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4th Session 1968-69



Irrigation (Amendment) Act, No. 48 of 1968

Date of Assent : December 14, 1968

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Irrigation (Amendment) Act, No. 48 of 1968

L. D.—O. 9/63

AN ACT TO AMEND THE IRRIGATION ORDINANCE.

Chapter 453,
Vol. XII,
page 731.

[Date of Assent: December 14, 1968]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the Irrigation (Amendment) Act, No 48 of 1968, and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*.

Short title
and date of
operation.

2. The following new section is hereby inserted immediately after section 1 of the Irrigation Ordinance, hereinafter referred to as the "principal enactment", and shall have effect as section 1A of the principal enactment:—

Insertion of
new section 1A
in Chapter 453.

" Powers and
duties of
Commissioner.

1A. (1) The Commissioner shall be responsible for the general supervision and control of Government Agents in the exercise and discharge of the powers and duties conferred and imposed upon them by this Ordinance.

(2) The Commissioner may from time to time give general or special directions to a Government Agent as to the performance of his duties relating to the administration of this Ordinance and may direct or authorize any question of doubt or difficulty in connection with such duties to be referred to the Commissioner for decision.

(3) Any direction or decision of the Commissioner shall be observed and given effect to by the Government Agent concerned.

(4) In the exercise of his powers and in the discharge of his duties under this Ordinance, the Commissioner shall be subject to the general direction and control of the Minister."

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Amendment of
section 2 of the
principal
enactment.

3. Section 2 of the principal enactment is hereby amended as follows:—

- (1) in sub-section (1) of that section, by the substitution, for the words “such matters in combination.”, of the words “such matters in combination:

Provided that, with reference to any extent of paddy land in respect of which there is a tenant cultivator, the irrigation rate shall be payable by him instead of the proprietor, and with reference to any extent of paddy land in respect of which there is an allottee or tenant cultivator, the irrigation rate shall be deemed to be a charge in favour of the Crown imposed not upon the land but upon such allottee or tenant cultivator in respect of water supplied, or to be supplied, to such extent of paddy land or in respect of the cost of or incidental to, the construction or maintenance of any major irrigation work benefiting or intended to benefit, such extent of paddy land, or of all or any of such matters in combination.”;

- (2) by the repeal of sub-sections (2) and (3) of that section and the substitution therefor of the following new sub-sections:—

“(2) Any charge referred to in sub-section (1) may be imposed by the Government Agent whether by way of provision in the scheme of a major irrigation work or otherwise, and may be varied by him from time to time:

Provided, however, that any charge imposed upon an extent of land in respect of which there is an allottee or tenant cultivator shall be deemed to be imposed upon such allottee or tenant cultivator; and

Provided, further, that in respect of any major irrigation work any existing charge imposed—

(a) by the instrument under which the land was granted, leased, held or occupied, or

(b) by express agreement between the Crown and the owner, lessee, tenant or occupier of the land,
or

(c) by resolution of the majority of the proprietors of the irrigable area or tract in which the land is comprised, or

(d) by any other method by which an irrigation rate may have been duly imposed,

shall be deemed to be the charge imposed by the Government Agent.

(3) Any charge referred to in sub-section (1) may be either conditional or unconditional, and may be either for a fixed amount, or may be subject to estimate, measurement or variation.”; and

(3) in sub-section (4) of that section, by the substitution, for the words “referred to in sub-section (1)”, of the words “referred to in sub-section (1) with reference to land other than land in respect of which there is an allottee or tenant cultivator”.

4. Section 6 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 6 of the principal enactment.

“ Advisory committees in respect of major irrigation works.

6. (1) In respect of every major irrigation work there shall be an advisory committee consisting of—

(a) the Government Agent, who shall be the chairman,

(b) the presidents of the Cultivation Committees in the area benefited by the irrigation work,

(c) a representative appointed by each of the following officers:—

(i) the Director of Irrigation,

(ii) the Land Commissioner,

(iii) the Commissioner of Agrarian Services,

(iv) the Director of Agriculture, and

(v) the Commissioner of Co-operative Development,

(d) the Divisional Revenue Officer,
and

(e) not less than three and not more than five tenant cultivators, owner-cultivators and allottees under the Land Development Ordinance nominated by the Cultivation Committees concerned.

(2) It shall be the duty of the advisory committee to advise the Government Agent on all matters connected with irrigation and paddy cultivation within the major irrigation work.

(3) The Government Agent shall summon a meeting of the advisory committee as often as may be necessary and in any case at the commencement of each cultivation season.”.

Repeal of sections 7 to 10 of the principal enactment.

5. Sections 7, 8, 9 and 10 of the principal enactment are hereby repealed.

Replacement of section 11 of the principal enactment.

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

“ Powers of Cultivation Committee and of allottees, tenant cultivators and proprietors.

11. (1) Subject to the provisions of sub-section (4), the Cultivation Committee in respect of any irrigable area or tract shall have power to make rules for all or any of the following purposes:—

(a) the encouragement, extension, regulation, or management of paddy cultivation or any other form of cultivation which is capable of being benefited by an irrigation work;

(b) the enforcement of established customs affecting such cultivation;

(c) subject to the direction and control of the Government Agent, the appointment of agents and the regulation of their powers, duties, remuneration and duration of office;

(d) the regulation and assessment of the contributions of labour to be made by persons for the purposes of works for the construction or maintenance of which they are, in whole or in part, responsible, and for the payment of money by way of commutation of the liability to make such contributions; and

(e) the maintenance, conservation, protection or management of the works referred to in paragraph (d).

(2) Rules made under this section may include rules making provision for the form of cultivation known as *betma* cultivation.

(3) No rules shall be made under this section for any purpose for which regulations have been made under section 64.

(4) Where any irrigable area or tract falls within the area of jurisdiction of more than one Cultivation Committee, the rules for any one or all of the purposes referred to in sub-sections (1) and (2) shall be made at a joint meeting of all such Cultivation Committees. The constitution of such joint meeting and the procedure to be followed therein shall be in accordance with regulations made under section 117.

(5) At a meeting of the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, within any irrigable area or tract, a majority of those present at such meeting shall have power—

(a) by resolution to amend or rescind any resolution passed or deemed to be passed under this Ordinance, or to correct any irregularity, informality or defect in any proceeding at any earlier

meeting of the proprietors or allottees, tenant cultivators and proprietors of that area or tract,

(b) to decide upon or otherwise deal with any question arising in connection with or in the operation of any scheme under this Ordinance, or any resolution passed at any meeting of allottees, tenant cultivators and proprietors under this Ordinance or at any meeting of proprietors under this Ordinance or under any previous Irrigation Ordinance, which may be referred to them by the Minister or the Government Agent, and

(c) to decide, before the commencement of the cultivation season, and subject to the approval of the Government Agent, such matters pertaining to cultivation as—

(i) the dates of the commencement of cultivation operations including ploughing, sowing and reaping, and

(ii) arrangements for the annual maintenance of irrigation works, and any other matters relating to the execution of rules made under sub-sections (1) and (2).

(6) Where, at a meeting referred to in sub-section (5), a decision under paragraph (b) or paragraph (c) of that sub-section has not been arrived at whether for want of a quorum or any other cause, the power to make such decision shall be exercised by the Government Agent. ”.

7. Section 12 of the principal enactment is hereby amended as follows:—

Amendment of section 12 of the principal enactment.

- (1) by the substitution, for all the words from “ At a meeting of the proprietors ” to “ any of the following purposes ”, of the following words:—

“ With respect to *manawari* lands within its area, a Cultivation Committee shall have power to make rules for all or any of the following purposes ”;

- (2) by the substitution, for paragraph (c) of that section, of the following new paragraph:—

“ (c) subject to the direction and control of the Government Agent, the appointment of Cultivation Committee agents and the regulation of their powers, duties, remuneration and duration of office, ”;

- (3) in paragraph (d) of that section, by the substitution, for the words “ by the proprietors ”, of the words “ by the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands by the proprietors of those lands ”; and

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

“ Powers of Cultivation Committees with respect to *manawari* lands. ”.

8. Section 13 of the principal enactment is hereby repealed.

Repeal of section 13 of the principal enactment.

9. Section 14 of the principal enactment is hereby amended, in sub-section (1) of that section, by the substitution, for the words “ approved by the Minister ”, of the words “ approved by the Minister with the concurrence of the Minister charged with the administration of the Paddy Lands Act, No. 1 of 1958, ”.

Amendment of section 14 of the principal enactment.

10. Sections 16 and 17 of the principal enactment are hereby repealed.

Repeal of sections 16 and 17 of the principal enactment.

Amendment of
section 18 of
the principal
enactment.

11. Section 18 of the principal enactment is hereby amended by the repeal of sub-sections (1) and (2) of that section and the substitution therefor of the following new sub-sections:—

“(1) At any meeting of the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, held under the provisions of this Ordinance or any rule or regulation made thereunder, any person entitled to be present at such meeting may, by proxy in writing, authorize any other person to represent him and to vote on his behalf, and the person who is so represented at any such meeting shall be deemed to be present thereat for the purpose of determining whether the meeting is validly constituted or whether any rule or resolution has been duly passed by a majority.

(2) Every proxy given for the purposes of sub-section (1) shall be signed by the person giving it, the signature being attested by two witnesses.”.

Amendment of
section 19 of
the principal
enactment.

12. Section 19 of the principal enactment is hereby amended as follows:—

(1) in sub-section (1) of that section, by the substitution, for all the words from “a meeting of the proprietors” to the end of that sub-section, of the following:—

“a meeting of the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, within any irrigable area or tract.”;

(2) in sub-section (2) of that section, by the substitution, for all the words from “requisition of the proprietors” to the end of that sub-section, of the following words:—

“requisition of the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, representing one-fifth of the acreage of any irrigable area or tract, summon a meeting of the allottees, tenant cultivators and proprietors of that irrigable area or tract.”; and

(3) by the addition, immediately at the end of sub-section (2) of that section, of the following new sub-sections:—

“(3) The Government Agent may of his own motion summon any joint meeting of Cultivation Committees referred to in sub-section (4) of section 11.

(4) Where the irrigable area under a minor irrigation work falls within the area of jurisdiction of a Cultivation Committee, such Cultivation Committee may summon a meeting of the allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands, the proprietors of those lands, within such irrigable area.”.

13. Section 20 of the principal enactment is hereby amended as follows:—

Amendment of section 20 of the principal enactment.

(1) in sub-section (1) of that section, by the substitution, for the words “When any meeting”, of the words “When any meeting other than a meeting of a Cultivation Committee”; and

(2) by the repeal of sub-section (4) of that section.

14. Section 21 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 21 of the principal enactment.

“Constitution of meetings.

21. A meeting, other than a meeting of a Cultivation Committee, which is held under the provisions of this Ordinance or any rule or regulation made thereunder shall not be deemed to be validly constituted unless there are present allottees, if any, tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, representing at least one-third of the acreage affected by any matter to be discussed at the meeting or fifty persons entitled to be present.”.

Amendment of
section 22 of
the principal
enactment.

15. Section 22 of the principal enactment is hereby amended, in sub-section (1) of that section, as follows:—

(1) by the substitution, for the words “ The Government Agent or a person generally or specially authorized by him and referred to by name or by office shall preside at every meeting ”, of the words “ The Commissioner, or the Government Agent or other officer authorized by the Commissioner or Government Agent shall preside at every meeting, other than a meeting of a Cultivation Committee ”;

(2) by the substitution, for the words “ The Government Agent or the person so authorized ”, of the words “ The Commissioner, or the Government Agent or other officer so authorized ”; and

(3) by the substitution, for all the words from “ Full minutes shall be made ” to the end of that sub-section, of the words “ Full minutes, signed by the presiding officer, shall be kept of the proceedings of every such meeting.”.

Replacement of
Part IV of
the principal
enactment.

16. Part IV of the principal enactment is hereby repealed and the following new heading and the following new sections, which shall have effect as sections 23, 24 and 25 of the principal enactment, are substituted therefor:—

“ PART IV.

CULTIVATION COMMITTEES AND THEIR AGENTS.

Duties of
Cultivation
Committees.

23. (1) A Cultivation Committee shall, within the area of its jurisdiction—

(a) attend to all matters connected with the irrigation and cultivation of land and the preservation of rights and the maintenance of irrigation works connected therewith, and

- (b) prevent, as far as practicable, any act or omission which is contrary to any rules or regulations in force under this Ordinance or to establish customs relating to irrigation or cultivation, or whereby damage may be caused to any of the allottees, tenant cultivators or proprietors.

(2) Where within the area of its jurisdiction, any act is committed or any omission made which is contrary to any established custom or any rule or regulation relating to irrigation or cultivation, or whereby any damage may be caused to any allottee, tenant cultivator or proprietor, the Cultivation Committee shall, if the act or omission be of such a nature as to call for prompt action to prevent damage, take such steps as may be necessary in the circumstances, and shall forthwith report the matter to the Government Agent.

(3) No action taken by a Cultivation Committee under sub-section (2) shall be deemed to preclude an investigation, under the provisions of Part VIII, into the act or omission in consequence of which such action has been taken.

Cultivation
Committee
agents.

24. (1) It shall be lawful for a Cultivation Committee to delegate, subject to the direction and control of the Government Agent and subject to its own direction and control, any or all of its duties under section 23 to one or more Cultivation Committee agents.

(2) The Government Agent may at any time direct any Cultivation Committee to discontinue the services of any Cultivation Committee agent who is guilty of misconduct or neglect of duty or who has been convicted of an offence which in the opinion of the Government Agent disqualifies such Cultivation Committee agent from holding office, and the Cultivation Committee shall take action accordingly.

(3) Where a Cultivation Committee fails to comply with a direction of the Government Agent under sub-section (2), he shall report such failure to the Commissioner for action under section 38 of the Paddy Lands Act, No. 1 of 1958.

Mode of recovering expenditure incurred by Cultivation Committees and their agents.

25. (1) Where a Cultivation Committee acting under section 23, or Cultivation Committee agent acting under sections 23 and 24, or an officer acting in pursuance of any regulation made under Part VI, incurs any expenditure in the execution of its or his duty, and the person in consequence of whose act or omission such expenditure was incurred denies his liability to pay the amount incurred, or fails to pay such amount, the Government Agent may, on his being satisfied that such expenditure was properly incurred, and that it is reasonable, sign a certificate setting out the name of the person in consequence of whose act or omission such expenditure was incurred, the amount thereof, the nature of the act or omission, and the name of the Cultivation Committee or agent or officer by whom the expenditure was incurred, and cause such certificate to be delivered to such person.

(2) Where any person to whom a certificate referred to in sub-section (1) has been delivered fails to pay the amount due from him within ten days from the delivery to him of the certificate, the Government Agent may proceed to recover such amount in the manner provided in section 78 or section 78A, as the case may be. ”.

17. Section 33 of the principal enactment is hereby amended as follows:—

- (1) by the renumbering of that section as sub-section (1) of that section;
- (2) in the renumbered sub-section (1) of that section, by the substitution, for the words “ in accordance with the provisions of this Part. ”, of the words “ by the Government Agent.”; and

Amendment of section 33 of the principal enactment.

(3) by the insertion, immediately after the renumbered sub-section (1) of that section, of the following new sub-section:—

“(2) It shall be lawful for the Government Agent in consultation with the advisory committee in respect of major irrigation works appointed under section 6—

(a) to vary any irrigation rate or contribution in money or in labour imposed or levied under an existing irrigation scheme, notwithstanding that such irrigation rate may be higher than the maximum irrigation rate specified in such scheme; and

(b) to incur expenses in carrying out operations necessary for the maintenance of any irrigation work and to charge such expenditure to the allottees and tenant cultivators, and where there are no allottees or tenant cultivators of any lands, to the proprietor of the lands benefited by that scheme, notwithstanding anything to the contrary in the scheme relating to such irrigation work.”.

18. Section 34 of the principal enactment is hereby amended as follows:—

Amendment of
section 34 of
the principal
enactment.

(1) in sub-section (1) of that section, by the substitution, in paragraph (b) of that sub-section, for the words “and the proprietors;”, of the words “and the allottees, proprietors, tenant cultivators, or the Cultivation Committee, as the case may be;”;

(2) in sub-section (2) of that section—

(a) by the substitution, in paragraph (a) of that sub-section, for all the words from “under any scheme, ”, to the end of that paragraph, of the words “under any scheme;”; and

(b) by the substitution, in paragraph (b) of that sub-section, for the word “proprietors”, of the words “allottees and the tenant cultivators,

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and where there are no allottees or tenant cultivators of any lands the proprietors of those lands"; and

- (3) in sub-section (3) of that section, by the substitution, in paragraph (a) of that sub-section, for the words "several proprietors;", of the words "several allottees and tenant cultivators, and where there are no allottees or tenant cultivators of any lands, proprietors of those lands;".

Replacement of section 35 of the principal enactment.

19. Section 35 of the principal enactment is hereby repealed and the following new section substituted therefor:—

" Notice of approval by Commissioner of irrigation schemes and variation of irrigation rates.

35. Where the Commissioner approves any irrigation scheme prepared under section 33 (1) or any variation of rate under section 33 (2), notice thereof shall be given in the *Gazette* and in such other manner as the Commissioner may determine. "

Repeal of sections 36 to 43 of the principal enactment.

20. Sections 36, 37, 38, 39, 40, 41, 42 and 43 of the principal enactment are hereby repealed.

Amendment of section 47 of the principal enactment.

21. Section 47 of the principal enactment is hereby amended by the substitution, for the proviso to that section, of the following new proviso:—

" Provided that nothing in the preceding provisions of this section shall be deemed to prejudice the right of the proprietor of any irrigable area to the continuance of any perpetuity rate under any scheme in force at the appointed date. "

Repeal of sections 48 and 49 of the principal enactment.

22. Sections 48 and 49 of the principal enactment are hereby repealed.

Amendment of section 50 of the principal enactment.

23. Section 50 of the principal enactment is hereby amended as follows:—

- (1) by the substitution, for the word " proprietors ", wherever that word occurs in that section, of the words " allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands, the proprietors of those lands "; and

- (2) in sub-section (1) of that section, by the addition, immediately at the end of that sub-section, of the following words:—

“ In the specification so prepared, the Government Agent shall be guided by the register of paddy lands prepared and maintained under section 35 of the Paddy Lands Act, No. 1 of 1958.”.

24. Section 52 of the principal enactment is hereby repealed.

Repeal of
section 52 of the
principal
enactment.

25. Section 53 of the principal enactment is hereby amended as follows:—

Amendment of
section 53 of
the principal
enactment.

- (1) in sub-section (1) of that section, by the substitution, for the words “ payable by the proprietors of lands irrigable under the said irrigation work.”, of the words “ payable in respect of lands under the said irrigation work. ”;

- (2) in sub-section (2) of that section, by the substitution, for the words “ proprietor of such land ”, of the words “ allottee or tenant cultivator of such land or, where there is no allottee or tenant cultivator of such land, the proprietor of such land ”;

- (3) in sub-section (3) of that section, by the substitution, for the word “ proprietor ”, of the words “ allottee, tenant, cultivator or proprietor ”; and

- (4) in sub-section (4) of that section, by the substitution, for the words “ upon the land ”, of the words “ in respect of the land ”.

26. Section 54 of the principal enactment is hereby amended, in sub-section (1) of that section, by the omission, in paragraph (a) of that sub-section, of the words “ to the proprietor ”.

Amendment of
section 54 of
the principal
enactment.

27. Section 55 of the principal enactment is hereby amended as follows:—

Amendment of
section 55 of
the principal
enactment.

- (1) by the substitution, for the words “ the proprietors ”, wherever those words occur collectively in that section, of the words “ the allottees and the tenant cultivators,

and where there are no allottees or tenant cultivators of any lands the proprietors of those lands ”;

(2) by the substitution, for the words “ those proprietors ”, of the words “ such persons ”; and

(3) by the substitution, for the words “ the several proprietors ”, of the words “ the several allottees, tenant cultivators and proprietors ”.

Amendment of section 56 of the principal enactment.

28. Section 56 of the principal enactment is hereby amended by the substitution, for the word “ proprietors ”, wherever that word occurs in that section, of the words “ allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands ”.

Replacement of section 57 of the principal enactment.

29. Section 57 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“ Power to exempt work from maintenance rate.

57. (1) In any case in which a majority of the allottees and tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands, of the lands under any major irrigation work in respect of which a maintenance rate is payable under section 56, by resolution passed at a meeting summoned for the purpose by the Government Agent, request that such work be exempt from the provisions of that section, and that the Cultivation Committee within the area of whose jurisdiction such work lies maintain the work, the Minister may, by Order published in the *Gazette*, direct that, with effect from such date and subject to such terms and conditions as may be specified in the Order, such work shall be exempt from the provisions of that

section and shall be maintained by the Cultivation Committee in accordance with rules made under Part III, such rules not being inconsistent with any terms and conditions so specified.

(2) The Government Agent shall place before the meeting of the allottees, tenant cultivators and proprietors summoned under sub-section (1), a scheme of maintenance which shall be prepared by the Director of Irrigation in consultation with the Government Agent, and in which all the operations which the Cultivation Committee is expected to undertake for the purposes of the maintenance of the irrigation work shall be clearly and completely specified.

(3) Every irrigation work in respect of which an Order is published under sub-section (1) shall with effect from the date specified in the Order be exempt from the provisions of section 56, and shall be maintained by the Cultivation Committee concerned in accordance with rules made under Part III and the terms and conditions, if any, specified in the said Order:

Provided that in any case in which the Cultivation Committee fails to maintain such work to the satisfaction of the Government Agent, the Minister may, by Order published in the *Gazette*, cancel the Order made under sub-section (1) in respect of that work, and on the publication of such Order, such work shall cease to be exempt from the provisions of section 56."

30. Section 58 of the principal enactment is hereby amended by the repeal of sub-section (3) of that section.

Amendment of section 58 of the principal enactment.

31. Section 62 of the principal enactment is hereby amended as follows:—

Amendment of section 62 of the principal enactment.

(1) in sub-section (1) of that section, by the substitution, for the words "the proprietors", of the words "the Cultivation Committee"; and

(2) by the repeal of sub-section (3) of that section.

Amendment of
section 63 of
the principal
enactment.

32. Section 63 of the principal enactment is hereby amended as follows:—

(1) in sub-section (1) of that section, by the substitution, for the word “proprietors”, wherever that word occurs in that sub-section, of the words “allottees and the tenant cultivators, and where there are no allottees or tenant cultivators of any lands the proprietors of those lands,”; and

(2) in sub-section (2) of that section, by the substitution, for the word “proprietors”, of the words “allottees, tenant cultivators and proprietors”.

Amendment of
section 75 of
the principal
enactment.

33. Section 75 of the principal enactment is hereby amended by the substitution, for the words “proprietor of such land”, wherever those words occur collectively in that section, of the words “allottee or tenant cultivator, or where there is no allottee or tenant cultivator of any land the proprietor, of such land”.

Repeal of
section 76 of
the principal
enactment.

34. Section 76 of the principal enactment is hereby repealed.

Amendment of
section 78 of
the principal
enactment.

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

(1) by the substitution, for the words “under this Ordinance”, wherever those words occur collectively in that section, of the words “under this Ordinance by a person other than an allottee or a tenant cultivator”; and

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

“Recovery of contributions &c., from persons other than allottees or tenant cultivators.”.

Insertion of
new section 78A
in the principal
enactment.

36. The following new section is hereby inserted immediately after section 78 of the principal enactment and shall have effect as section 78A of that enactment:—

“Recovery of
contributions
&c., from
allottees and
tenant culti-
vators.

78A. (1) Where default is made in the payment of any contribution of money or other sum due or deemed to be due under this Ordinance by an allottee

or a tenant cultivator, such contribution or other sum may be recovered by deducting the amount of such contribution or other sum from any moneys due to such person in respect of the purchase of a scheduled agricultural product under the Agricultural Products (Guaranteed Prices and Control of Hulling and Milling) Act, No. 33 of 1961.

(2) Where the Government Agent is of opinion that the contribution or other sum due or deemed to be due from a person specified in sub-section (1) cannot be recovered by the means provided in that sub-section, the Government Agent may, by written notice, direct such person to pay the amount of such contribution or other sum within such period as shall be specified in such notice.

(3) Where a person to whom a written notice under sub-section (2) has been given fails to pay the amount of the contribution or other sum within the period specified in such notice, the Government Agent shall certify to the Rural Court, or where there is no Rural Court, to the Court of Requests, having jurisdiction over the place where the land or irrigation work in respect of which the contribution or other sum was due is situate, that such contribution or other sum is due from that person, and the Court shall thereupon recover such contribution or sum as a debt due from such person to the Government Agent, notwithstanding that such amount may exceed the amount which that Court may in the exercise of its ordinary jurisdiction order to be recovered, and upon recovery of such contribution or sum shall transmit the same to the Government Agent. ”.

Amendment of
section 79 of
the principal
enactment.

37. Section 79 of the principal enactment is hereby amended by the repeal of sub-section (2) of that section, and the substitution therefor of the following new sub-section:—

“(2) Where land is seized under section 78, the Commissioner, or the Government Agent or other officer authorized by the Commissioner shall, in addition to the notice referred to in sub-section (1), cause a notice setting out the facts of the seizure, the reasons therefor, a specification of the property seized and the date fixed for the sale to be sent by registered post to the proprietor and the mortgagee, if there is a mortgagee, of such land at his or their last known address at least fourteen days before the date fixed for the sale.”.

Amendment of
section 93 of
the principal
enactment.

38. Section 93 of the principal enactment is hereby amended as follows:—

(1) by the substitution, for paragraph (a) of that section, of the following new paragraph:—

“(a) wilfully and mischievously blocks up, obstructs or encroaches upon or causes to be in any way blocked up, obstructed or encroached upon any channel or watercourse comprised in any irrigation work; or”;

(2) by the substitution, in paragraph (b) of that section, for the words “or side”, of the words “or any part”;

(3) by the substitution, for the words “a fine not exceeding one hundred rupees or to imprisonment of either description for a period not exceeding six months”, of the words “a fine not exceeding five hundred rupees or to imprisonment of either description for a period not exceeding one year”; and

(4) in the marginal note to that section, by the substitution, for the words “of water.”, of the words “of water, or encroaching upon irrigation works.”.

Amendment of
section 94 of
the principal
enactment.

39. Section 94 of the principal enactment is hereby amended as follows:—

(1) by the substitution, for the words “Every irrigation headman”, of the words “Every Cultivation Committee agent”;

(2) by the substitution, for the words "shall be guilty of an offence," of the words "shall be guilty of an offence triable by the Rural Court having jurisdiction over the place where the offence was committed,"; and

(3) in the marginal note to that section, by the substitution, for the words "acts of irrigation headmen," of the words "acts of Cultivation Committee agents."

40. Section 95 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of
section 95 of
the principal
enactment.

"Resisting
Cultivation
Committees or
Cultivation
Committee
agents in
the execution
of their duty.

95. Every person who without lawful cause resists, molests or obstructs any Cultivation Committee or Cultivation Committee agent in the lawful discharge of any duty imposed by this Ordinance or by any rule or regulation made thereunder shall be guilty of an offence triable by the Rural Court having jurisdiction over the place where the offence was committed."

41. Section 96 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of
section 96 of
the principal
enactment.

"Breaches of
rules or regula-
tions or of
established
customs.

96. Every person who commits a breach of any rule or regulation made or deemed to have been made under this Ordinance or a breach of any established custom relating to irrigation or drainage or flood protection or salt water exclusion or cultivation shall be guilty of an offence triable by the Magistrate's Court or the Rural Court having jurisdiction over the place where the offence was committed."

42. Section 97 of the principal enactment is hereby repealed.

Repeal of
section 97
of the principal
enactment.

43. Section 98 of the principal enactment is hereby amended, in paragraph (b) of sub-section (1) of that section, by the substitution, for all the words from "by the headman" to "section 31," of the words "by the Cultivation Committee or Cultivation

Amendment of
section 98 of
the principal
enactment.

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Committee agent under section 23 or section 24, or by any officer acting in pursuance of a regulation made under Part VI has not been recovered under section 25,".

Repeal of sections 99 to 109 of the principal enactment.

44. Sections 99, 100, 101, 102, 103, 104, 105, 106, 107, 108 and 109 of the principal enactment are hereby repealed.

Replacement of section 110 of the principal enactment.

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

" Appropriation of fines and penalties.

110. (1) All fines and penalties imposed under this Part by any Rural Court and deposited with the Government Agent under section 40 of the Rural Courts Ordinance shall, anything in that section to the contrary notwithstanding, be transmitted by every Government Agent to the Commissioner.

(2) All moneys transmitted to the Commissioner under sub-section (1) shall be credited by the Commissioner to the Paddy Lands Fund established under the provisions of section 60A of the Paddy Lands Act, No. 1 of 1958, as amended from time to time, and shall form part of that Fund and be utilized in accordance with the provisions of that section. "

Provisions with regard to moneys set apart as a fund under repealed section 110 of the principal enactment.

46. All moneys set apart by every Government Agent as a fund to be used in aid of irrigation works or for the remuneration of irrigation headmen or officers under the provisions of section 110 of the principal enactment, or under any rules or regulations made or deemed to be made under the principal enactment, before the repeal and replacement of that section by section 45 of this Act, shall be transmitted by the Government Agents to the Commissioner. Such moneys shall be credited by the Commissioner to the Paddy Lands Fund established under the provisions of section 60A of the Paddy Lands Act, No. 1 of 1958, as amended from time to time, and shall form part of that Fund and be utilized in accordance with the provisions of that section.

47. Section 118 of the principal enactment is hereby amended as follows:—

Amendment of
section 118 of
the principal
enactment.

(1) in sub-section (1) of that section—

(a) by the insertion, immediately before the definition of “appointed date”, of the following new definition:—

“allottee” means an owner of a holding or a permit-holder under the Land Development Ordinance, where the holding, or the land in respect of which the permit is granted, is land benefited or to be benefited by any irrigation work;’;

(b) by the insertion, immediately after the definition of “appointed date”, of the following new definition:—

“Commissioner” means the Commissioner of Agrarian Services and includes, subject to the control of the Commissioner of Agrarian Services, a Deputy Commissioner or an Assistant Commissioner of Agrarian Services;’;

(c) by the insertion, immediately after the definition of “cost of maintenance”, of the following new definitions:—

“Cultivation Committee” means a Cultivation Committee constituted in accordance with the provisions of the Paddy Lands Act, No. 1 of 1958;

“Cultivation Committee agent” means a Cultivation Committee agent appointed by virtue of rules made under section 12;’;

(d) by the repeal of the definition of “ Government Agent ” and the substitution therefor of the following new definition:—

“ “ Government Agent ” means the Government Agent having authority in the area concerned, and includes an Assistant Government Agent and an Additional Assistant Government Agent; ”;

(e) in the definition of “ irrigation scheme ”, by the omission of the words “ between the proprietors and the Government ”;

(f) by the omission of the definitions of “ land ”, “ majority of proprietors ” and “ occupier ”;

(g) by the insertion, immediately after the definition of “ minor irrigation work ”, of the following new definitions:—

“ “ owner cultivator ” means an owner cultivator as defined in the Paddy Lands Act, No. 1 of 1958, whose paddy land is benefited or to be benefited by any irrigation work or who is the owner cultivator of *manawari* land;

“ paddy land ” means paddy land as defined in the Paddy Lands Act, No. 1 of 1958; ”;

(h) by the substitution, for the definition of “ proprietor ”, of the following new definition:—

“ “ proprietor ” means the owner, including the owner cultivator—

(a) of any land benefited or to be benefited by any irrigation work, or

(b) of any *manawari* land; ”;

and

- (i) by the insertion, immediately after the definition of “regulation”, of the following new definition:—

“ ‘tenant cultivator’ means a tenant cultivator as defined in the Paddy Lands Act, No. 1 of 1958, where the paddy land of which he is the tenant cultivator is land benefited or to be benefited by an irrigation work or is *manawari* land; ’; and

- (2) by the addition, immediately after sub-section (2) of that section, of the following new sub-section:—

“ (3) Where a part of a land belonging to a proprietor is cultivated by a tenant cultivator, the part of the land cultivated by the tenant cultivator and the part of the land not so cultivated shall, for the purposes of this Ordinance, be deemed to be two separate lands. ”.

48. Section 119 of the principal enactment is hereby amended as follows:—

Amendment of
section 119 of
the principal
enactment.

- (1) in sub-section (1) of that section, by the substitution, for the words “a rule made by the proprietors”, of the words “a rule made by the Cultivation Committee”;
- (2) by the repeal of sub-section (4) of that section;
- (3) in sub-section (5) of that section, by the substitution, for all the words from “made by the proprietors” to the end of that sub-section, of the words “made by the Cultivation Committee concerned;”;
- (4) in paragraph (b) of sub-section (6) of that section, by the substitution, for the words “made or passed by a majority of the proprietors”, of the words “made by the Cultivation Committee or passed by a majority of the allottees, tenant cultivators and proprietors under this Ordinance”; and
- (5) by the repeal of sub-section (8) of that section.

Savings.

49. Notwithstanding the amendment of the principal enactment by this Act—

- (1) Every rule made under section 11 of the principal enactment, prior to its amendment by this Act, by a majority of the proprietors within any irrigable area or tract shall be deemed to be an effective rule made by the Cultivation Committee of that irrigable area or tract, or a joint meeting of Cultivation Committees, as the case may be, under section 11 of the principal enactment as amended by this Act;
- (2) every resolution passed or decision made under the principal enactment, prior to its amendment by this Act, by a majority of the proprietors within any irrigable area or tract shall be deemed to be a resolution passed or decision made by a majority of the allottees and the tenant cultivators, or where there are no allottees or tenant cultivators of any lands the proprietors of those lands, within that irrigable area or tract;
- (3) every rule made under section 12 of the principal enactment, prior to its amendment by this Act, by a majority of the proprietors of *manawari* lands situated in any village area, shall be deemed to be an effective rule made by the Cultivation Committee concerned under section 12 of the principal enactment as amended by this Act;
- (4) every irrigation scheme prepared, and approved or confirmed, under the principal enactment prior to its amendment by this Act, shall be deemed to be an irrigation scheme prepared, and approved or confirmed, under the principal enactment as amended by this Act.

50. Any act done under the Emergency (Irrigation Ordinance Modification) Regulations, made under section 5 of the Public Security Ordinance, or under the principal enactment as modified by those Regulations, shall be deemed to be done under this Act or under the principal enactment as amended by this Act, as the case may be.

Emergency
(Irrigation
Ordinance
Modification)
Regulations.