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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART IV (A) — PROVINCIAL COUNCILS

Provincial Councils Notifications

SOUTHERN PROVINCE PROVINCIAL COUNCIL

Statute of Irrigation bearing No. 01 of 2019 under the Southern Provincial Council

I, Udalamaththa Gamage Dayawansa Ariyathilaka, Minister of Agriculture, Agrarian Development, Irrigation, Water Supplying and Drainage, Food Supplying & Distribution and Trade & Cooperative Development of Southern Provincial Council hereby inform to the General Public that the Statute of Irrigation No. 01 of 2019 which had already been approved dated 01.04.2019 by the Hon. Governor of Southern Province followed by the approval made dated 26.03.2019 by the Southern Provincial Council is enacted since 01st April, in 2019.

UDALAMATHTHA GAMAGE DAYAWANSHA ARIYATHILAKA,
Minister of Agriculture, Agrarian Development, Irrigation,
Water Supplying and Drainage, Food Supplying & Distribution and Trade &
Cooperative Development of Southern Provincial Council.

4th Floor, Dakshinapaya,
Labuduwa,
Galle,
At the Minister's Office,
Ministry of Agriculture, Southern Province,
On 01st April, 2019.

SOUTHERN PROVINCE IRRIGATION PRECEPT, No. 01 OF 2019

A Precept to make provisions to devise ways and means to plan, implement, activate, supervise, monitor and maintain all irrigation activity, except Southern Province's inter provincial irrigation schemes and inter provincial lands and irrigation schemes, in order to establish a Southern Provincial Irrigation Development Fund to facilitate such activities and to provide for all related activities in pursuance of article 19 of list 1 in attachment 9 of the 13th amendment to the Constitution of the Democratic Socialist Republic of Sri Lanka.

Prologue



This Precept will replace the Irrigation Ordinance No. 32 of 1948 amended by the Irrigation Amendment Act, No. 1 of 1951, Irrigation Amendment Act, No. 48 of 1986, Irrigation Amendment Act, No. 37 of 1973, Irrigation Amendment Act, No. 23 of 1983, Irrigation Amendment Act, No. 34 of 1990 and Irrigation Amendment Act, No. 13 of 1994.

Southern Provincial Council of the Democratic Socialist Republic of Sri Lanka will enact as under.

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| Concise Name | 1. This Precept will be known as the Southern Provincial Irrigation Precept No. 01 of 2019. |
| Effective date | 2. This Precept will be effective from the date it is sanctioned by the Governor of the Southern Province |

1st Chapter

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| Establishing the Department | 3. In order to implement the provisions of this Precept, the Southern Provincial Irrigation Department (hereinafter known as the 'Department') will be established. |
| Appointing a Head of the Department | (1) Accordingly, for the purpose of exercising the authority this Precept would bestow upon the Department, a Director shall be appointed in the title of Southern Provincial Irrigation Director and that director shall be the head of the Department. |
| Composition of the Department | (2) To achieve the wider objectives of the department and to expedite the work flow and facilitate the management, the department will be comprised with as Additional Provincial Director, Chief Irrigation Engineer, 3 District Irrigation Engineers, 3 Irrigation Engineers and a supporting staff.

(3) Provisions of Article 32 of the Provincial Council Act, amended by Provincial Council (amendment) Act, No. 28 of 1990 shall be relevant in appointing the Provincial Irrigation Director, Additional Provincial Irrigation Director. |
| Under the directive of the Secretary | 4. The Provincial Irrigation Director should be subject to the general administration and directives of the Secretary in charge of irrigation. |

2nd Chapter

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| Powers of the Director | 5. The Director shall have the following powers :

(1) To plan and implement the existing irrigation schemes within the province more productively.

(2) To plan and implement the new irrigation schemes within the province more productively.

(3) To obtain the corporation of the farmer community towards the rehabilitation, maintenance and conservation of irrigation systems.

(4) To bring before the law those persons that cause damages to irrigation systems and irrigation reserves. To make necessary charges and complaints.

(5) To map out and declare the irrigation reserves

(6) To prevent and minimize the environmental eventualities that cause dilapidation and deterioration of the irrigation schemes and to develop environmentally protective schemes. |
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- (7) To take necessary steps to construct and maintain responsive devices to minimize destructions cause by floods.
 - (8) To take required step to effect responsive constructions and maintenance to prevent sea water from flowing in through paddy lands.
 - (9) To appoint officers to supervise irrigation network Development Committees.
 - (10) To enter into a particular property as required with prior intimation for an inquiry or investigation, in pursuance of the objectives and duties connected to the Precept.
6. The Director shall delegate powers vested in his office to the Additional Director of Irrigation and to the Chief Irrigation Engineer in writing. Delegation of the Director's powers
7. The scope of work and the objectivity of the Director shall be listed as follows : The Director's objectives and the scope of work
- (1) The Southern Provincial Director of Irrigation shall identify, documents, map out and declare, at Grama Niladhari Level, all types of irrigation systems that fall within the subject itinerary of the department.

However, if the irrigation systems so declared in the notice warrants changes or new inductions, such changes or inductions should be declared by the Director in concurrence with the Minister.
 - (2) The Director should devise the Annual, Short-terms and Long-term plans for new constructions, rehabilitations, development and conservation of the provincial irrigation schemes.
 - (3) Should submit the plans prepared to the Provincial Planning Committee or the Chief Secretary and obtain approval for the plans before those are executed.
 - (4) Should establish, maintain and register a committee called the irrigation Development and Conservation committee at field level for the Provincial Irrigation project.
 - (5) Should establish, maintain & register, Irrigation Network Development and Conservation Committee for the whole irrigation network in a way that it represents Irrigation Development and Conservation committees.

3rd Chapter

8. The Director of the Southern Province Irrigation Department should establish an Irrigation Conservation & Development Committee at field level for every irrigation development project. Establishing committee at the 'field level' membership Quorum, Constitution and the work objectives
- (1) To be appointed as a member of an irrigation conservation & development committee, as person should possess for following qualifications :
 - (a) He/She should be a person whose main livelihood is agriculture ;
 - (b) He/She should be a person of not less than 18 years of age ;

- (c) Should be either a permanent resident or a person engaged in agriculture for a period of two years or more in the area under the purview of the Irrigation Conservation & Development Committee in which you aspire to be member.
- Qualifications of an Associated member
- (2) To be appointed as an Associated member of a Irrigation Conservation & Development Committee, a person should possess the following qualifications.
- (a) Even though not a person whose main livelihood is agriculture he/she should be, a resident, owner or a person in possession of an agricultural land in the area under the purview of the committee in which you aspire to be member.
- (b) Should be a person engaged in the dealership/marketing of goods related to agriculture or agricultural produce.
- (3) With approval of the Southern Provincial Agriculture Director and in concurrence with the membership of the subject committee, the Agricultural Instructor of the area could be appointed as the consultant of the relevant Irrigation Conservation & Development Committee.
- (4) A committee so appointed should have 1/3rd of its membership in attendance to make a quoram at a committee meeting.
- (5) Every Irrigation Conservation & Development Committee should function under a constitution approved by the Director.
- Duties of an Irrigation Conservation & Development Committee
9. The duties of an irrigation Conservation & Development Committee should be as follows
- (1) Every Irrigation Conservation & Development Committee should bring to the notice of the department all maintenance activities associated with Water cascades, Tanks, Anicuts, Brooks and Water Bubbles, within the area of its purview and execute those under the supervision of the department.
- (2) Ensure that all irrigation management activities of the area are done properly and in time.
- (3) Ensure that the corporations necessary for efficient management of water supplied by irrigation works and used in agricultural activities are obtained through the relevant institutions.
- (4) To render necessary assistance and encouragement to the agricultural organizations to grow paddy or alternative crops in the paddy and agricultural lands as suitable.
- (5) To render necessary assistance and prompting to the agricultural associations to perform the customs and traditions associated with paddy and other cultivations.
- (6) To initiate activity to conserve the soil by safeguarding it from disease and pesticides.
- Appointment of a 'Field Level Agent' and the period of Office
10. (1) With the consent of the majority in the Irrigation Conservation & Development Committee a person should be appointed as the Field Level Agent (Yaya Neyojitha) and that agent could be either a member or an office bearer of the Irrigation Conservation & Development Committee.
- (2) The Field level representative appointed could continue to hold office for three years unless the appointment is cancelled.

11. The Office of the field level representative appointed as per article 10 above may fall vacant in the following situations. Resignation & Removal of the Field Level Agent
- (1) The death of the field level representative.
 - (2) A letter of resignation sent to the Director or which the Director has responded stating that the resignation has been accepted.
 - (3) Removal by the Director or revelations of inefficiency and irregularities as a result of an investigation sanctioned by the Director.
 - (4) By a proposal carried with a 2/3rd majority of the Irrigation Conservation & Development Committee.
12. (1) An appeal, connected to removals affected under clause (2) and (3) of article 11 could be made in writing to the Secretary by the person subjected to the removal within 30 days of such removal, and the ruling issued by the secretary on such an appeal should be final. Appeals against removal
- (2) Accordingly, when appeal is made as per clause (1) of this article, the Irrigation Conservation & Development Committee should refrain from appointing an alternative representative until a ruling is given by the Secretary or until 30 days lapse from the date of removal.
13. The duties of a field level representative should be as follows : Duties of the field level agent
- (1) To protect the irrigation works in the area within his/her purview and to extend cooperation to the department to bring before law those causing damages to the irrigation works, to take necessary steps to conserve water issued by irrigation tanks and other irrigation systems and to assist and direct in the conduct of agriculture activity in keeping with planned Agri-Timetables.
 - (2) To take necessary action at any required moment in keeping with the paddy lands register of the area within his/her purview, maintained by the Agrarian Development Department.
 - (3) To hand over the facility to use water the main irrigation bund and the main water sub division according the entitled share based on, sowing extent and due share of each landowner or custodian listed as per the Paddy Field register of the Agrarian Development Department and to enter in to a written agreement with the parties concerned on the process required to effect such handing over.
 - (4) To mark the boundaries with the assistance of the Director on a suitable system based on the partitions made for each landowner custodian by the Field Level Agent (Yapa Niyojitha).
 - (5) To ensure that the irrigation section marked for each party is devoid of shrubs and weeds and that the channel bunds washed away are rehabilitated with the help of soil brought, either from the reservation area or from outside and that those are maintain properly & suitably.
14. (1) If any activity is being carried out in breach of the agreement reached as per clause (3) of article 13., the Field Level Agent should report such situations to the Director. The Director reporting violations to a Magistrate

- (2) In the event of a reporting to the Director as stated in clause (1) above, the Director or an officer duly empowered by the Director, may issue a 7-day notice to the party that is in violation. If the party in violation still continues to refrain from rehabilitating and maintaining his/her share of the channel portion, the director may report the matter to a Magistrate in a Magistrate court that has jurisdiction over the area, and the Magistrate may summon the concerned party on such reporting and issue a suitable ruling to ensure that the principal maintenance work is accomplished.

4th Chapter

Establishing an Irrigation Network & Development Committee.

15. An Irrigation Network Development Committee comprising of representatives of Irrigation Conservation & Development Committee and based on the physical location of the irrigation projects should be established covering an irrigation network.

Composition of the Irrigation Network Development Committee.

16. (1) From among the Field Level Agents who represent Irrigation Conservation & Development Committee, three representatives should be appointed as the President, Secretary and the Treasurer by the members.
- (2) The members of every Irrigation Network Development Committee should appoint a suitable executive committee comprising of a President, a Secretary and a Treasurer being permanent office bearers and other members not exceeding four.
- (3) In the event of an office of the committee falling vacant, until a suitable Field Level Agent “Yaya Niyojithaya” is elected by a vote of members, the Director should appoint a suitable member representing the committee to carry out the duties of that office.
- (4) In a situation where some opposition has arisen with regard to the activities of the office of a particular officer of the Irrigation Network Development Committee, the members of the committee may forward a proposal with the consent of 2/3rd of the members to remove that officer from office to the Director. The Director should take suitable action in such a situation.

Duties of the Irrigation Network Development Committee

17. The duties of the Irrigation Network Development Committee should be as follows :
- (1) To work towards the conservation of its own irrigation network.
- (2) To present proposals and ideas at rehabilitation and development activities to give priority to irrigations works of the network.
- (3) To protect all irrigation reserves and catchment areas located within the network.
- (4) To assist in the protection of all irrigation systems and water works areas within the network.
- (5) As per the provincial Irrigation department’s approved network plan, to assist the officers of the department to protect the reserves and the characteristic manifestations that should be present within the network.
18. The Director should register every Irrigation Network Development Committee.
19. (1) Every Irrigation Network Development Committee should maintain an account in its name, in a commercial bank recognized by the Government.

(2) The account maintained by the committee should be audited by a person empowered by the Director and report of that audit meant for every financial year should be forwarded to the Director by the President of the committee before the 31st March of the year following the financial year.

20. No person should release irrigation water under an irrigation project towards a commercial purpose which is not agricultural.

Use of irrigated water for a purpose other than agriculture.

However, if the Director grants permission for water to be released for a commercial enterprise which is not agricultural, the fees chargeable for such release of water should be in keeping with the directives issued under this precept.

5th Chapter

21. To facilitate the activities aimed at achieving the objectives of this Precept, a fund titled the Provincial Irrigation Development Fund would be established herewith.

Institution of the Provincial Irrigation Development Fund.

22. (1) The Fund established under article 21 above should be a corporation by its name having perpetual succession and a common seal with the capacity to sue and be sued under its name.

(2) Provincial Irrigation Development Fund (hereinunder known as the Fund) should be constituted with an administrative board comprising the following members appointed by virtue of the office they hold.

(a) The Secretary to the subject Minister of the Southern Provincial Council

(b) Deputy Chief Secretary (Planning) of the Southern Province

(c) Deputy Chief Secretary (Finance) of the Southern Province.

(d) Director of Irrigation Southern Province

(e) Director of Agriculture - Southern Province

(3) The Secretary to the Ministry shall be the Chairman of the Fund

(4) The Secretary of the Fund shall the Chief Irrigation Engineer of the Southern Province.

(5) The Accounts of the Fund should be prepared by the Chief Accountant of the department subject to the administration of the Secretary to the Fund.

23. The objectives of the Fund should be as follows :

The objective of the Fund.

(1) The accomplish the maintenance, operations, development and rehabilitation activities of the irrigation projects in the area in a more efficient manner.

(2) To conduct research and development activity connected to the field of Irrigation.

(3) To control the disasters caused by floods and sea water more effectively

(4) To provide facilities for the conservation of irrigation reserves

- (5) To improve the human resources of the Irrigation Conservation & Development Committees and the Irrigation Network Development Committees.

Scope and
 Authority of the
 Fund

24. The scope and authority of the Fund should include the following.

- (1) To hold, dispose, purchase, lease or sell property
- (2) To enter into agreements with outside parties on whatever activity that contribute towards furtherance of the Fund's objectives.
- (3) To identify, sanction and implement the projects that are within the objectives of the Fund, whatever their form and content may be, and to procure the required resources and consultancy at implementation.
- (4) To procure and obtain all physical resources and services that are required in the implementation of activities designed in furtherance of the objectives of the fund.
- (5) To prescribe the human effort required in various activities conducted in furtherance of the objectives of the Fund and to meet such expenditure.
- (6) To initiate activity that falls in line with the precept and to meet all expenditure in connection with such activity or on item that needs to be discharged in the interest of the fund and the precept.

Receipts to the
 Fund

25. The receipts to the Fund would be from following sources.

- (1) Fees charged for supplying irrigated water to commercial purposes other than agriculture.
- (2) Monies sanctioned by the Government from time to time as aid.
- (3) Monies sanctioned by the Southern Provincial Council for activities of the fund
- (4) Monies received as donation from individuals, institutions or organizations for the development of irrigation facilities in the area.
- (5) Monies levied as service fees by the committees.
- (6) Monies collected through exhibitions, lotteries and such customary avenues.

Expenses of Fund

26. Expenditure met by the Fund would as follows :

- (1) Any item of expense connected to an activity that is in furtherance of the objectives of this Precept.
- (2) Expenses incurred in the discharge of obligations under the agreements entered in to in the name of the Fund and expenses connected to the purchase of goods and obtaining of services in the name of the Fund.
- (3) Expenses connected to payment for human endeavours and other payments in connection with services supplied for the Fund.
- (4) Expenses incurred in the discharge of whatever responsibilities connected to the Fund.

27. All Current and other accounts in favour of the Fund should be maintained at a bank approved by the government.
28. The financial year for the transactions of the Fund should be a calendar year from 1st Jan. to 31st December and the Secretary to the Funds should prepare accounts of the Fund for every financial year and submit same before 31st March of the following year to the Chief Secretary.
29. The auditing of the accounts of the Fund should be in keeping with the provisions of the constitution of the Democratic Socialist Republic of Sri Lanka. Maintaining the Fund accounts & their Auditing
- (1) The Annual report prepared by the Secretary to the Fund on administration and maintenance of accounts of the Fund for every calendar year should be submitted to the Administrative Board of the Fund before the 31st May of the year following, and the report approved by the Board should be submitted to the Minister before the 30th June of that year.²
- (2) The Administrative report on the Fund presented to the Minister, accompanied by a copy of the Audited Accounts of the year and a copy of the Auditor General's report on the accounts, should be presented to the Southern Provincial Council with the approval of the Board of Ministers of the Southern Provincial Council.

6th Chapter

30. It is an offence to commit the following acts under this precept. Offences.
- (1) (a) To obstruct the activities conducted under the precept.
- (b) To disturb the activities conducted under the precept.
- (c) To place the activities of the Precept in confinement without due approval.
- (d) To cause the activities of the precept to be disturbed or confined.
- (e) To permit the waste of water collected either intentionally or with malice.
- (f) To cut down trees.
- (g) To construct unauthorized constructions.
- (h) To carry out unauthorized cultivations.
- (2) To remove or cause to remove, without due permission, sand or mineral sands, from, a tank, a stream in the catchment area, an irrigation works, a waterway, a tank access, a dam, a conservation, a bund, a river bank or an irrigation reserve.
- (3) To allow or cause to allow any waste matter to be released to, an irrigation works, a stream, a waterway or a paddy land or to wash machines or vehicles in such a way to make that happen.
- (4) To construct a tank, to dig a waterway or to construct a structure without the written permission of the Director.
- (5) To release animals or livestock to roam free causing damages to an irrigation system, stream, waterway or to an irrigation reserve.

- (6) To carry out agricultural activity in the reservation areas of the tank without due permission in writing from the Director.
 - (7) To grow paddy, other irrigable crops or to multi-crop without permission, against the agreement on the crops reached at the cultivation term meeting held.
 - (8) To conduct the affairs of one's activity in a way that does unduly impinge on the rights of others by such activity.
31. A person pronounced guilty of any of the above offenses, except on clause (2) of article 30 above, by a Magistrate Court, should be subjected to a penalty of, either a fine not less than Rs. 10,000 not exceeding Rs. 50,000 or a term of imprisonment not less than 6 months and not exceeding 12 months, or a penalty instituted in combination of both.
 32. A person pronounced guilty of an offence under clause (2) of article 30 above, by a Magistrate Court, should be subjected to a penalty of, either a fine not less than Rs. 50,000 and not exceeding Rs. 100,000 or a term of imprisonment not less than 6 months and not exceeding 12 months or a penalty instituted in a combination of both.
 33. The Minister should enact directives on account of all instances where the precept states, 'that the Minister is required to do so' and also on account of all matters where it is required to do so in the attainment of the objectives of the precept.
 34. All officers of the department should be considered as public servants in terms of the definition given in the penal code.
 35. In the event where there is inconsistency between the Sinhala, English and Tamil versions of this Precept, the Sinhala version should be taken to prevail.
- Definitions
36. Unless an alternative definition is required, the following terms used in this precept should mean as below.

- (1) "Provincial Council" should mean the Southern Provincial Council.
- (2) "Minister" should mean the Minister in charge of the subject of Irrigation in the Southern Provincial Council.
- (3) "Secretary" should mean the Secretary to the Ministry in charge of Irrigation in the Southern Province.
- (4) "Provincial Irrigation Department" or the "department" should mean the Southern Provincial Department in charge of Irrigation.
- (5) "Additional Provincial Director" should mean the Deputy Head of the Southern Provincial Department of Irrigation.
- (6) "Paddy Lands" as per the definition given in this Precept, should mean Lands that are being used, or lands that have the potential to be used, for cultivation of paddy and this may include lands that have been dispossessed under the Private Lands and Land Development Ordinance, Government Land Ordinance or under any other such Act.

- (7) “Field” should mean any part of the cultivable land that has been sanctioned by the Southern Provincial Department of Irrigation either by naming or by use of the same.
- (8) “Custodian” should mean the owner, or the leasehold owner, of the land or any other person engaged in the cultivation of the land for agricultural purpose such as the ‘Angda’ cultivator and also include those who use or are in custody of lands dispossessed under the Land Development Ordinance or any such other ordinances.
- (9) “Irrigation Tank” should mean one or more irrigation areas comprising of, reservations, streams, canals and paddy fields legitimately included in the Agricultural Land owners’ register.
- (10) “Cascade or Irrigation Network” should mean one or more irrigation areas comprising of, irrigated creations, catchment areas collecting water, reservations, streams, canals and paddy fields, that revolves around a stream of water that spawns from a specific sloping area flowing downstream in one direction, overflowing due to rain and flowing down, collected finally before it reaches a river or a main river by an irrigation construction that enables the control and management of such water.
- (11) “Service Fees” should mean a sum of money levied by the Irrigation Development committee on the basis of units of water being a contribution made to a Fund enacted as per the rules and regulations by the Minister in charge of the subject, in keeping with this Precept, to carry out rehabilitation and maintenance work of the networks of minor irrigations, small tanks, streams bunds etc. for their providence when the monies due for such activity from the Government or from the Provincial Council is either not received or is delayed.
- (12) “A Share” should mean an irrigation share entitlement of the water way or a main channel calculated in proportion to the ratio of farmers and the area of paddy lands listed in the paddy land register, in a minor irrigation scheme or a plot of paddy lands that have obtained irrigated water.
- (13) Irrigation reserve is a part of the irrigation network. It is an area of land determined as required by the Director, either in connection with any activity of providence of a Canal, Waterway, Tank, Agri-road or any other such related item or an area required to accommodate additional water in a flood situation or an area required for the purpose of parking and accommodating the machinery used by the workers and for the use of workers.