

To be considered under Ord. 30 of 1936
 Re Ord. 33 of 1936.

CHAPTER 174.

POLDER.

[No. XXV of 1910.]

[7th January, 1911.]

1. This Ordinance may be cited as the Polder Ordinance. Short title.

2. In this Ordinance, except where otherwise specially provided and unless the context otherwise requires,— Interpretation.
 “polder” means a polder declared under this Ordinance;
 “authority” means the authority of a polder so declared.

CREATION OF POLDERS.

3.—(1) The proprietors of any land in the colony may apply by petition to the Governor in Council to have any area of land comprising their own and any adjacent land declared a polder. Petition for declaration of polder.

(2) The petition shall not be considered unless it appears to the Governor in Council to have been signed by the proprietors of not less than one-third of the area of the land.

(3) Upon receipt of the petition the Governor in Council may, before further considering it, require the petitioners, or direct the commissioner of lands and mines, to have the area of land surveyed.

(4) The Governor in Council may also order that any land adjacent to the area of land shall be included in the survey, if that in his opinion is necessary for the purpose of preparing the scheme for the construction of the proposed polder.

4.—(1) The surveyor making the survey under the last preceding section shall cause to be prepared a plan of the land, drawn to scale of not less than one inch to two hundred and forty feet, and cause to be delineated thereon Preparation of plan and scheme of work.

the land held by each proprietor of land in the area proposed to be empoldered, and the number of acres held by each.

(2) The plan shall be transmitted to some qualified engineer selected by the petitioners and approved by the Governor in Council, or, if the Governor in Council so directs, to the Director of Public Works, who shall then cause to be prepared a scheme for the irrigation and drainage of the land, with a statement of the estimated cost of the necessary works, and cause to be delineated on the plan the dams, fresh water supply trenches, main draining trenches, outfall kokers, sluices, and locks proposed to be made or maintained, and, where it is expedient to change the position of the public road, shall delineate on the plan the best position and line for the new public roads and bridges, and the engineer, or the director of Public Works, as the case may be, shall transmit the estimate of costs and plans, with a full report thereon, to the Colonial Secretary.

(3) The cost of the survey or estimate, or both, may be defrayed out of any moneys voted for the purpose by the Legislative Council.

Consideration
of scheme by
Governor in
Council.

5. The Governor in Council shall consider the scheme, together with the estimate and plan and the report thereon, and may in his discretion either refuse the petition or direct that it shall proceed.

Publication
of copy of
scheme and
plan of
polder.

6.—(1) If the Governor in Council directs that the petition shall proceed, a copy of the report, together with the estimate of the cost of the necessary works, and of the plan of the land, with the proper delineations thereon, shall be lodged at the Public Works department in Georgetown, and another copy at the post office nearest to the land.

(2) Notice that the documents and plan have been lodged and are open for inspection shall be given by public advertisement in the Gazette and at least one other newspaper published in the colony.

(3) The documents and plan shall remain open for the inspection of every person desiring to see them on every day, not being a Sunday or public holiday, during office hours, for one month after the date of the first publication of the notice.

(4) Anyone who considers that his property will be injured by carrying out of the scheme shall, within the

period of one month, lodge at the Public Works department his objections in writing, and shall state to what amount he considers he will suffer loss if the scheme is carried out, and shall furnish full particulars of the estimated loss.

(5) After the expiration of the period of one month, the Public Works department shall transmit any objections made to the scheme, with a full report thereon, to the Colonial Secretary.

7.—(1) The Governor in Council after further considering the scheme referred to in the last preceding section, with all the objections thereto, and after hearing, if he considers it necessary to do so, either before the Council itself or any committee thereof, any of the persons interested, may make an order declaring the area of land, or any part thereof, to be a polder, and direct any works to be carried out for the irrigation and drainage of that polder, and may appoint some person to summon a meeting of the proprietors of the land in the polder for the purpose of electing an authority as hereinafter provided.

Power to
declare land
a polder.

(2) The order and direction of the Governor in Council shall be published in the Gazette.

(3) If the Legislative Council provides any necessary funds for executing the works ordered and directed by the Governor in Council to be carried out for the irrigation and drainage of the polder, the Public Works department shall carry out and execute those works for and on behalf of the authority.

8.—(1) No one shall be entitled to claim compensation for any alleged loss or injury in consequence of the carrying out of any works directed by the Governor in Council to be carried out under this Ordinance; but if any building is, or any growing crops are, damaged by reason of those works being carried out, any person entitled to the building or growing crops may apply to the magistrate of the district within which the land is situate to have the amount of his claim for the damage ascertained and certified.

Compensation
for damage
in certain
cases.

(2) The magistrate shall inquire what is the amount of damage occasioned, or estimated to be occasioned, by the works, and shall have the same power to inquire into the claim as if it were a complaint of petty debt and the

authority were the defendant, and shall, after investigation, certify under his hand the estimated amount of damage which the person so entitled has suffered or will suffer by the carrying out of the works.

(3) The amount certified shall be deemed part of the cost of the construction of the works and shall be paid in the same manner.

Power to
alter limits
of polder.

9.—(1) The Governor in Council may from time to time at the request of the authority hereinafter established, alter or amend his order, and may alter the limits of a polder.

(2) The Governor in Council, on the petition of the proprietors of land adjacent to any polder, and after notice thereof has been given by advertisement in the Gazette and in at least one newspaper, and after hearing any person who desires to be heard in opposition thereto and the authority, may order that the adjacent land be included in and form part of the polder.

POLDER AUTHORITIES.

Constitution
of authority.

10.—(1) The authority shall consist of five persons, elected by the proprietors of the land situate in the polder in the manner hereinafter provided.

(2) Every member of an authority shall, except as hereinafter provided, hold office for three years and shall then vacate his office, but shall be eligible for re-election.

(3) Whenever any member of an authority dies, becomes unable to act, is absent from six consecutive meetings without leave of absence, or resigns his office, another person shall be elected in his place and shall hold office for the remainder of the period for which he was elected.

(4) The authority may grant leave of absence to any member thereof for a period not exceeding six months, and absence during that leave shall not vacate his office.

Chairman of
authority :

11.—(1) The authority shall, except as hereafter in this section provided, elect a member of the authority to be chairman thereof.

(2) Where the Legislative Council has provided any money for the irrigation and drainage of any polder, or where moneys provided by that Council have been lent to the authority of any polder, the chairman of the authority

of that polder shall be appointed by the Governor in Council and shall be in addition to the five elected members of the authority, and shall have the same rights and powers as an elected member thereof :

Provided that, when and so soon as the money so lent to the authority has been repaid in full, the chairman so appointed shall cease to hold office, and thereafter the authority shall elect a chairman as before provided. Proviso.

(3) The chairman of an authority shall preside at its meetings and have both an original and a casting vote at all its meetings; in the absence of the chairman the members present at any meeting may elect any member to preside at that meeting.

12. At every meeting for the election of an authority the five persons having the majority of votes of proprietors present or voting shall be deemed to have been duly elected as the authority, and at any meeting for the election of a member of an authority in place of any member who has died, become unable to act, or has resigned, the person having the majority of votes as aforesaid shall be deemed to have been duly elected in place of that member. Mode of election of members of authority.

13. No meeting for the election, and no election, of any authority or any member of the authority shall take place until after two weeks' notice in writing of the meeting and its object has been given to each proprietor of land in the polder. Notice of meeting for election.

14.—(1) Every proprietor shall have one vote for each acre of land he possesses in the polder. Votes of proprietor for authority.

(2) The number of votes to which each proprietor is entitled shall be determined by the register book kept under section twenty of this Ordinance, or, in the case of a first election, by the plan prepared under section four of this Ordinance.

(3) Where any land is owned by more than one proprietor in undivided shares and each of the proprietors desires to vote separately, each of them shall have one vote for each acre of the number of acres obtained by multiplying the total number of acres of the land by the fraction representing the undivided interest of the proprietor in the whole land; where the number of acres so obtained is not a multiple of one, there shall be only one vote for each acre.

(4) Any proprietor of land may vote at any meeting by his duly constituted attorney.

(5) Any proprietor, or his duly constituted attorney may, without being present, vote at any meeting by intimating in writing what his vote is.

Temporary provision for election of authority.

15.—(1) As soon as practicable after a polder has been declared, a meeting shall be summoned, by the person appointed by the Governor in Council under section seven of this Ordinance, of all the proprietors of land situate in the polder for the purpose of electing an authority, and that person shall be chairman of the meeting.

(2) After the first election of an authority any meeting for the election of an authority or any member thereof shall be summoned by the authority or by its direction.

Election of new authority, or member.

16. Whenever the period for which an authority was elected has expired or is about to expire, or whenever a member of an authority has died, become unable to act, or has resigned, the authority shall summon a meeting of the proprietors to elect a new authority, or a member of the authority, as the case may be, and for the purposes of this section an authority shall be deemed to continue in office until the election of a new authority notwithstanding the expiration of the period for which it was elected.

Meetings, books.

17.—(1) The authority shall meet for the transaction of business as occasion may require.

(2) Three members shall form a quorum.

(3) A proper record shall be kept of all business transacted at any meeting of the authority.

Books of account.

18.—(1) The authority shall cause to be kept proper books of account showing in detail all moneys received and expended by it as authority.

(2) The books shall be open at all reasonable times to the inspection of any proprietor of land in the polder.

(3) As soon as practicable after the expiration of each year the authority shall cause a statement to be drawn up showing in detail all moneys received and expended for the past year, and shall cause a printed copy of the statement to be sent to each proprietor of land in the polder.

MEETINGS, POWERS, AND DUTIES OF AUTHORITY.

19. The polder authority of a polder shall have the following powers, that is to say, may—

Powers and duties of authority.

- (a) hold land for the purpose of this Ordinance, and for the construction of all works necessary for conserving and distributing water for the polder;
- (b) construct and maintain all works necessary for the irrigation and drainage of the polder;
- (c) employ the agents and servants they consider necessary; and every agent and servant entrusted with moneys shall give security for the faithful performance of his duties in the sum and in the manner from time to time directed by the authority;
- (d) enter into all contracts necessary or expedient for the proper carrying out of its duties;
- (e) assess and recover from the proprietors of land in the polder all moneys required or expended by it for the purposes of this Ordinance, including money for the repayment of loans;
- (f) regulate the supply of water and the means of taking and receiving it;
- (g) enter upon any land in the polder for the purpose of inspecting any dams, trenches, or sluices thereon, and do and execute any works or repairs which under any by-laws made by the authority, the owner or occupier of the land is bound, and has refused or neglected, to do and execute;
- (h) sue and be sued.

20.—(1) The authority shall keep a book (to be called the register book) in which shall be entered from time to time the names and areas of the land liable to be assessed and the names of the proprietors.

Register of proprietors of land in polder, registered address and service of process.

(2) A proprietor, or the attorney of a proprietor, of land liable to be assessed under this Ordinance may from time to time require his address for service (hereinafter referred to as the registered address) to be registered by the authority in the register book.

(3) All notices required to be sent, and all legal process, may be sent to or served at the registered address, and service thereat shall be deemed valid service for all purposes on the proprietor whose address is so registered.

(4) Where the proprietor, or the attorney of the proprietor, of any land fails or neglects to register an address for service, all notices required by this Ordinance to be given to, and all legal process to be served on, that proprietor or his attorney may be given or served by affixing the notice or process on the principal building on the land, and if there is no building thereon, then to some tree or other conspicuous object thereon, and a declaration, made before a justice of the peace by the person so affixing the notice or process, indorsed on a copy or duplicate thereof that the notice or process was duly given or served, and stating the mode of so doing, shall be deemed in all courts of justice to be *primâ facie* evidence that the notice or process was duly given or served.

Recovery of
assessments.

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21.—(1) The authority of a polder may recover all assessments and sums due to it from the proprietors of all land in the polder by parate or summary execution against those proprietors, or, whenever an assessment or sum does not exceed one hundred dollars, in the same manner as rates in villages and country districts are recoverable under the provisions of the Local Government Ordinance; and all the provisions of that Ordinance with respect to the recovery of rates in villages and country districts shall be deemed to apply to the recovery of assessments and sums due under this Ordinance, where they do not exceed one hundred dollars.

(2) A statement that any amount is due by the proprietor of any land in the polder purporting to be signed by the chairman of the authority shall, without further proof of the signature or any other matter, be deemed *primâ facie* proof that the amount stated is so due.

(3) All powers or things which may be exercised or done by the overseer or chairman of a local authority in relation to the recovery of rates in villages and country districts may be exercised or done by the chairman of the authority in relation to the recovery of assessments and sums due under this Ordinance.

(4) See s. 29 Ord. 30 of 1936.

22. When any property is brought to execution sale at the instance of an authority for non-payment of assessment and sums due under this Ordinance, the authority may—

- (a) purchase and receive transport, and may sell and pass transport, for the property;
- (b) carry on the cultivation of any property so purchased for a period not exceeding six months, but not longer without the approval of the

Powers of
authority
with respect
to property
sold for non-
payment of
assessments:

Governor in Council, and may do all things requisite, including the raising of money on loan, for carrying on the cultivation;

(c) mortgage any property so purchased :

Provided that (a) the purchase money of the property is not in excess of the total amount due to the authority, including both assessments and law costs; and (b) if the property, or any part thereof, is not required for the purpose of this Ordinance, the property or part not so required shall be sold at the earliest possible opportunity for the realization of the amount due. Proviso.

23. The authority may make by-laws for all or any of the following purposes, namely, for— By-laws.

- (a) regulating the proper distribution of the water among those entitled thereto;
- (b) regulating the manner in which the supply of water shall be afforded to or received by those entitled thereto;
- (c) regulating the manner in which water shall be discharged into any drainage trench;
- (d) preventing the fouling of the water in any reservoir or trench under the charge of the authority;
- (e) preventing injury to any of the works under its charge;
- (f) reserving strips of land around any reservoir or along the banks of any trench that are necessary for repairing and maintaining the reservoir and trench, and for passing around or along its banks;
- (g) regulating the use and the traffic over, along, or on the dams, trenches and reservoirs under the charge of the authority;
- (h) compelling the owners or occupiers of land in the polder to repair and maintain all dams, trenches, or sluices thereon;
- (i) generally securing the proper conservation of the water under the charge of the authority and preventing any waste thereof;
- (j) regulating the setting and making of fires in the open within the polder; and
- (k) generally, carrying into effect the objects and purposes of this Ordinance.

24.—(1) No by-law made by the authority shall take effect until it has been submitted to and confirmed by the Governor and Legislative Council, who may confirm, disallow, or alter it as they think proper. Approval of
by-laws.

Penalties.

(2) In the by-laws, the authority may impose a penalty not exceeding ten dollars for any offence against them and, in the case of a continuing offence, a further penalty of not exceeding twenty-four dollars for each day after written notice of the offence has been given by the authority or any of its officers or servants.

(3) All offences against the by-laws may be prosecuted under the Summary Jurisdiction Ordinances.

FINANCIAL PROVISIONS.

Power to borrow money.

25.—(1) The authority of any polder may, with the consent of the Governor in Council, raise money by loan for the purpose of executing, repairing, or maintaining any irrigation and drainage works in the polder, and the loan, if made out of money provided by the Legislative Council, shall be repaid in the manner, and instalments determined by the Governor in Council.

Repayment of loan made out of public moneys.

(2) The amount of any loan made out of moneys provided by the Legislative Council or of any instalment thereof shall be paid by the authority to the Colonial Treasurer, who, in default of payment, may recover the same by parate or summary execution against the polder as a whole.

(3) A statement that any amount is due by the authority of any polder purporting to be signed by the Colonial Treasurer shall, without any proof of the signature or any other matter, be deemed *primâ facie* proof that the amount stated is so due.

Preferent lien for loan out of public moneys.

(4) The Colonial Treasurer, for and on behalf of the colony, shall have a preferent lien upon all land in any polder (subject to any existing liens thereon in favour of the colony), for the repayment of the amount of any loan or any instalment thereof made to the authority of the polder under the two last preceding sub-sections out of money provided by the Legislative Council.

Preferent lien for loan not made out of public moneys.

(5) Where the authority of a polder borrows money other than money provided by the Legislative Council, the lender of the money shall have a preferent lien on all land in the polder over all other creditors, debts due to the Crown or the colony alone excepted.

When accounts to be audited by the Auditor.

26. When the Legislative Council has provided the necessary funds for executing any works under this Ordinance, the books and accounts of the authority shall be kept in the manner directed by the Auditor, and shall at all

reasonable times be open to his inspection or to the inspection of any person appointed by him, and a balance sheet shall be prepared annually by him of the assets and liabilities of the authority, and transmitted to the Governor in Council together with a report thereon.

SPECIAL PROVISIONS RELATING TO CANALS NO. 1 AND NO. 2 POLDER.

27. In the four next ensuing sections—

“the polder” means the polder, known as Canals No. 1 and No. 2 polder, declared a polder under the (repealed) Polder Ordinance, 1886;

“the authority” means the polder authority of that polder, constituted under this Ordinance.

Interpretation of “polder” and “authority” in these provisions.

28. The polder shall be deemed to be a polder under this Ordinance, and all the provisions of this Ordinance shall apply thereto, and any sum due by the authority thereof on account of moneys advanced to the authority, or expended on works in, or in connection with, the polder, may be recovered under this Ordinance, as if the moneys had been lent under the sanction of this Ordinance, and all sums due to the authority at the date of the commencement hereof may be recovered hereunder as if they were moneys due hereunder.

Polder to be a polder under this Ordinance.

29.—(1) The authority shall consist of a chairman, appointed by the Governor in Council, and six members elected by the proprietors of land in the polder.

Polder authority.

(2) For the purpose of the election of the members of the authority, the polder shall be divided into the three following divisions:

(a) so much of the polder as lies north of Canal No. 1;

(b) so much of the polder as lies between Canals Nos. 1 and 2;

(c) so much of the polder as lies south of Canal No. 2.

(3) For each division there shall be two members elected by the majority of votes of the proprietors of land therein, qualified to vote as provided by section fourteen of this Ordinance.

(4) The first election under this section shall take place on a date to be fixed by the Governor in Council by notice in the Gazette at least four weeks prior to that date.

Powers of
authority.

30.—(1) The authority may—

- (a) construct and maintain works, and supply services, of a limited or special nature, in respect of any defined portion of the area of the polder, and
- (b) assess and levy rates upon the proprietors within such portion of the area as, in the opinion of the authority, is benefited by the work or services.

(2) All the powers conferred by this Ordinance with respect to the recovery of assessments and sums due shall apply to rates levied under this section.

(3) No work or services aforesaid shall be undertaken unless a majority of the proprietors liable to be assessed for rates in respect thereof have agreed to the work or services being undertaken; and the authority shall publish in the Gazette and one newspaper a copy of the resolution to undertake the work or services, and any of those proprietors may, within one month from the date of the publication in the newspaper, appeal to the Governor in Council, who may confirm, alter, or reverse the decision of the authority.

Estimates of
authority.

31.—(1) The chairman of the authority shall, prior to the fifteenth day of November in every year, submit to the authority an estimate for the ensuing year, commencing on the first day of January, of expenditure for the purposes of any order relating to the polder and of the revenue required to meet it, and the rate or rates proposed to be levied for the purpose.

(2) The authority shall consider the estimate so submitted and, prior to the thirtieth day of November, make or adopt an estimate for the purposes mentioned in the last sub-section, and the chairman of the authority shall, not later than the first day of December, transmit to the Colonial Secretary the estimate so made or adopted.

(3) All estimates made by the authority shall be subject to the sanction of the Governor in Council, who may alter or amend any estimate.

(4) If the authority fails or neglects to make or adopt an estimate as heretofore in this section provided prior to the thirtieth day of November in any year, the chairman shall inform the Colonial Secretary not later than the first day of December, and the Governor in Council may make an estimate of the necessary expenditure and revenue and of the rate or rates to be levied.

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(5) Any estimate sanctioned by the Governor in Council under this section, whether originally made by the authority or as altered or amended by the Governor in Council, and any estimate made by the Governor in Council in pursuance of this section, shall be published during the month of December in the Gazette and one newspaper and shall be binding from the date of the publication in the Gazette.

MISCELLANEOUS PROVISIONS.

32. Whenever any Crown land or land belonging to the colony forms part of any polder declared under this Ordinance, or is comprised within the limits of any area of land sought to be declared a polder, the Commissioner of Lands and Mines, or any other person appointed by the Governor for the purpose, shall be deemed to be the proprietor of that land for the purposes of this Ordinance, and the Commissioner of Lands and Mines or other person, shall have in respect thereof all the rights and be subject to all the duties and obligations which by this Ordinance are conferred or imposed on the proprietor of any land in a polder.

Where Crown or colony land forms part of a polder.

33.—(1) Any polder under this Ordinance or any part thereof may be declared a district under the Local Government Ordinance, and in that case the local authority of that district shall, for the purposes of this Ordinance but not further or otherwise, be deemed to be the proprietor of the land occupied therein, and shall have in respect of that land all the rights, and be subject to all the duties and obligations, which by this Ordinance are conferred or imposed on the proprietor of land in a polder.

Power to declare polder a local government district.

Chapter 84.

(2) The local authority of the district may levy and recover the amount of any charges or other moneys due to it under this Ordinance by the proprietors of land comprised in the district, in the same manner as rates may be levied and recovered under the Local Government Ordinance, and those charges and moneys shall be deemed to be part of the expenditure of the district, and may be included in the annual estimate of expenditure of the district and levied and recovered accordingly under the last mentioned Ordinance.

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(3) If a district constituted under the Local Government Ordinance, is within the area of any land declared a polder under section seven of this Ordinance, the provisions of this section shall apply to that district as from the date of the order declaring the polder.

Chapter 84.

Chapter 84.

(4) The local authority of any district constituted under the Local Government Ordinance, shall be deemed to be the proprietor of the land therein for the purpose of petitioning to have land declared a polder under section three of this Ordinance.

Existing
by-laws or
regulations.

34. By-laws or regulations made under the (repealed) Polder Ordinance, 1886, and the Polder Ordinance, 1895, shall remain in force notwithstanding the repeal until and unless they are revoked, altered or amended by the authority under this Ordinance.
