

THE IRRIGATION ACT
ARRANGEMENT OF SECTIONS

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SCHEDULE

THE IRRIGATION ACT*

Cap. 168
Laws
40 of 1955,
72 of 1956.
Acts
9 of 1989,
36 of 1995
3rd Sch.,
7 of 1999,
27 of 2003.
Short title.

[23rd November, 1949.]

1. This Act may be cited as the Irrigation Act.

PART I. *Preliminary*

2. In this Act—

Interpreta-
tion.

“ancillary right” means any servitude acquired or proposed to be acquired by the Authority otherwise than with a view to its extinction;

7/1999
Sch.

“appropriate Clerk of the Courts” means the Clerk of the Resident Magistrate's Court for the parish in which was done or occurred the act or neglect in respect of which compensation is claimed under this Act;

“Authority” means any company licensed to be the Irrigation Authority pursuant to section 4;

7/1999
Sch.
7/1999
Sch.

“Black River area” means—

- (a) that portion of the Black River including the banks thereof, from the sea to Lacovia Bridge;
- (b) the Upper Morass area;
- (c) the Y. S. River area;
- (d) the areas described in the Additional Areas (Parish of St. Elizabeth) Reclamation Order, 1953, published in the Jamaica Gazette Supplement Proclamations, Rules and Regulations on the 26th day of January, 1953; and
- (e) such other areas in the parish of St. Elizabeth as the Minister may, by order, specify for the purposes of this Act;

“company” means a company incorporated under the Companies Act;

*This Act has been temporarily modified. See L.N. 25C/90.

72/1956
S. 2 (a).

“drainage” means the removal from land of any water which may be detrimental to the use or development of land for any purpose;

“irrigation” includes the inundation of agricultural land;

“irrigation area” means any area declared to be an irrigation area under section 3;

“interested party” means—

7/1999
Sch.

(a) in relation to the acquisition of any proprietary interest by the Authority, the person by whom such proprietary interest may lawfully be conveyed to the Authority; and

7/1999
Sch.

(b) in relation to the acquisition of any ancillary right by the Authority, every person in whom is vested any proprietary interest in the land over which such ancillary right is sought to be acquired; and

7/1999
Sch.

(c) in relation to any servitude, any person by whom such servitude may lawfully be extinguished;

7/1999
Sch.

“reclamation” means the recovery of the use of land previously inundated with water;

7/1999
Sch.

“reclamation scheme” means a scheme for the drainage and reclamation of any land;

“irrigation purposes” means the collection, impounding and distribution of water for irrigation within the irrigation area in relation to which the expression is used;

“irrigation scheme” means a scheme for implementing irrigation purposes in the irrigation area in relation to which the expression is used;

“provisional irrigation scheme” means an irrigation scheme prepared under this Act at any time before it becomes an approved irrigation scheme;

“approved irrigation scheme” means an irrigation scheme prepared under this Act and approved by the Minister

under section 12 at any time before it becomes a confirmed irrigation scheme;

“confirmed irrigation scheme” means an irrigation scheme prepared under this Act approved by the Minister and confirmed under section 13;

“irrigation works or work” or “reclamation works” includes every description of building, structure, excavation, well, tank, reservoir, dam, embankment, sluice, aqueduct, canal, trench, pipe, cable, wire, pump, appliances, plant, machinery or apparatus used or proposed or intended to be used—

7/1999
Sch.

- (a) for or in connection with any irrigation or drainage purpose; or
- (b) for the generation, conservation, storage, supply or distribution of power of any description for or in connection with any irrigation purpose; or
- (c) for facilitating communications of every description within or between any parcels of lands upon which are situated or are proposed to be situated any works of the nature referred to in paragraph (a) or in paragraph (b) of this definition;

72/1956
S 2 (b).

“proprietary interest” means any estate, interest, encumbrance or other right in, upon or over any lands the subsistence of which at law or in equity entitles or which at some future time or upon the happening of some future event (whether certain or uncertain), will entitle the person in whom it is vested, to be in or to enter into possession or occupation of those lands;

“restricted area” means any area declared to be a restricted area under section 3;

“servitude” includes any easement, profit or restrictive covenant, and any encumbrance or right (except an encumbrance or right created or conferred by Statute or a proprietary interest) the subsistence of which

at law or in equity in or over any land entitles or at some future time or upon the happening of some future event (whether certain or uncertain) will entitle, the person in whom such encumbrance or right is vested, to do or to require to be done or to require not to be done any act upon or in relation to the land in, upon or over which such encumbrance or right subsists;

“standard date” means the one hundred and eightieth day next before the first publication in the *Gazette* of the notice under section 9 in relation to the irrigation scheme under or for the purposes of the preparation of which is done the act in respect of which compensation is to be assessed under this Act;

7/1999
Sch.

“Upper Morass area” means all that area in the upper reaches of the Black River comprised within the boundaries set out in Part II of the Schedule;

Schedule.

36/1995
3rd Sch.

“water” has the same meaning as in the Water Resources Act;

72/1956
S. 2 (d).

“watercourse” includes any river, stream, creek, canal, drain, or any permanent and defined course for water, whether continuously containing water or not, and whether artificial or not, which is either wholly or in part within an irrigation area;

7/1999
Sch.

36/1995
3rd Sch.

“Water Resources Authority” means the Authority by that name established under section 3 of the Water Resources Act;

7/1999
Sch.

“Y.S. River area” means the portion of the Y.S. River, including the banks thereof, from its junction with the Black River to the bridge on the main road at Shaws Village;

9/1989
S. 2.

“functions” includes powers and duties.

Irrigation
areas

3.—(1) Subject to the provisions of subsection (2) the Minister may by order declare any area specified in the order to be—

- (a) an irrigation area; or
 - (b) a restricted area,
- for the purposes of this Act.

(2) Every order under subsection (1) shall be subject to affirmative resolution.

(3) Subject to subsections (1) and (2), the areas described in Part I of the Schedule shall be irrigation areas.

7/1999
Sch.
Schedule.

4.—(1) The Minister may, by order subject to affirmative resolution, license a company to be the Irrigation Authority for the purposes of this Act.

Licensing
of Irrigation
Authority.
7/1999
S. 2.

(2) The company licensed under subsection (1) shall be responsible for the implementation of the provisions of this Act in relation to all irrigation areas and restricted areas.

(3) A licence issued under this section may make provision for—

- (a) the imposition and collection by the Authority of—
 - (i) irrigation and drainage charges (including the collection of arrears accrued prior to the date of the licence);
 - (ii) charges in relation to the reclamation of land or the use of any watercourses;
- (b) the manner in which funds collected shall be utilized by the Authority.

(4) Where the Minister is satisfied that additional sums may be required to finance the functions of the Authority under this Act the Minister may, after consultation with the Minister responsible for finance, grant the additional sums to the Authority.

(5) Any sum granted under subsection (4) shall be paid out of the Consolidated Fund.

(6) An order under subsection (1) may vest in the Authority such functions under this Act as the Minister thinks fit for such period as may be specified in the order and, without prejudice to the generality of the foregoing, may contain provisions relating to the transfer to the Authority of—

(a) assets and liabilities—

(i) of any Irrigation Authority appointed under this Act and in existence immediately before the 26th day of March, 1999;

(ii) of the Black River Drainage and Irrigation Board; and

(iii) vested in the Commissioner of Lands in relation to the irrigation works constructed under the Rio Cobre Canal Law;

(b) the responsibility for the staff engaged in the work of any organization referred to in paragraph (a);

(c) such consequential, supplemental or ancillary provisions as appear to the Minister to be necessary or expedient for the purpose of giving effect to the order.

Cap. 343
(1953
Revised
Edn.
Omitted),

Duties of
Authority.
7/1999
Sch.

5. The general duties of the Authority shall be—

(a) to make such investigations and surveys and do such work as may be necessary for the preparation of and to prepare and submit to the Minister one or more provisional irrigation schemes in relation to an irrigation area; and

(b) to do all such acts or things as may be necessary to be done to give effect to any confirmed irrigation scheme; and

(c) to manage, control and operate, subject to any directions given by the Minister, any irrigation

7/1999
Sch.

- works established in an irrigation area under any confirmed irrigation scheme and the distribution of water under such scheme; and
- (d) to make such investigations into any matter affecting or relating to the irrigation of an irrigation area or any irrigation works therein as may be required by the Minister and if so required or without being so required if the Authority consider it expedient so to do to make recommendations to the Minister upon any such matter; and
- (e) to prepare and submit to the Minister for approval a reclamation scheme in relation to an irrigation area.

7/1999
Sch.7/1999
Sch.7/1999
Sch.

6.—(1) Notwithstanding anything to the contrary, the Authority may—

Power to
drain land.
72/1956
S. 3.

- (a) execute such reclamation, irrigation or drainage works as may be necessary for reclaiming, irrigating or draining an irrigation area and, for any such purposes, to alter or regulate the course of any watercourse;
- (b) bring upon, make, maintain on, or remove from, any part of the area, such dams, weirs, trenches, drains, outfalls, sluices, pipes, banks, appliances, plant, tools, or other things as may be required for any of the works referred to in paragraph (a) or any operations in connection with such works;
- (c) clean any watercourse and clear or remove from any such watercourse or from the banks thereof, any vegetation or tree (whether growing or not) and any log, refuse, soil or any obstacle whatsoever which obstructs or impedes, or which may obstruct or impede, the natural flow of water in the watercourse, and to place or deposit any matter or thing

7/1999
Sch.

so removed on any land adjacent to the water-course, but not beyond a distance of one chain measured from the top of the banks thereof :

Provided that nothing in this paragraph shall authorize interference with any works lawfully erected and maintained on any land or in any watercourse;

- (d) do all such other acts as may be necessary for the proper and efficient drainage of the area or of any part thereof.

(2) Subject to the provisions of subsections (3) and (4) the Authority may enter by their servants or agents upon any land within an irrigation area or upon land outside such irrigation area which is intersected by a water-course and there do at the expense of the Authority any work authorized by subsection (1).

7/1999
Sch.

(3) (a) Whenever it appears to the Authority that it is necessary to enter upon land which lies outside an irrigation area for any purpose set out in subsection (1) the Authority shall (after giving notice in writing accordingly to the occupier of such land) with the approval of the Minister cause a notification to that effect to be published in the *Gazette*; and thereupon the Authority may enter by their servants or agents upon such land and there do such acts as may be necessary for the purpose aforesaid :

7/1999
Sch.

Provided that it shall not be necessary before entering to cause such notification to be published in the *Gazette* in any case where the occupier of such land gives written permission to the Authority to enter, or in the case of an emergency.

(b) Before granting approval for the publication of a notification as aforesaid the Minister shall consider any objection which the occupier of such land may make in

writing within fourteen days after receiving notice from the Authority.

(c) The notice required to be given by the Authority to the occupier of such land shall—

- (i) state the time within and the manner in which objection (if any) to the entry of the Authority on such land may be made;
- (ii) be served either by delivering it to the occupier or by *sending it* in a prepaid registered letter addressed to him at his usual or last known place of abode.

(4) Save in the case of an emergency the power of entry conferred by subsection (2) shall not be exercised in respect of land within an irrigation area except—

7/1999
Sch.

- (a) with the prior consent of the occupier thereof; or
- (b) after giving such occupier at least seven days' notice in writing of intention to enter.

(5) For the purposes of this section "emergency" means any emergency caused by flood, hurricane, or any other *vis major* or act of God.

(6) So soon as may be convenient after any entry made under subsection (2), the Authority shall pay for any damage done, in accordance with the provisions of section 25.

7.—(1) The Authority may by notice in writing require the occupier of any land within an irrigation area to maintain, or to keep clean and *free from obstruction*, such drains as the Authority may deem necessary for the proper drainage of such land.

Authority
may require
occupier to
make,
maintain
or clean
drains.
72/1956
S. 3.
7/1999
Sch.

(2) Every such notice shall specify the works to be done and shall be served by leaving the same with the occupier, or the husband or wife of such occupier, or by affixing the same to some conspicuous spot on the land.

(3) Such occupier shall, within two days of the service of the notice as aforesaid, commence the work, and if such occupier has not completed the works specified in the notice within a reasonable time, the Authority may enter by their servants or agents upon such land and execute such works, and may deposit on such land any matter or thing removed from such drain and may recover from the occupier or owner of such land the expenses thereby incurred; and such expenses may be recovered in a civil action in the Resident Magistrate's Court of the parish without limit of amount:

7/1999
Sch.

Provided that the Authority may, if it thinks fit, permit the repayment of the expenses incurred in instalments over such period (not exceeding twelve months) as the Authority may determine.

PART II. *Preparation, Confirmation and Modification of Schemes*

Provisional
irrigation
schemes.
7/1999
Sch.

8.—(1) The Authority shall prepare so many and such provisional irrigation schemes as they may consider expedient for securing the most advantageous and economic use of water conveniently available for irrigation within an irrigation area.

7/1999
Sch.

(2) Every provisional irrigation scheme shall make such provision as may be most expedient for—

36/1995
3rd Sch.

(a) collecting water and for impounding and distributing any water collected for the purpose of irrigating lands within an irrigation area; and

7/1999
Sch.

(b) for the establishment, construction and operation of all irrigation works necessary for any of the matters referred to in paragraph (a); and

(c) for the acquisition by the Authority of such proprietary interests and for the extinction of all

such servitudes as may be necessary for any of the matters referred to in paragraph (a) or (b).

- (3) Every provisional irrigation scheme shall—
- (a) describe in general terms by reference to the plan referred to in paragraph (j) the lands capable of being economically irrigated under such scheme; and
 - (b) specify the sources from which it is proposed to obtain water for the irrigation of such lands and the quantity of water proposed to be obtained from each such source and indicate whether and the extent to which the proposed scheme has been approved by the Water Resources Authority; and
 - (c) describe in general terms the works (in this section referred to as the “proposed works”) necessary to be done for receiving, collecting, storing, conserving and distributing water for the purposes of irrigating such lands; and
 - (d) describe in general terms by reference to such plan any lands the acquisition of which by the Authority *may be necessary* for the construction, maintenance, protection or efficient operation of the proposed works or for the distribution of water under the scheme; and
 - (e) specify the ancillary rights proposed to be acquired over any lands depicted upon such plan; and
 - (f) specify the nature of any servitudes over any lands depicted upon such plan the continued existence of which is in the opinion of the Authority likely to be prejudicial to the construction, protection, maintenance or efficient operation of the proposed works or to the distribution of water under the scheme; and

36/1995
3rd Sch.

[The inclusion of this page is authorized by L.N. 3/2001]

- (g) estimate the capital cost of acquiring the lands and ancillary rights respectively referred to in paragraphs (d) and (e) and of securing the extinction of the servitudes referred to in paragraph (f) and of constructing the proposed works; and
- (h) estimate the approximate annual cost of maintaining the proposed works and of distributing water for irrigation purposes under the scheme; and
- (i) estimate the annual revenue which is likely to be derived by the Authority whether from the imposition of any charges under section 47 or otherwise consequent upon the operation of the scheme; and
- (j) be accompanied by a plan drawn to the prescribed scale depicting the lands upon which the proposed works are proposed to be done and the lands capable of being economically irrigated by such works.

7/1999
Sch.

(4) For the purpose of preparing any provisional irrigation scheme the Authority may, subject to the provisions of subsection (5) and of subsection (2) of section 23 and of subsection (1) of section 25, enter by their servants or agents upon any lands within an irrigation area and there gauge such rivers or streams, make such surveys, take such angles, measurements or levels (whether of land or of water), erect such structures and make such borings or excavations as in the opinion of the Authority may be necessary or expedient to be made or taken for such purpose.

7/1999
Sch.

(5) Where the Authority make any borings or excavations or erect any structures upon any land under subsection (4) the Authority shall at their own expense take such reasonable steps whether by fencing or otherwise as may be necessary to prevent such excavations, borings, or structures being a danger to persons using the land or to any animals upon the land.

9. So soon as may be after the preparation of any provisional irrigation scheme the Authority shall cause to be published in not less than three issues of the *Gazette* and at intervals of not less than seven nor more than ten days in three issues of a daily newspaper a notice—

Notification
of schemes.
7/1999
Sch.

- (a) specifying that the Authority have prepared a provisional irrigation scheme; and
- (b) specifying the locality to which the scheme relates; and
- (c) specifying some place within the parish in which the major portion of the proposed works is proposed to be situated where the scheme and the plan relating thereto may be inspected without fee during such period (not being less than fourteen days after the last publication of the notice in a daily newspaper) as may be specified in such notice upon such days and at such times as may be so specified; and
- (d) specifying the name and address of some person from whom copies of the scheme and of the plan relating thereto may be obtained on payment of a reasonable fee specified in such notice; and
- (e) stating that provision is made by section 10 for the making of objections to the scheme.

10.—(1) Subject to the provisions of this section every interested person may object to any provisional irrigation scheme upon the ground—

Objection to
Schemes.

- (a) that the scheme is for any reason impractical or unnecessary; or
- (b) that the scheme is likely to be uneconomic; or
- (c) that the quantity of water proposed to be abstracted under the scheme from any source of supply is so

36/1995
3rd Sch.

great as to be likely to occasion to such person substantial prejudice in the exercise of some right enjoyed by him under the Water Resources Act (whether within or without an irrigation area):

7/1999
Sch.

Provided that he has either—

- (a) actually exercised such right at the date of such objection; or
- (b) incurred capital expenditure or liability in reliance upon such right.

(2) Every person who desires to object to any provisional irrigation scheme under this section shall give notice in writing to the Authority within fourteen days after the expiration of the period referred to in paragraph (c) of section 9 of the ground of his objection and of the facts and reasons upon which he relies in support of such objection.

(3) In this section “interested person” means—

- (a) any person in whom is vested any freehold estate in any lands in an irrigation area; and
- (b) any person in whom is vested any term of years in any land in an irrigation area, the unexpired portion of which on the day on which such objection is made is not less than three years or who holds an option to renew such lease for a period of not less than three years; and
- (c) any person whose rights to abstract and use water under the Water Resources Act may be affected by the scheme.

7/1999
Sch.

7/1999
Sch.

36/1995
3rd Sch.

Transmis-
sion of
schemes
to Minister.

11. So soon as may be after the expiration of the period during which notice of objection to any provisional irrigation scheme may be given under section 10 the Authority shall transmit such scheme and objection made to such scheme under section 10 and the comments of the Authority upon such objection (if any) to the Minister.

12. Where the Minister is satisfied that the implementation of any provisional scheme is likely to be in the public interest he may in his absolute discretion by order declare the scheme, subject to such modifications as may be specified in such order, to be an approved scheme.

Approved
irrigation
scheme.
36/1995
3rd Sch.

13.—(1) So soon as may be after any irrigation scheme becomes an approved irrigation scheme the scheme as approved shall be laid on the respective Tables of both Houses of Parliament together with any objections to the provisional irrigation scheme on which the approved scheme was based.

Confirma-
tion of
approved
irrigation
schemes.

(2) Every approved irrigation scheme shall be subject to affirmative resolution and thereafter shall take effect as a confirmed scheme.

14.—(1) Where after any irrigation scheme has become a confirmed irrigation scheme the Minister is satisfied that it is for any reason necessary or expedient for such scheme to be amended in any manner which is likely substantially to increase the cost of such scheme or prejudicially to affect the rights of any persons affected by such scheme or of any other persons the Minister shall direct the Authority to prepare an amending irrigation scheme of such a nature as may effect such amendments to the confirmed scheme referred to in this section as may be necessary or expedient.

Amendment
of confirmed
schemes.

(2) The provisions of sections 9 to 13 shall apply to every amending irrigation scheme as they apply to every provisional irrigation scheme.

15. Where after any irrigation scheme has become a confirmed irrigation scheme the Minister is satisfied on the recommendation of the Authority that it is desirable for such scheme to be modified in any manner which is not

Modification
of confirmed
irrigation
scheme.

likely to entail any substantial increase in the cost of such scheme or to be prejudicial to the rights of any persons under such scheme the Minister may with the approval of both Houses of Parliament direct the Authority to modify such scheme in such manner as may be specified in such direction and thereupon such confirmed scheme shall be deemed to be and always to have been modified in the manner specified in such direction without prejudice, however, to anything done under the scheme before the date of such direction.

PART III. *Implementing of Schemes*

Authority to
implement
schemes.

16. So soon as may be after any irrigation scheme becomes a confirmed scheme the Authority shall acquire all such proprietary interests and ancillary rights and procure to be extinguished or extinguish all such servitudes, in or over any lands within the relevant irrigation area, and construct all such irrigation works as may be authorized by the scheme to be acquired, extinguished or constructed as the case may be and take all other lawful steps necessary to implement the confirmed irrigation scheme.

Acquisition
of interest
and ancillary
rights and
extinction of
servitudes
by agree-
ment.

17.—(1) Where any confirmed irrigation scheme authorizes the acquisition of any proprietary interest in or ancillary right over any land or the extinction of any servitude over any land the Authority shall so soon as may be after such irrigation scheme becomes a confirmed irrigation scheme give notice in writing to every interested party that unless such party within such period as may be specified in such notice (not being less than sixty days from the date of such notice) concludes an agreement with the Authority for the acquisition by the Authority of such proprietary interest or ancillary right or the extinction of such servitude as the case may be the Authority will forthwith proceed to acquire such proprietary interest or

ancillary right or to extinguish such servitude as the case may be under the provisions of section 18.

(2) Every notification under subsection (1) shall be accompanied by a copy of subsections (1), (2) and (3) of section 18.

(3) A copy of every notice under subsection (1) and of the provisions of subsections (1), (2) and (3) of section 18 shall be affixed to some prominent object upon or in close proximity to the land to which such notice relates so soon as may be after such notice is given to the interested party.

18.—(1) Where any person having been required so to do by notice in writing under section 17 fails within the period specified in such notice to enter into an agreement with the Authority of the nature referred to in such notice the Authority shall—

Compulsory vesting of estates interest and ancillary rights and extinction of easements and other rights

- (a) if such requirement related to the acquisition by the Authority of any proprietary interest or ancillary right, execute a vesting instrument in respect of such estate, interest or ancillary right; or
- (b) if such requirement related to the extinction of any servitude, execute a divesting declaration in respect of such servitude.

(2) Upon the execution of any vesting instrument under subsection (1) there shall vest in the Authority such proprietary interest or ancillary right as may be specified in such instrument in or over such lands as may be so specified.

(3) Upon the execution of any divesting declaration under subsection (1) any land specified in such declaration shall cease to be subject to such servitude as may be so specified.

(4) So soon as may be after the execution of any vesting instrument or of any divesting declaration under this section the Authority shall---

- (a) cause a copy of such vesting instrument or divesting declaration, as the case may be, to be served upon every interested party; and
- (b) give notice in writing to every interested party requiring him within such period as may be specified in such notice to enter into negotiations with the Authority with a view to the conclusion of an agreement between him and the Authority as to the payment of compensation in respect of the vesting in the Authority of the estate, interest, easement or right to which such vesting instrument relates or in respect of the extinction of the servitude to which such divesting declaration relates, as the case may be; and
- (c) cause a copy of such vesting instrument or divesting declaration, as the case may be, to be affixed to some prominent object upon or in close proximity to the land to which such vesting instrument or divesting declaration, as the case may be, relates: and
- (d) (i) if the title to the land to which the vesting instrument relates or the servitude to which the divesting declaration relates is registered under the Registration of Titles Act, make such application under that Act as may be appropriate to secure the registration of the estate, interest or ancillary right vested in the Authority by the vesting instrument or the removal from the register of the servitude which is extinguished by the divesting declaration, as the case may be; or

- (ii) in any other case cause the vesting instrument or the divesting declarations, as the case may be, to be recorded as a registered deed or writing under the Record Office Act.

19. Subject to the provisions of the Water Resources Act, the Authority may, within the relevant irrigation area abstract, divert and impound any water authorized by any irrigation scheme to be abstracted, diverted or impounded and may distribute any such water in accordance with the provisions of such scheme.

Power to abstract, divert and impound water.
36/1995
3rd Sch.
7/1999
Sch.

20.—(1) So soon as may be after the completion of any works authorized to be done under any confirmed irrigation scheme the Authority shall fix the time and mode of distribution of water from such works, and different times and different modes may be fixed in respect of different portions of an irrigation area.

Distribution of water.

7/1999
Sch.

(2) The Authority may in their discretion vary the times and modes of distribution fixed under subsection (1).

(3) The Authority shall give not less than one week's notice by advertisement in a daily newspaper of the times and modes of distribution of water fixed by them and of any variations thereof.

(4) Notwithstanding the foregoing provisions of this section the Authority may take such steps for regulating or shutting off the distribution of water in any case in which and to the extent that the Authority are satisfied that it is advisable to take such steps without complying with the foregoing provisions of this section.

(5) Notwithstanding anything to the contrary the Authority may grant to any owner or occupier of land within the irrigation area for some purpose other than

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irrigation, permission to obtain, use, or abstract water from any irrigation works within the area or from any water-course or channel connected therewith, on payment by such person of the prescribed fee :

Provided that the Authority may not grant permission as aforesaid without the sanction of the Water Resources Authority.

36/1995
3rd Sch.

Power to
withhold
water.
7/1999
Sch.

21. The Authority may refuse to allow water to be supplied or taken for the irrigation of lands in respect of which payment of charges is in arrears, or for the irrigation of lands which are not provided with proper banks for the retention of water; but the charges due in respect of such lands shall be payable notwithstanding such refusal.

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Sch.

Power to
inspect.

22.—(1) At any time after any irrigation scheme becomes a confirmed irrigation scheme the Authority may enter by their servants or agents upon any land within an irrigation area for the purpose of inspecting such land and any irrigation works thereon or any works established or maintained by the owner or occupier of such land in connection with or for the purposes of the use of any water supply to such land by the Authority.

7/1999
Sch.

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Sch.

(2) The right of entry under this section shall only be exercised during the hours of daylight and by a servant or agent of the Authority authorized in writing by the Authority either to inspect all lands within an irrigation area or the particular land in relation to which such power is exercised.

Power to
enter and do
work upon
land.

23.—(1) At any time after any irrigation scheme becomes a confirmed scheme the Authority may subject to the provisions of this section enter by their servants or agents upon any land within an irrigation area and there

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Sch.

do at the expense of the Authority any work authorized to be done under such confirmed scheme or necessary to be done for implementing such scheme.

(2) The power of entry conferred by this section shall not be exercised except—

- (a) with the prior consent of the occupier of such land; or
- (b) after seven days' notice in writing to such occupier of intention to exercise such right.

24. At any time after any irrigation scheme becomes a confirmed scheme under this Act the Authority may by notice in writing require the occupier of any land within an irrigation area to make such returns and to furnish such information to the Authority within such period and in such form as may be so specified in relation to the extent of the lands occupied by him or to the crops grown upon such lands or to the quantity of water used by him for the irrigation of such lands or desired to be used by him for the irrigation of such lands or as to the nature and condition of any works done or maintained by him upon such land for the purposes of the irrigation thereof as may be specified in such direction.

Power to
require
information.

7/1999
Sch.

PART IV. *Compensation, Enquiries, and Legal Proceedings*

36/1995
3rd Sch.

25.—(1) Subject to the provisions of this section compensation shall be payable under this Act in the following cases and no others—

Where com-
pensation
payable.

- (a) in respect of the vesting in the Authority by any vesting instrument under section 18 of any proprietary interest in any land to the person in whom such interest was vested immediately before the execution of such vesting instrument; and

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(b) in respect of the vesting in the Authority by any vesting instrument under section 18 of any ancillary right over any land to any person in whom immediately before the execution of such vesting instrument there was vested any proprietary interest in such land which is of such a nature as to be prejudicially affected by the vesting of such ancillary right in the Authority; and

(c) in respect of the extinction of any servitude by any divesting declaration under section 18 to the person in whom immediately before the execution of such instrument such servitude was vested; and

(d) in respect of any prejudicial effect to the existing water supplies of a person caused by any irrigation works constructed or authorized by or under the control of the Authority; and

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Sch.

(e) in respect of any act or neglect by any servant or agent of the Authority upon any land on which such servant or agent has entered in the exercise of any power conferred by this Act.

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Sch.

(2) In any case in which compensation is payable under this Act the compensation so payable shall be such sum as is agreed between the Authority and the person to whom compensation is payable or in default of agreement such sum as may be awarded, without limit of amount, by a Resident Magistrate's Court having jurisdiction in any part of the irrigation area in which the land concerned is situated, after an enquiry in accordance with the provisions of this Act.

36/1995
3rd Sch.

Compensation in respect of the acquisition of proprietary interests in land.
36/1995
3rd Sch.

26.—(1) In assessing the amount of compensation payable under this Act to any person in respect of the acquisition by the Authority by any vesting instrument of any proprietary interest in land the Resident Magistrate's Court—

(i) shall take the following and no other matters into consideration—

(a) the market value of such proprietorial interest at the standard date;

(b) any expenditure actually incurred by such person between the standard date and the date of the execution of the relevant vesting instrument upon the improvement of such proprietorial interest in respect of which the Resident Magistrate's Court is satisfied that such expenditure was incurred in good faith and not in contemplation of proceedings for the land being taken under this Act, diminished by such sum as in the opinion of the Resident Magistrate's Court is equivalent to the pecuniary value of the benefit actually derived by such person from such improvement between the making thereof and the date of the relevant vesting instrument;

36/1995
3rd Sch.

36/1995
3rd Sch.

(c) any increase in the value of the other land of such person likely to accrue from the use to which the land acquired will be put;

(d) the damage, if any, sustained by such person at the time of taking possession of the land by the Authority by reason of the severing of such land from the other land of such person;

(e) the damage, if any, sustained or likely to be sustained by such person at the time of the taking possession of the land by the Authority by reason of the acquisition injuriously affecting his other property

- (whether movable or immovable) or the actual earnings of such person;
- (f) the reasonable expenses, if any, incidental to any change of residence or place of business of any person interested which is necessary in consequence of the acquisition:
- (ii) shall not take the following matters into consideration—
- (a) the degree of urgency which has led to the acquisition;
- (b) any disinclination of the person interested to part with the land acquired;
- (c) any damage sustained by the person interested which, if caused by a private person, would not be a good cause of action;
- (d) any increase in the value of the land acquired which is likely to accrue from the use to which it will be put;
- (e) any outlay on additions or improvements to the land acquired, which was incurred after the date referred to in sub-paragraph (a) of paragraph (i).

(2) For the purposes of sub-paragraph (a) of paragraph (i) of subsection (1)—

- (a) if the market value of land has been increased by means of any improvement made by the owner or his predecessor in interest within two years immediately preceding the standard date, such increase shall be disregarded unless it be proved that the improvement was made *bona fide* and not in contemplation of proceedings for the land being taken under this Act;

- (b) when the value of land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any Court or is contrary to law or is detrimental to the health of the inmates of the premises or to the public health, the amount of that increase shall not be taken into account.

27. The amount of compensation which may be awarded to any person by any Resident Magistrate's Court in respect of the vesting in the Authority by any vesting instrument under this Act of any ancillary right in or over any land shall be such sum as in the opinion of the Resident Magistrate's Court is equivalent to the sum by which the market value on the standard date of any proprietary interest in such land which was vested in the person to whom compensation is payable on the day of the execution of such vesting instrument has been diminished by reason of the vesting in the Authority of such ancillary right.

Compensation payable in respect of acquisition of ancillary rights.
7/1999
Sch.

36/1995
3rd Sch.

28.—(1) The amount of compensation which may be awarded to any person by any Resident Magistrate's Court in respect of the extinction by any divesting declaration under section 18 of any servitude which immediately before the execution of such declaration was vested in such person shall be—

Compensation in respect of extinction of servitudes.
36/1995
3rd Sch.

- (a) if such servitude is a servitude appurtenant, a sum equivalent to the amount by which the market value of the dominant tenement on the standard date is diminished by reason of the extinction of such servitude or the sum which would have been payable if such servitude had not been a servitude appurtenant whichever is the greater; or

- (b) if such servitude is not a servitude appurtenant, such sum as is equivalent to ten times the sum by which the net income of the person to whom the sum is payable in respect of the year next after the day on which such servitude is extinguished is likely to be diminished by reason of such extinction.

(2) For the purposes of this section the net income of any person shall be determined in accordance with the principles of the Income Tax Act.

(3) In this section "servitude appurtenant" means any easement and any other servitude which runs with any land (in this section referred to as "the dominant tenement") other than the land over which such servitude exists.

Compensation in other cases.

36/1995
3rd Sch.

29. The amount of compensation payable to any person in respect of any act or neglect by any servant or agent upon any land on which such servant or agent has entered in the exercise of any powers conferred by this Act shall be such sum as in the opinion of the Resident Magistrate's Court is equivalent to the aggregate of any loss incurred by such person as a direct consequence of any injury or damage directly occasioned to such land or to any structure, tree, crop or animal thereon by such act or neglect and any expenditure reasonably incurred by such person consequent upon or with a view to preventing or mitigating the consequences of the occurrence of such damage or injury.

Restriction upon award of compensation.

30. Compensation shall not be awarded under this Act to any person unless—

- (a) before he files a claim under section 32 for the award of such compensation he has given the Authority not less than fourteen days' notice in writing of his intention to file such claim unless

before the expiration of such period of fourteen days the Authority pay to him in full satisfaction of his claim for compensation under this Act such sum as may be specified in such notice; and

- (b) the notice referred to in paragraph (a) is given and the claim, if any, is filed within six months after the occurrence of the act or neglect in respect of which compensation is payable.

31. No legal proceedings except proceedings for compensation under this Act or for the recovery of any sum agreed to be paid by way of compensation under this Act or for enforcing the payment of any sum awarded by way of compensation under this Act shall be instituted or maintained to recover damages or compensation from the Authority or any servant or agent of the Authority in respect of any act by the Authority or of any act or neglect by such servant or agent in the exercise of any power conferred under this Act in any case in which compensation is payable under this Act or would be so payable but for the provision of section 30.

Restriction
on right of
action.

7/1999
Sch.

7/1999
Sch.

32.—(1) Subject to the provisions of section 30 every person who is entitled to compensation under this Act may file a compensation claim with the appropriate Clerk of the Courts.

Compensa-
tion claims.

(2) Every compensation claim under this section shall specify—

- (a) the name of the person by whom the claim is made; and
 (b) [*Deleted by Act 7 of 1999.*]
 (c) the nature of the act or neglect in respect of which the claim is made; and

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- (d) in the case of a claim for compensation under paragraph (d) of subsection (1) of section 25 specify the date, time and place at which there occurred the act or neglect in respect of which such claim is made and, if known, the name of the person in respect of whose act or neglect such claim is made and full particulars of the damage or expenditure occasioned to the claimant by or consequent upon such act or neglect; and
- (e) the amount of compensation which is claimed.

(3) [*Deleted by Act 36 of 1995, 3rd Sch.*]

33. [*Deleted by Act 36 of 1995, 3rd Sch.*]

34. [*Deleted by Act 36 of 1995, 3rd Sch.*]

35. [*Deleted by Act 36 of 1995, 3rd Sch.*]

36. [*Deleted by Act 36 of 1995, 3rd Sch.*]

Damage to
irrigation
works.

37. In any case in which damage is done to any irrigation works the cost of repairing such damage may be recovered by the Authority from the person answerable for such damage by suit in any competent civil court. In any case in which the damage is caused by fire originating on adjoining or adjacent lands, the onus shall be on the owner of such lands to prove that he is not answerable for the damage.

Obstruction
or damage.

38. Every person who wilfully or maliciously blocks up or obstructs or causes to be in any way blocked up or obstructed, or who encroaches on or damages any irrigation works or watercourse, or who breaches or cuts through

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Sch.

the banks of the same, shall be liable on summary conviction before a Resident Magistrate to imprisonment for three years or to a fine of one hundred thousand dollars or to both such imprisonment and fine.

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Sch.

39.—(1) Every person who wilfully causes waste of water conserved by any irrigation works, or who not being entitled thereto wrongfully draws off or converts to his own use, water from such works or from any watercourse or channel connected therewith, shall be liable on summary conviction before a Resident Magistrate to imprisonment for three years or to a fine of one hundred thousand dollars or to both such imprisonment and fine.

Waste or
abstraction
of water.
72/1956
S. 5.

7/1999
Sch.

(2) Where such water is found to be used on the land of a person not entitled to the use thereof the onus shall be on such person of proving that he did not draw off or convert to his own use, or cause to be drawn off or converted to his own use, such water.

40. If the owner of any land irrigated by any irrigation works suffers or permits water obtained from such works or from any watercourse or channel connected therewith to run to waste on his land, or obtains water for such land from such works, watercourse, or channel, in a manner or at a time not authorized by the Authority, such owner shall be liable on summary conviction before a Resident Magistrate to a fine of one hundred thousand dollars.

Further pro-
vision as to
wasting
water.

7/1999
Sch.

41. If the owner or occupier of any land irrigated by any irrigation works, without the approval of the Authority, sells or supplies water obtained from such works to any person, such owner or occupier shall be liable on summary conviction before a Resident Magistrate to imprisonment for three months or to a fine of ten thousand dollars or to both such imprisonment and fine.

Resale of
water with-
out the
approval of
the author-
ity, unlaw-
ful.
72/1956
S. 6.

7/1999
Sch.

**Tampering
with irriga-
tion works.**

42.—(1) Every person who without the consent of the Authority opens or closes or otherwise tampers with any sluices, water gates, regulators, pipes, bench marks, water gauges or other works forming part of any of the irrigation works or reclamation works within an irrigation area shall be liable on summary conviction before a Resident Magistrate to imprisonment for three years or to a fine of one hundred thousand dollars or to both such fine and imprisonment.

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Sch.

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Sch.

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Sch.

(2) Where by reason of any irrigation works or reclamation works having been so tampered with, the land of any person is benefited, the onus shall be on such person of proving that he did not tamper therewith or cause them to be so tampered with.

**Obstruction
of officers.**
7/1999
Sch.

43. Every person who obstructs, molests, or hinders any workman, servant, or agent, of the Authority, acting in the lawful exercise of any power conferred upon the Authority by this Act, shall be liable on summary conviction before a Resident Magistrate to a fine of ten thousand dollars or to be imprisoned for any term not exceeding twelve months.

7/1999
Sch.

**Failure to
furnish
information.**

44. Every person who fails or neglects to make any return or to furnish any information which he is lawfully required to make or to furnish to the Authority under this Act within the period within which he is required to make such return or to furnish such information shall be guilty of an offence against this Act and on summary conviction before a Resident Magistrate shall be liable to a fine not exceeding ten thousand dollars or to be imprisoned for any term not exceeding twelve months.

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Sch.

**Failure to
attend and
give evi-
dence, etc.,
at compen-
sation en-
quiry.**

45. Every person who having been duly summoned to attend and to give evidence or to attend and to produce any documents or to attend and to give evidence and to

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produce any documents before any compensation enquiry without lawful excuse or neglects so to attend or having so attended fails, neglects or refuses without lawful excuse to produce any documents or to give any evidence shall be guilty of an offence against this section and on summary conviction before a Resident Magistrate shall be liable to a fine not exceeding one thousand dollars or to be imprisoned for any term not exceeding three months.

7/1999
Sch.

PART V. *[Deleted by Act 36 of 1995, 3rd Sch.]*

PART VI. *Rates and Financial Provisions*

47.—(1) It shall be lawful for the Authority with the approval of the Minister, by notification in the *Gazette*, to impose, in respect of all lands and watercourses within an irrigation area, such charges in relation to irrigation, drainage, reclamation and use as may be specified in the notice.

Imposition
of charges.
7/1999
Sch.

(2) The charges imposed pursuant to subsection (1) shall be paid at such times as may be determined by the Authority and to such person as the Authority may authorize for the purpose.

48. *[Deleted by Act 7 of 1999, Sch.]*

49. Notwithstanding the previous provisions of this Act, if the Authority, with the approval of the Minister, considers it just or expedient so to do, it may remit, in whole or in part any sums payable by way of irrigation charges in respect of all or any lands in an irrigation area, for any period specified by him.

Power of
Minister to
remit.
40/1955
S. 3.
7/1999
Sch.

Increase on
arrears.
7/1999
Sch.

50. Any irrigation charges not paid at the expiration of three months after they shall have become due shall be increased at the rate of ten *per centum* :

Provided that it shall be lawful for the Minister, if there shall appear to him to be just cause in any case for so doing, to remit such percentage increase in whole or in part.

Recovery of
charges and
percentage
increase.
7/1999
Sch.

51.—(1) Any irrigation charges not paid at the expiration of three months after they shall have become due and any percentage increase payable by virtue of section 50 shall, until paid, be a charge on the lands (including any buildings whatsoever standing thereon) in respect of which they have been imposed.

7/1999
Sch.

(2) Without prejudice to subsection (1), any irrigation charges not paid as aforesaid and any such percentage increase shall be recoverable by the Authority by action in the Resident Magistrate's Court for the parish in which the lands are situated (without limit of amount) from the owner for the time being of the lands in respect of which the charges have been imposed.

7/1999
Sch.

52. [*Deleted by Act 7 of 1999.*]

53. [*Deleted by Act 7 of 1999.*]

Accounts to
be audited.
7/1999
Sch.

54. The accounts of the Authority shall be audited at least once in each financial year by an auditor approved by the Minister.

Financial
statements,
estimates
and report.
7/1999
Sch.

55.—(1) The Authority shall prepare and submit to the Minister before the commencement of each financial year an estimate of the probable revenue and expenditure of the Authority during the forthcoming year.

(2) The Authority shall prepare and submit to the Minister so soon as may be after the end of any financial year a financial statement in relation to all revenue and expenditure received or incurred by the Authority during the preceding financial year. 7/1999
Sch.

(3) The Authority shall prepare and submit to the Minister so soon as may be after the end of each calendar year a report of their activities during such year. 7/1999
Sch.

(4) Every estimate, financial statement or report prepared and submitted to the Minister under this section shall be laid on the respective Tables of both Houses of Parliament.

PART VII. *Licences to carry out irrigation functions*

27/2003
S. 2.

56. In this Part—

Interpre-
tation.

“body corporate” means—

- (a) a company incorporated under the law of Jamaica;
- (b) a society registered under the Co-operative Societies Act; or
- (c) a specially authorized society referred to in section 3 (1)(c) of the Friendly Societies Act;

“licence” means a licence granted under section 57, and
“licensee” shall be construed accordingly;

“relevant irrigation area”, in relation to—

- (a) a licensee, means an irrigation area in respect of which a licence is granted to the licensee;
- (b) an applicant for a licence, means the irrigation area in respect of which the application is made.

Licensing of
bodies
corporate to
perform
irrigation
functions.
27/2003
S. 2.

57.—(1) Subject to the provisions of this Act, the Authority may, upon an application made to it under section 58 in respect of any irrigation area, license a body corporate to perform such of its duties and exercise such of its functions as are specified in the licence.

(2) No licence shall be granted under this section to any applicant unless the Authority is satisfied that the applicant—

- (a) is a body corporate having as its primary object the operation and management of irrigation works in the relevant irrigation area;
- (b) gives an undertaking to comply with the law in carrying out its functions pursuant to the licence;
- (c) possesses the technical and administrative qualifications to operate and manage irrigation works pertaining to the relevant irrigation area;
- (d) meets such requirements relating to environmental standards and system maintenance, as the Authority may prescribe; and
- (e) has a management structure that includes—
 - (i) a chief executive officer who shall be responsible for the day to day operations of the licensee, in respect of the relevant irrigation area; and
 - (ii) a chief technical officer who shall be responsible for the operation and maintenance of the equipment and plant of the irrigation works pertaining to the relevant irrigation area.

58.—(1) Applications for licences under section 57 shall be made to the Authority in the prescribed form, and shall be accompanied by—

Licensing
procedure.
27/2003
S. 2.

- (a) the prescribed fee;
- (b) two copies of the memorandum of association and articles of association of the applicant corporation or, in the case of a society registered under the Co-operative Societies Act or referred to in section 3(1)(c) of the Friendly Societies Act, two copies of the rules of the society;
- (c) two copies of a business plan for the viable operation of the relevant irrigation area by the applicant corporation.

(2) Upon receiving an application under this section, the Authority shall—

- (a) forward a copy of the application and a copy of each document referred to in subsection (1)(b) and (c), to the Office of Utilities Regulation; and
- (b) cause to be published in the *Gazette* and in at least one daily newspaper, not less than thirty days after the receipt of such application, a notice—
 - (i) specifying that the Authority has received application for a licence to exercise duties and functions in relation to the irrigation area;
 - (ii) specifying the locality to which those duties and functions relate;

- (iii) specifying the name of the applicant;
- (iv) outlining the duties and functions to be exercised by the applicant if the licence is granted; and
- (v) stating that comments or objections relating to the application may be submitted in writing to the Authority at a specified place or address within a specified time.

(3) The Authority shall not grant or refuse an application under this section unless the Authority has considered any comments received thereon from the Office of Utilities Regulation but if such comments are not received by the Authority within thirty days of the date of a request therefor, or such longer period as the Authority may in any case allow, the Authority may act without such comments.

(4) The Authority shall, within ninety days of receipt of an application in accordance with this section—

- (a) notify the applicant in writing as to whether the application is granted or refused and, where the application is refused, the reasons for the refusal; and
- (b) if the application is granted, cause the licence to be published in the *Gazette* no later than thirty days before the date on which the licence is to come into operation.

(5) The applicant or any interested person may appeal in writing, submitted to the Minister within fifteen days of—

- (a) receiving a notification under subsection 4(a);
or
- (b) the publication of a licence under subsection (4)(b),

against the grant or refusal of the licence, or against any provision contained in the licence.

(6) The Minister may, as he thinks fit, in relation to an appeal—

- (a) confirm the grant, refusal or provision, as the case may be;
- (b) in the case of an appeal against the grant of a licence, revoke the licence;
- (c) in the case of an appeal against the refusal of a licence, direct the Authority to grant the licence; or
- (d) delete or modify any provision of the licence.

(7) In subsection (5), "interested person" means any person—

- (a) in whom is vested any freehold estate in any lands in the relevant irrigation area;
- (b) in whom is vested any term of years in any land in an irrigation area, the unexpired portion of which on the day on which such objection is made is not less than three years or who holds an option to renew such lease for a period of not less than three years; and
- (c) whose rights to abstract and use water under the provisions of any law may be affected by the licence.

(8) Where the Office of Utilities Regulation determines that any application forwarded to it under this section falls within the functions of the Fair Trading Commission under the Fair Competition Act, the Office of Utilities Regulation shall so inform the Authority, and thereupon the provisions of subsections (2) and (3) shall apply, with the necessary modifications, in relation to the duties of the Authority as to the forwarding of documents to, and the consideration of comments received from, the Fair Trading Commission.

Form and
contents of
licence.
27/2003
S. 2.

59.—(1) A licence shall be in the prescribed form and shall contain such terms and conditions, if any, as the Authority thinks fit.

(2) Every licence shall specify the period of its duration, which in any event shall not exceed such maximum period as may be prescribed by the Authority.

(3) A licence may provide for—

- (a) the gradual transfer, over the period of the licence, of responsibility for the operation and management of irrigation works in the relevant irrigation area from the Authority to the licensee; and
- (b) the transfer to the licensee, during any period within the duration of the licence, of such staff, assets and liabilities of the Authority, as may be agreed between the Authority and the licensee.

(4) A licence shall direct that—

- (a) all rates or fees to be charged by the licensee by virtue of the licence shall be determined by the Office of Utilities Regulation acting on the advice of the authority and shall be subject to the approval of the Minister; and
- (b) the revenues derived from such rates or fees be applied for the purposes of the licensee's functions under the licence.

60.—(1) It shall be the duty of—

- (a) the Authority to furnish to the licensee; and
- (b) the licensee to furnish to the Authority,

Reports,
information
and
inspection.
27/2003
S. 2.

such information as may be requested for the purpose of facilitating compliance with the provisions of this Act or of any licence granted under this Act.

(2) Every licensee shall notify the Authority, in writing, of—

- (a) any change, or proposed change, in its operations, which may reasonably be expected to affect the licensee's ability to carry out any of its functions under the licence or under this Act;
- (b) any change, or proposed change, in the licensee's ownership or management structure, within seven days of having knowledge of the change or proposed change, as the case may be.

(3) Within six months after the end of each financial year, each licensee shall transmit to the Authority—

- (a) an audited statement of the licensee's accounts for that financial year; and
- (b) a report of the activities of the licensee during that financial year,

in respect of the relevant irrigation area.

(4) Each licensee shall retain a copy of every document required of it under subsection (3), for a period of ten years from the end of the financial year to which the document relates.

(5) Nothing contained in this Part or in any licence shall be construed as affecting the powers of the Authority to enter onto land or to require returns or information pursuant to section 22 (power to inspect), 23 (power to enter and do work upon land) or 24 (power to require information).

Compensation
payable by
licensee.

61.—(1) Compensation shall be payable by a licensee in respect of any act or neglect by any servant or agent of the licensee upon any land on which such servant or agent has entered in the exercise of any power conferred under this Act.

(2) The provisions of sections 25(2) (sum of compensation payable), 29 (compensation in other cases), 30 (restriction upon award of compensation), 31 (restriction on right of action) and 32 (compensation claims) shall apply, with the necessary modifications, to the payment of compensation under this section.

62. The Authority may, with the approval of the Minister, make regulations with respect to—

Regulations
under Part
VII.
27/2003
S. 2.

- (a) the form of applications for licences;
- (b) fees for licence applications;
- (c) the renewal, revocation or suspension of licences; and
- (d) the maximum duration of licences;
- (e) any other matter which it is necessary to prescribe pursuant to this Part.

PART VIII. *Miscellaneous*

63. [*Deleted by Act 7 of 1999.*]

64. The Minister may make regulations for the better carrying out of this Act and in particular but without prejudice to the generality of the foregoing for the prescribing of anything authorized to be prescribed under this Act.

Regulations.

65.—(1) Notwithstanding anything to the contrary in any law, a person who subdivides land which is irrigated by any irrigation works shall if so required by the Authority concerned make provision for, and bear the cost of, such extension of the irrigation works on such land as the Authority may determine and specify in a notice in writing to him.

Authority
may require
person
subdividing
land to
provide for
extension of
works.
72/1956
S. 8.

(2) Every such notice shall specify the time within which such extension shall be carried out and if the person aforesaid has not completed it within the time so specified the Authority may enter by their servants or agents upon such land and execute the works specified in the notice and

may recover from such person the expenses thereby incurred. Such expenses may be recovered in a civil action in the Resident Magistrate's Court of the parish without limit of amount.

*PART IX. Power to divest and transfer
functions of Authority*

Vesting of
assets and
liabilities.
7/1999
Sch.

66.—(1) In this section and section 67—

“former provisions” means the provisions of this Act as in force immediately before the 26th day of March, 1999;

“prescribed Authority” means—

- (a) the following Irrigation Authorities established by orders made under section 56 of the former provisions, that is to say—
 - (i) the Saint Dorothy Plain Irrigation Authorities;
 - (ii) the Mid-Clarendon Irrigation Authority;
 - (iii) the Hounslow Irrigation Authority;
 - (iv) the Braco Irrigation Authority; and
 - (v) the Yallahs Irrigation Authority;
- (b) the Rio Cobre Irrigation works constructed under the authority of the Rio Cobre Canal Law (now repealed) and vested in the Commissioner of Lands;
- (c) the Black River Drainage and Irrigation Board established under section 3 of the Black River (Upper Morass) Reclamation Act (now repealed).

(2) Upon the date of coming into effect of an order made under section 4, there shall be vested in the Authority without any conveyance, assignment or transfer all property which, on the day immediately prior to that date was held by a prescribed Authority including all interests, rights and easements in relation to such property.

(3) Any property vested pursuant to subsection (2) shall, in accordance with the terms and conditions applicable thereto at the date of vesting pursuant to subsection (2), continue to be subject to all and any trusts, debts, liabilities and obligations affecting the same.

67. All persons in the employment of a prescribed Authority immediately before the 26th day of March, 1999, shall from that date be employed by the Authority upon the like terms and conditions of employment.

Transfer of
staff of
prescribed
Authority.
7/1999
Sch.

SCHEDULE

(Section 3) 7/1999
Sch.

PART I

Irrigation Areas

1. The Black River Area.
2. The area irrigated or capable of being irrigated by any irrigation works constructed under the authority of the Rio Cobre Canal Law (now repealed).

PART II

The Upper Morass Area

All that parcel of land comprised within the area bounded by a line running as follows—

Starting at a point on the Lacovia Bridge; thence south-easterly along the main road to the village of Santa Cruz; thence north-easterly along the parochial road from Santa Cruz to the junction with the main road from Grossmond Bridge to Wilton; thence southerly along the main road to Wilton for a distance of 30 chains; thence due east in a straight line for a distance of 80 chains; thence on a bearing North 58 East in a straight line for a distance of 174 chains; thence in a straight line on a bearing approximately North 29 West to the 5th mile post on the main road from Wilton to Lancaster Cross Roads; thence along the main road from Lancaster Cross Roads through Elim to Barton's Bridge; thence along the main road from Barton's Bridge back to Lacovia Bridge, the starting point.