

Drainage and Flood Control Law, 1957 (Summary)

The Drainage and Flood Control Law of 1957 replaces the Drainage (Surface Water) Ordinance, 1942, and treats issues concerning "operation[s] aimed at concentrating, storing, conveying or removing surface or other water harmful or likely to be harmful to agriculture, public health, the development of the country or the maintenance of regular services in the State, [including] the drying of marshes and protection from and prevention of flooding, but [not including] the treatment of sewage water."

Authority

- The Minister of Agriculture is charged with implementation of this Law, and has the authority to promulgate regulations thereunder. In addition, the Minister is authorized to:
 - * Declare an area to be a drainage district.
 - * Establish Drainage Authorities (see below) and enact provisions for their implementation.
 - * Enact emergency provisions when necessary to prevent or repair damage caused by flooding or soil erosion.
- A National Board for Drainage Affairs, ("the Board") consisting of a Director, representatives appointed by the government, and representatives of agricultural organizations and others appointed by the Minister of Agriculture, is established to advise the Minister on matters of the Law. In addition, an Engineering Committee is to be appointed by the Board to "examine drainage schemes from an engineering aspect."
- Drainage authorities, to which a drainage district, part of a drainage district or several drainage districts may be assigned, are authorized to "establish, alter, maintain and develop drainage projects in that area," and are charged with the prevention of "sanitary nuisances". Members of the authority include a minority of Government representatives, representatives of the local authorities in whose jurisdiction the drainage district lies, and other owners or cultivators of land in the drainage district.
 - * Drainage authorities are considered corporations, and as such, may "enter into contracts, acquire, possess and transfer property, sue and be sued and do any act required for the carrying out of its functions."
- A Judicial Committee, established by the Minister of Justice will decide on matters of disputes relating to this Law.

Establishment of Drainage Projects

- In order to establish or change a drainage project, a drainage authority must prepare a scheme for the project, as follows:

18. (a) A scheme shall specify --

- (1) the area of operation of the project;
- (2) the works required for the establishment and operation of the project;
- (3) the estimated cost and proposals for financing;
- (4) the land to be permanently requisitioned, and the land in which pipes are to be laid or temporary operations for the establishment of the project carried out, without permanent requisition being required;
- (5) the width of the protective strips within the area of the project;
- (6) the arteries within the area of the project;

(b) A scheme shall be accompanied by plans of the area to which it relates.

A scheme is to be open for public inspection for thirty days, during which time, interested parties may submit objections to the scheme. At the end of this period, the "Minister of Agriculture may, after consultation with the Board, approve the scheme, with or without modification, or reject it." The approval of the Minister of Religious Affairs or the Minister of Education and Culture is also required for schemes affecting holy places or historical sites, respectively.

- Once a scheme has been submitted for approval, a permit from the Director of the Board is required for new building, expansion of existing buildings or planting on the land involved in the scheme. When a scheme has been approved, the drainage authority may demand that structures or other property within the area of the project be vacated within ninety days. "Alternative accommodation" or "compensation sufficient to secure alternative accommodation" must be paid to individuals evicted from their homes who are protected by the Tenants' Protection Law, 1955. Individuals required to forfeit land permanently requisitioned for the purpose of a drainage project are to be compensated according to the Land (Acquisition for Public Purposes) Ordinance, 1943. Land requisitioned for temporary use must be restored to its former condition after work has been carried out on it.
- In addition to compensation for confiscated land, the drainage authority

must compensate individuals for other damages incurred due to the project; this compensation may be in the form of money or land. When there is no agreement as to the amount or form of compensation between the drainage authority and the person claiming damages, a judicial committee will decide the extent and form of compensation.

- A drainage authority may impose a fee on owners of land in a drainage authority to cover or partially cover the costs of the project.

Emergency Provisions

- The Minister of Agriculture is authorized to issue emergency orders in endangered areas to prevent flooding or soil erosion. These orders may include the prohibition of cultivation or removal of vegetation or the grazing of livestock. He may further order work required to repair damage from flooding or prevent flooding.
- The State is not required to provide compensation for damage incurred as a result of emergency orders.

.