

No. 25 OF 1952.

A LAW TO CONTROL AND ENCOURAGE THE MANUFACTURE OF CEMENT IN THE COLONY TO EMPOWER THE GOVERNOR TO GRANT A LICENCE IN RESPECT THEREOF AND IN RESPECT OF OTHER MATTERS CONNECTED THEREWITH AND TO REGULATE CERTAIN MATTERS INCIDENTAL THERETO.

A. B. WRIGHT,]

[7th November, 1952.

Governor.

BE it enacted by His Excellency the Governor and Commander-in-Chief of the Colony of Cyprus as follows :—

PART I.—PRELIMINARY.

1. This Law may be cited as the Cement Industry (Encouragement and Control) Law, 1952. Short title.

Interpreta-
tion.

2. In this Law—

“cement” means a product consisting principally of lime, silica, alumina and iron oxide or of some of such ingredients which has been calcined and ground to a fine powder that is capable of setting to a hard mass on hydration, but does not include pozzolanas lime mortars and plasters with a lime, gypsum or anhydrite base;

“Commissioner” means the Commissioner of the district in which the land is situate;

“Court” means the District Court of the district in which the land is situate;

“Crown land” includes any land either vested in the Crown, or owned, held and enjoyed by the Crown as Crown property;

“Director” means the Director of Land Registration and Surveys and includes any officer of his Department nominated by the Director for all or any of the purposes of this Law;

“land” includes any building or other structure or erection on any land, or any trees or other thing whatsoever planted or growing upon any land and any produce thereof before severance, or any water, or any right, interest, privilege, liberty or easement in or over any land or anything standing or flowing thereon or thereunder;

“owner” as applied to land means the person entitled to be registered as the owner thereof, whether he is registered or not;

“persons interested” includes all persons claiming an interest in compensation to be made in connection with the acquisition of land, or anything done along, over, across or under any land under this Law, and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;

“prospect” and “prospecting” includes all operations connected with the search for quarry materials and reasonably necessary to enable the prospector to test and ascertain the quarrying potentialities of the land;

“quarry” or “quarrying” means any operation for the purpose of obtaining or extracting any quarry materials by any mode or method;

“quarry materials” means the raw materials, excluding fuels, quarried and suitable for use in making cement and includes gypsum and iron ore.

PART II.—LICENSING.

3.—(1) Subject to the provisions of sub-sections (2) and (3), the Governor, when satisfied that for the more effective exploitation of quarry materials and the encouragement of

Power to
Governor
to grant
licence.

the manufacture of cement in the Colony, it is desirable to afford special facilities and in particular sufficient security of tenure in order to attract large capital sums and special technical experience without which the aforesaid purposes cannot be achieved, may, on the application of any person who satisfies the Governor that he commands the requisite capital and technical experience, grant to such person a licence (hereinafter referred to as "the licence") on such terms and conditions, upon the payment of such fees and for such period not exceeding ninety-nine years, as he thinks fit—

- (a) to manufacture cement and by-products and ancillary products of cement ;
- (b) to establish, equip, maintain and operate a plant or plants for the manufacture of cement and of such by-products and ancillary products and to carry on all operations incidental thereto ;
- (c) to prospect for and quarry any quarry materials within the area for which the licence was granted ;
- (d) to load, transport, store, pack, ship, distribute and sell cement and any such by-products or ancillary products ;
- (e) to construct and maintain at such places as the Governor may approve such buildings, structures, erections and works as may be shown to the satisfaction of the Governor to be required in connection with the matters set out in paragraphs (a) to (d) above.

(2) The Governor may, from time to time, with the written consent of the holder of the licence vary or amend any term or condition of the licence or add or cancel any term or condition thereof.

(3) At any time after the grant of the licence and during the currency thereof, no other licence shall be granted to prospect for and quarry any quarry materials within the same area for which the licence was granted.

4. Upon the grant by the Governor of the licence, a notice of such grant shall be published in the *Gazette*.

Notice in
Gazette of
grant of
licence.

5. Notwithstanding anything to the contrary in any other Law contained, the licence may provide for exempting the holder thereof, subject to such conditions as may be specified in the licence, from the payment of any customs duties upon any materials or goods imported into the Colony in respect of any of the purposes or objects of the said licence and upon which the licence was granted and for which such duties would be payable under the provisions of any Law for the time being in force.

Licence may
provide for
exemption
from
customs and
excise duties.

Licence may authorize acts in relation to public roads.

6.—(1) Notwithstanding anything to the contrary in any other Law contained, the licence may authorize the holder thereof, subject to such conditions as may be specified therein, and with the consent of the appropriate authority, for any permitted purpose—

- (a) to erect and maintain along, over or across, any public road any standards, poles, wires, cables, conduits or bridges ;
- (b) to break up the surface of any public road for the purpose of laying, maintaining or repairing, and to lay, maintain and repair under, along or across any such road, any pipes, cables, tunnels or conduits ;
- (c) during the performance of any of the acts referred to in paragraphs (a) and (b) of this sub-section, to obstruct, if necessary, passage over any such road.

(2) In this section—

“appropriate authority” means the authority or body having control of or bearing the expense of maintaining and repairing the public road ;

“permitted purpose” means the conveyance to or from any factory used by the holder of the licence for the manufacture of cement or by-products or ancillary products of any products of such factory, or of any raw material used in, or in connection with, such manufacture or any oil, water, gas or electricity so used, or any waste products resulting from such manufacture.

PART III.—PROSPECTING AND QUARRYING AND ACQUISITION OF LAND FOR QUARRYING OPERATIONS.

Rights to prospect under the licence.

7.—(1) Subject to the terms and conditions of the licence, the holder thereof shall have right to enter upon and prospect for any quarry materials on any Crown land within the area for which the licence was granted, and, subject to sub-section (2) hereof, on any private land within such area.

(2) Before prospecting on any such private land, the holder of the licence shall obtain the previous consent of its owner and, where the owner is not the occupier, the consent of the owner and of the occupier (both being persons interested) and in case such consent or consents is or are unreasonably withheld or it is impossible or impracticable to obtain such consent or consents, the special permission of the Governor :

Provided that the Governor may impose such terms and conditions in any such special permission as he may think fit.

8.—(1) The holder of the licence shall, on demand being made by the persons interested, make to them such payments as shall be a fair and reasonable compensation for any disturbance of the surface rights or any damage to such land or anything built, planted, grown or standing thereon as a result of any prospecting and, if such holder fails to pay compensation when demanded as aforesaid or if the persons interested are dissatisfied with the compensation offered, such persons may apply to the Director who, thereupon, shall assess and determine the amount of the compensation payable and shall notify the parties of the amount so awarded.

Payment of compensation for prospecting by the holder of the licence.

(2) If any of the parties is dissatisfied with the award of the Director, such party may, within fifteen days of such notification, appeal to the Court whose decision thereon shall be final and conclusive and shall, for all purposes, be deemed to be a judgment in a civil action and execution may be issued thereon accordingly as in sub-section (4) hereof provided.

(3) The amount finally awarded under this section, either by the Director or the Court, as the case may be, shall be paid by the holder of the licence to the Director for the account of the person entitled thereto within fifteen days of the date on which the amount of the award is notified to such holder and, if not so paid, the licence in respect of prospecting shall, irrespective of any other remedy, be suspended until the amount awarded has been paid or recovered as in sub-section (4) hereof provided.

(4) If the amount awarded by the Director or the Court is not paid within the time specified in sub-section (3), on filing with the Registrar of the Court a certificate under the hand of the Director or a copy of the order of the Court, as the case may be, specifying the amount of compensation awarded, execution may be issued thereon as on a judgment in a civil action.

9.—(1) Subject to the terms and conditions of the licence, the holder thereof may carry out any quarrying operations in respect of any quarry materials on any Crown land within the area for which the licence was granted and on any private land within such area, provided that the owner of the land on which quarrying operations are to be carried out consents to sell to him such land.

Rights to quarry under the licence.

(2) If the owner of any private land on which quarrying operations are to be carried out refuses to sell such land to the holder of the licence, the holder of the licence shall refer the matter to the Governor who, if satisfied that it is in the public interest that a particular quarrying operation

should be undertaken and that failure to acquire the land will seriously impede or prevent such operation, may, by a notice in the *Gazette*, sanction the acquisition of such land; and thereupon the land may be acquired and compensation therefor shall be paid as in this Law provided.

(3) If such owner and the holder of the licence cannot agree as to the purchase price of such land, the holder of the licence shall refer the matter to the Director, who shall assess the purchase price of such land and shall notify the parties of the purchase price assessed.

(4) If either of the parties is dissatisfied with the purchase price as assessed by the Director, such party may, within fifteen days of the notification of such assessment, appeal to the Court whose decision thereon shall be final and conclusive and shall, for all purposes, be deemed to be a judgment in a civil action and execution may be issued thereon accordingly as in sub-section (6) hereof provided.

(5) The purchase price finally assessed under this section, either by the Director or the Court, as the case may be, shall be paid, within fifteen days from the date of such assessment, by the holder of the licence to the Director for the account of the person entitled thereto, and, if not so paid, the licence in respect of prospecting shall, irrespective of any other remedy, be suspended until the amount awarded has been paid or recovered as in sub-section (6) hereof provided.

(6) If the amount awarded by the Director is not the subject of appeal and is not paid within the time specified in sub-section (5), on filing with the Registrar of the Court of a certificate under the hand of the Director or a copy of the order of the Court specifying the amount of compensation awarded, execution may be issued thereon as on a judgment in a civil action.

(7) Upon payment of the purchase price, the land shall vest in the holder of the licence free from all encumbrances and, thereupon, the Director shall cause the registration in the name of the owner of the land to be cancelled and registration of the same in the name of the holder of the licence to be effected.

(8) Where the consent required under sub-section (1) cannot be obtained for the reason that the owner of the land is a person under disability, or if in the opinion of the Director it is either impossible or impracticable to obtain such consent or the cost of obtaining such consent would be out of reasonable proportion to the value of the land to be purchased, then and in every such case the holder of the licence shall be entitled to purchase the land on depositing with the Director the purchase price thereof as assessed by the Director.

(9) Notwithstanding anything in this section contained, it shall be lawful for the holder of the licence to carry out quarrying operations on any private land within the area for which the licence has been granted pending the assessment by the Director of the purchase price of such land if he obtains the consent in writing of the Director so to do, and deposits with the Director such sum of money as would, in the opinion of the Director, be amply sufficient to cover the purchase price of the land.

(10) For the purposes of this section—

“purchase price” in respect of any private land shall be taken to be double the amount which the land, if sold in the open market by a willing seller, might be expected to realize without regard to any increase or decrease in value on account of operations being carried out or intended to be carried out for any of the purposes for which the acquisition has been made :

Provided that the Director, in assessing the purchase price, shall give consideration to all returns and assessments of capital or rental value for taxation made or acquiesced in by the owner.

PART IV.—COMPULSORY ACQUISITION OF LAND FOR PURPOSES OTHER THAN QUARRYING.

10. If at any time after the publication of a notice as in section 4 provided, the holder of the licence requires any land to be acquired compulsorily for any of the purposes specified in paragraph (b) or (e) of sub-section (1) of section 3 in respect of which the licence has been granted, the holder of the licence shall make application therefor to the Governor, accompanied by plans showing the particulars of the land to be acquired, and by a statement giving the particular reasons for the proposed compulsory acquisition, and, if the Governor is satisfied that *prima facie* the acquisition may proceed, he shall request the holder of the licence to deposit the plans and particulars with the Commissioner.

Plans and particulars to be submitted.

11.—(1) The holder of the licence, after depositing the plans and particulars as in section 10 provided, shall cause notices to be served (in the manner hereinafter provided) on all the persons interested in the land which it is proposed to acquire, notifying to them the proposed acquisition and informing them that they are at liberty to examine the plans and particulars of the land to be acquired at the office of the Commissioner and present any objection they may have to make thereto within fifteen days from the service thereof.

Notice to persons interested.

(2) At or after the expiration of the period of fifteen days from the service of the notices as in sub-section (1) provided, the Commissioner shall forward to the Governor the plans and particulars, together with the objections made, if any.

Sanction by Governor of acquisition of land.

12. If the Governor approves the plans and particulars submitted and considers it expedient, having regard to all the circumstances of the case, that the land in question shall be acquired, he may, by notification in the *Gazette*, sanction the acquisition of the land and, thereupon, the land shall be acquired and compensation, which may include compensation for damage occasioned by determination of a lease, shall be awarded for its acquisition in the manner hereinafter provided.

Refusal of sanction by Governor of acquisition.

13. If the Governor does not approve the plans and particulars or does not consider it expedient, having regard to all the circumstances, he may, by notice in the *Gazette*, refuse to sanction the acquisition of the land, and, in such case, the holder of the licence may submit fresh plans and particulars, and fresh proceedings under this Law may be taken.

Vesting land in the holder of the licence.

14. When the Governor has notified his sanction to the acquisition of any land, the land shall, thereupon, vest absolutely in the holder of the licence free from all encumbrances, and the notification of the Governor's sanction shall be sufficient authority to the Director to cause registration to be made or amendments of registration to be effected in accordance with the plans and particulars so approved by the Governor.

Reference to Court.

15. If, within fifteen days from the date of the notification of the Governor's sanction as in section 12 provided, the persons interested do not agree with the holder of the licence as to the compensation payable for the land so acquired, the holder of the licence shall, and any of the persons interested may, apply to the Court to refer the determination of the amount of the compensation to arbitrators and the Court shall, thereupon, order that a notice be served, in the manner hereinafter provided, on the holder of the licence or on any of the persons interested, as the case may be, and shall fix a day for the appearance of the parties before the Court.

Appointment of arbitrators and umpire.

16.—(1) On the day so fixed, if all the parties appear and each party names an arbitrator on his behalf, the Court shall appoint the arbitrators and, in the event of the arbitrators failing to agree, the Court shall be the umpire to decide between them.

(2) If any party fails to appear or refuses to appoint an arbitrator, the Court shall appoint an arbitrator on his behalf.

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(3) If the arbitrators fail to file their award within the time or extended time prescribed by the Court, the Court shall be the sole arbitrator.

(4) On appointing the arbitrators, the Court may prescribe the time within which the award may be filed and may extend it from time to time.

(5) The award made under this section shall, for all purposes, be final and conclusive.

17. In any arbitration held under this Part the arbitrators shall follow the same procedure, have the same powers, and in assessing the compensation, be guided by the same rules as those provided for on arbitration under the Land Acquisition Law or any other Law amending or substituted for the same. Procedure, etc., in arbitration. Cap. 233.

18. The Court may make any order it may think right as to the course and cost of the proceedings, including the amount of fees or expenses to be paid to the arbitrators or umpire, in connection with their arbitration and award, and may direct by whom they are to be paid. Fees to arbitrators or umpire.

PART V.—MISCELLANEOUS.

19. When any sum is payable to the owner of any land under Part III or Part IV, the Court may order that the whole or any portion thereof shall be paid to any mortgagee of the land in satisfaction in whole or in part of the sum secured by the mortgage, or to any lessees of the property, as compensation in respect of the determination of his tenancy, or to any judgment creditor who has registered his judgment in the manner provided by Law, in satisfaction in whole or in part of the sum due under the judgment. Distribution of sum awarded.

20. If any person refuses to accept any sum offered or ordered to be paid to him under the provisions of this Law, or is under disability or is absent from the Colony, the holder of the licence may pay the sum into Court to be paid to such person as the Court may direct on application made in that behalf. Payment into Court.

21. Where a notice or notification is required to be served or given under this Law, service shall be effected by delivery of the notice or notification to the person to be served or to be notified or, if he cannot be conveniently found, by leaving it at his usual place of abode with any adult inmate thereof: Service of notices and notifications.

Provided that, where service or notification is not effected by delivery of the notice or notification to the person to be served or to be notified, or where it is impossible or impracticable to ascertain the persons interested, the Court

may order that the notice be advertised in any newspaper, and that a copy of the notice or notification be posted on some conspicuous part of the land acquired or to be acquired.

Representation of persons absent or under disability.

22. Whenever it appears to the Court that any person interested is, on account of being absent from the Colony or on account of being under any disability, likely to be under any disadvantage in bringing forward his claim to compensation under the provisions of this Law, the Court may, on the application of the holder of the licence or of its own motion, order that such person be duly represented, and may generally give such direction as may secure the proper and just determination of his claim.

Rules of Court.

23. The Governor may, with the advice and assistance of the Chief Justice, make Rules of Court for any matter or proceeding had or taken before any Court under the provisions of this Law :

Provided that, until such Rules are made, such matters and proceedings shall be regulated in accordance with the Rules of Court in force for the time being.

Saving.

24. Nothing in this Law contained shall prejudice or affect, or shall be construed as prejudicing or affecting, the rights of Her Majesty, Her Heirs and Successors, or of any body politic or corporate, or of any person or persons, except such as are mentioned in this Law and those claiming by, from or under them.

J. FLETCHER-COOKE,
Colonial Secretary.

7th November, 1952.