baht or imprisonment for a period of not exceeding three months, or both.

The previous provision of Section 38 and 39 were repealed by Section 11 and 12 of the State Irrigation Act (No. 2), B.E. 2497 and superseded by the following.

"Section 39. He who acts in contravention of Section 27 shall be punished with fine for each animal at the rate of five Baht but not exceeding fifty Baht each.

If it is a case in which the arrest of the offender is led by an informant, the Public Prosecution Officer shall make a request to the Court. In this connection, the Court shall have the power to order payment to the informant as a reward amounting to half of the fine to be paid to the Court; but if the case is brought to a close by order of the officer responsible for probing and making compromise in criminal cases, the officer making compromise shall pay the informant half of the fine received, and in case of several informants being involved, the reward shall be divided into equal parts."

The previous provision of Section 40 shall be repealed by Section 13 of the State Irrigation Act (No. 2) B.E. 2497 and superseded by the following.

"Section 40. He who acts in contravention of Section 26 paragraph 1 or Section 29 shall be punished with fine not exceeding twenty thousand Baht or imprisonment for a period of not exceeding five years, or both.

The, previous provision of Section 41 shall be repealed by Section 14 of the State Irrigation Act (No. 2) B.E. 2497 and superseded by the following:

Section 41. He who acts in contravention of Section 32, Section 33 or Section 34 shall be punished with fine not exceeding ten thousand Baht or imprisonment for a period of not exceeding two years, or both.

CHAPTER V

Charge and Control for the Execution of the Act

Section 42. The Minister of Agriculture shall have charge and control for the execution of this Act, and shall have the power to issue Ministerial Regulations for the execution of this Act.

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

Countersignature by
Field Marshal P. Pibulsonggram
President of the Council of Ministers.

Thailand Law Forum