

THE IRRIGATION ACT

ORDERS
(under section 3)

The Mid-Clarendon (Irrigation Area) Order, 1950	L.N. 51/50 410/67
<i>Similar Orders made in respect of—</i>	
<i>The Saint Dorothy Plain</i>	L.N. 206/61 1/62
<i>Hounslow</i>	L.N. 188/69 333C/74
<i>Braco</i>	L.N. 34/84
<i>Yallahs</i>	L.N. 35E ¹ /94
<i>Seven Rivers</i>	L.N. 80 ¹ A/2002
<i>Pedro Plains (Beacon/Little Park)</i>	L.N. 154/2006

ORDER
(under section 4)

The Irrigation Authority (Licensing of the National Irrigation Commission Limited) Order, 2001	L.N. 135A/2001
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NOTICES
(under section 9) (Omitted)ORDER
(under section 12) (Omitted)NOTIFICATION
(under section 47)

The Irrigation and Drainage Charges Notification, 1995	L.Nn. 100/95 46D/96 128/96 20/98 59/98 111/2001 103/2003 107/2003 33/2004 73/2007
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ORDERS
(under section 56)

The Mid-Clarendon Irrigation Authority (Establishment) Order, 1950	L.N. 35/50 62/52 62/54 135/54 91/60
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Similar Orders made in respect of—

L.N. 207/61	<i>The Saint Dorothy Plain</i>
L.N. 133/69 9 ² C/83	<i>Hounslow</i>
L.N. 76/84	<i>Braco</i>
L.N. 80A/96	<i>Yallahs</i>

REGULATIONS
(under section 62)

L.N. 151D/2005 The Irrigation (Licences to carry out Irrigation Functions) Regulations, 2005

ORDER
(under section 66)

L.N. 35C¹/90
79C/96 The Irrigation Authorities (Vesting of Functions in the National Irrigation Commission Limited) Order, 1990

ORDER

(Omitted) *(saved by section 3(2) of Act 7 of 1999, made under section 2 of the Black River (Upper Morass) Reclamation Act (now repealed))*

SCHEMES

(Omitted) *(saved by section 3(2) of Act 7 of 1999, made under section 8 of the Black River (Upper Morass) Reclamation Act (now repealed))*

ORDER

(Omitted) *(saved by section 3(2) of Act 7 of 1999, made under section 30 of the Black River (Upper Morass) Reclamation Act (now repealed))*

THE IRRIGATION ACT

ORDER

(under section 3)

THE MID-CLARENDON (IRRIGATION AREA) ORDER, 1950

*(Made by the Governor in Executive Council on the 10th day of
February, 1950)*L.N. 51/50
Amd:
L.N. 410/67

1. This Order may be cited as the Mid-Clarendon (Irrigation Area) Order, 1950.
2. The area described in the Schedule is hereby declared to be an irrigation area for the purposes of the Act. Schedule.

SCHEDULE

(Paragraph 2)

THE MID-CLARENDON IRRIGATION AREA

Starting at the 35th Mile Post on the main road leading from Clarendon Park to Porus and proceeding generally southerly and easterly along the foot of the Mocho Mountains to a point on the eastern boundary of the parochial road leading from Jack Monday to Teak Pen, (this point being 1.25 miles north of the centre of the intersection at Jack Monday of the main road leading from May Pen to Four Paths and the parochial road leading to Teak Pen); thence south-westerly in a straight line to the centre of the fording where the Rio Minho is crossed by the parochial road leading from May Pen to Halse Hall; thence down the centre of the Rio Minho to the centre of the Parnassus Fording on the main road leading from Curatoe Hill to Parnassus; thence southerly along the eastern boundary of this last-mentioned main road to the north-eastern corner of its junction at Parnassus with the main road leading to Rest; thence south-westerly along the southern boundary of this last-mentioned main road to the easternmost corner of its junction at Cook's Gate with the main road leading to Race Course; thence in a straight line westerly through the property known as Sandy Gully Pen to the centre of the Baldwin's River or Main Savanna Gully; thence down the centre of this last-mentioned water course to its intersection with the eastern boundary of the parochial road leading from Osborne Store to Main Savanna; thence generally south-westerly along the eastern boundary of this last-mentioned parochial road to the north-eastern corner of its junction with the main road leading from Cook's Gate to Rest; thence south-westerly across this last-mentioned intersection to its south-eastern corner; thence south-westerly along the eastern boundary of the parochial road leading from Main Savanna to the north-eastern corner of its junction at Priddie's Church with the main road leading from Race Course to Rest; thence north-westerly in a straight line to the south-western corner of the junction at Rest of the main roads leading to Milk River, Toll Gate and Race Course; thence due west in a straight line to the foot of the Manchester Highlands; thence generally northerly along the foot of the Manchester Highlands to a point due west of the starting place; thence due east in a straight line back to the starting place together with all those parcels of land now known as Fort Simonds, formerly known as Manningsfield, parts of Old Yarmouth, Sandy Gully, Vere Irrigation Canal, New Yarmouth and Gimme-Me-Bit in the parish of Clarendon together containing by survey 2,210 acres 1 rood and 5 perches of the shapes and dimensions and butting as appear by the plan referred to in Certificate of Title registered at Volume 390 Folio 141 and said to belong to the Government of Jamaica.

[The inclusion of this page is authorized by L.N. 4/1976]

THE IRRIGATION ACT

ORDER
(under section 4)THE IRRIGATION AUTHORITY (LICENSING OF THE NATIONAL IRRIGATION
COMMISSION LIMITED) ORDER, 2001*(Made by the Minister on the 3rd day of September, 2001)*

L.N. 135A/2001

1. This Order may be cited as the Irrigation Authority (Licensing of the National Irrigation Commission Limited) Order, 2001.

Citation

2. This Order shall be read and construed subject in all respects to the Irrigation Act (hereinafter referred to as the Act) and the several words and expressions to which meanings are assigned by the Act shall have in this Order the same respective meanings.

Construction

3. In this Order—

Interpretation

“the Commission” means the National Irrigation Commission Limited, a company incorporated under the Companies Act;

“prescribed period” means a period of ten years beginning on the relevant date;

“relevant date” means the 17th day of September, 2001.

4.—(1) During the prescribed period the Commission is licensed to be the Irrigation Authority for the purposes of the Act.

Functions of the Commission, under the licence

(2) By the licence under paragraph (1), the Commission shall be responsible for the implementation of the provisions of the Act in relation to all irrigation areas and restricted areas.

5. The revenues derived from irrigation charges and drainage charges in relation to the reclamation of land or the use of any watercourses shall, during the prescribed period, be received by the Commission and shall be applied by the Commission for the purposes of the functions assigned to it by this Order.

Application of revenues

6. It shall be the duty of the Commission as far as is practicable in carrying out its functions under this Order, to seek to secure that the revenues referred to in paragraph 5 become at least sufficient to meet all sums properly chargeable to revenue account (including sums required for the repayment of loans and interest thereon).

General duty of the Commission as to finance

Collection
of arrears
accrued prior
to relevant
date.

7. The Commission may collect any amounts that are at the relevant date outstanding as irrigation charges or drainage charges under the Act.

Transfer of
staff of
Authority.

8. During the prescribed period, all persons in the employment of—

(a) a prescribed Authority; or

(b) the Commission as assignee of the functions of such Authority,

immediately prior to the relevant date shall as from that date be employed by the Commission upon the like terms and conditions of employment.

Contracts for
the management
or operation
of irrigation
works.

9. Subject to the provisions of the Act, the Commission may, with the prior approval of the Minister, enter into a contract with another party for that party to undertake the management or operation of any irrigation works specified in the contract, upon such terms and conditions as may be specified in the contract.

THE IRRIGATION ACT

NOTIFICATION

(under section 47)

THE IRRIGATION AND DRAINAGE CHARGES NOTIFICATION, 1995

(Made by the Commission with the approval of the Minister on the 16th day of August, 1995)

L.N. 100/95
Amdts.
 L.N. 46D/96
 128/96
 20/98
 59/98
 111/2000
 103/2003
 107/2003
 33/2004
 73/2007

[1st September, 1995.]

1. This Notification may be cited as the Irrigation and Drainage Charges Notification, 1995.

2.—(1) The irrigation charges specified in Part I of the Schedule are hereby imposed in respect of the water supplied or agreed to be supplied, to the categories of users so specified, within the irrigation areas specified in Part II of the Schedule.

Schedule

(2) The drainage charges specified in Part III of the Schedule are hereby imposed in respect of lands within—

- (a) the Upper Morass Area as described in the First Schedule to the Black River (Upper Morass) Reclamation Act; and
- (b) the Additional Areas (Parish of St. Elizabeth) Reclamation Order, 1953.

SCHEDULE (Paragraph 2)

PART I

IRRIGATION CHARGES

Agricultural Users

1. Service Charge—
- (a) On land not exceeding 5 acres (2 hectares) \$12.11 per acre per month (\$30.28 per hectare per month)
- (b) On land exceeding 5 acres (2 hectares) but not exceeding 10 acres (4 hectares) \$24.23 per acre per month (\$60.58 per hectare per month)
- (c) On land exceeding 10 acres (4 hectares) \$30.29 per acre per month (\$75.73 per hectare per month)
2. Demand Charge—
- (a) Where the amount of water used does not exceed 5,508 cubic metres \$0.78c per cubic metre
- (b) Where the amount of water used exceeds 5,508 cubic metres) \$0.78c per cubic metre for up to 5,508 cubic metres; and \$1.02 per cubic metre in excess of 5,508 cubic metres.

Non-Agricultural Users

Industrial Users	\$99.93 per '000 US gallons (\$26.40 per '000 litres)
Special Industrial Flow Through Rate ...	\$53.30 per '000 US gallons (\$14.08 per '000 litres)
National Water Commission	\$39.74 per '000 US gallons (\$10.50 per '000 litres)

SCHEDULE, *contd.*

PART II

IRRIGATION AREAS

1. The licensed area as defined in the Rio Cobre (National Irrigation Commission) Licence, 1988, issued under the Rio Cobre Canal Law (1938 Revised Edition of the Laws of Jamaica) as amended by the Rio Cobre Canal (Amendment) Act, 1988, Act 17 of 1988.
2. The Mid-Clarendon Irrigation Area.
3. The St. Dorothy Plain Irrigation Area.
4. The Hounslow Irrigation Area.
5. The Braco Irrigation Area.
6. The Yallahs Irrigation Area.

PART III

Drainage Charge	\$47.00 per acre (\$117.50 per hectare) per annum.
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THE IRRIGATION ACT

ORDER
(under section 56)THE MID-CLARENDON IRRIGATION AUTHORITY (ESTABLISHMENT)
ORDER, 1950*(Made by the Governor in Executive Council on the 12th day of
May, 1950)*L.N. 35/50
Amd: 62/52
L.N. 62/54
135/54
91/60

1. This Order may be cited as the Mid-Clarendon Irrigation Authority (Establishment) Order, 1950.
2. In this Order "the Authority" means the Authority established under paragraph 3.
- 3.—(1) There is hereby established an Irrigation Authority for the Mid-Clarendon Irrigation Area constituted under the Mid-Clarendon Irrigation Area Order, 1950.
(2) The corporate name of the Authority established under subparagraph (1) shall be the Mid-Clarendon Irrigation Authority.
- 4.—(1) The Authority shall consist of not more than eight members in addition to the chairman.
(2) The members of the Authority shall be appointed by the Minister by instrument in writing and, subject to the provisions of section 56 of the Act and paragraph 5 of this Order, shall hold office for such period not exceeding three years as the Minister may direct in such instrument.
(3) Every member shall be eligible for reappointment.
5. The Minister may at any time revoke the appointment of any member of the Authority if he thinks it expedient so to do.
6. Five members of the Authority shall constitute a quorum at any meeting of the Authority.

THE IRRIGATION ACT

REGULATIONS
(under section 62)THE IRRIGATION (LICENCES TO CARRY OUT IRRIGATION FUNCTIONS)
REGULATIONS, 2005

*(Made by the Commission with the approval of the Minister on the
10th day of November, 2005)*

L.N. 151D/2005

1. These Regulations may be cited as the Irrigation (Licences to carry out Irrigation Functions) Regulations, 2005.

2. In these Regulations, “licence” means a licence under section 57 of the Act.

3. An application for a licence shall contain the following particulars—

- (a) the name of the applicant corporation;
- (b) the date of incorporation of the applicant corporation;
- (c) a description of the organizational structure of the applicant corporation;
- (d) the name and qualifications of every officer of the applicant corporation;
- (e) the name of every director and of every member of the applicant corporation;
- (f) the irrigation area in respect of which the application is made; and
- (g) an undertaking by the applicant corporation to comply with the law and with such requirements relating to environmental standards and maintenance as may be prescribed pursuant to section 57 (2) (d) of the Act, in carrying out its functions pursuant to the licence.

4. A fee of fifty thousand dollars shall be paid upon the submission to the Authority of every application for a licence.

5. Subject to regulation 7, a licence shall be valid for a period of five years from the date on which the licence is granted, or such shorter period as may be specified in the licence, and may be renewed in accordance with regulation 6.

6. The Authority shall, upon the written application of the licensee submitted before the date of expiration of the licence, renew the licence if the Authority is satisfied that—

- (a) the licensee has not contravened any term or condition of the licence or any provision of the Act or of regulations made under the Act;
- (b) the conditions specified in section 57 (2) of the Act for the grant of a licence continue to exist in relation to the licensee.

7.—(1) The Authority may act in accordance with sub-paragraph (2) where the Authority has grounds to believe that—

- (a) a licensee has contravened any term or condition of the licence or any provision of the Act or of regulations made under the Act;
- (b) a licensee has knowingly made a false statement or a material misrepresentation in an application for a licence;
- (c) the conditions specified in section 57 (2) of the Act for the grant of a licence no longer exist in relation to a licensee; or
- (d) a licensee has provided services not authorized by the licence.

(2) The Authority shall—

- (a) give to the licensee a notice in writing—
 - (i) specifying the particulars of the relevant matter referred to in paragraph (1);
 - (ii) directing the licensee to take, within the time stipulated in the notice, such specified steps (if any) as the Authority thinks necessary to remedy the matter; and
 - (iii) informing the licensee of his entitlement to be heard under sub-paragraph (b); and
 - (b) afford the licensee an opportunity to be heard in relation to the matter, if the licensee so requests in writing delivered to the Authority within fifteen days after notice is given under sub-paragraph (a).
- (3) After complying with sub-paragraph (2), the Authority may—
- (a) suspend the licence for a period not exceeding six months, if the Authority is satisfied that—
 - (i) the licensee has failed to comply with any direction made under sub-paragraph (2) (a); and
 - (ii) the contravention in respect of which the notice was issued still exists in relation to the licensee; or
 - (b) suspend the licence for a period exceeding six months or revoke the licence if the Authority is satisfied—

- (i) as to the matters referred to in sub-paragraph (a) (i) and (ii) and that a notice under sub-paragraph (2) has been issued to the licensee on any one or more previous occasion; or
- (ii) that the matter is incapable of being remedied.

(4) Before acting under sub-paragraph (3), the Authority shall inform the licensee of its intention to act under that sub-paragraph and afford the licensee thirty days within which to show cause why the Authority should not so act.

(5) Where the Authority suspends or revokes a licence under sub-paragraph (3), the Authority shall—

- (a) inform the licensee in writing of its decision; and
- (b) publish a notice of the suspension or revocation, as the case may be, in the *Gazette*.

(6) The Authority shall send to the Minister a copy of every notice given under this regulation.

(7) Where any information or notice required under paragraph (5) relates to the suspension of a licence, the information or notice, as the case may be, shall specify the period of the suspension.

(8) Directions under paragraph (2) (a) (ii) may include a direction to cease the doing of any act that contravenes any term or condition of a licence or any provision of the Act or of regulations made under the Act.

8.—(1) The Authority may, where it considers it expedient to do so, hold or cause to be held an investigation—

- (a) to determine whether any licence granted under Part VII of the Act should be suspended, revoked, renewed or re-instated;
- (b) in respect of the breach of any provision of the Act, regulations made under the Act or the terms or conditions of any licence; or
- (c) as respects any matter related to or connected with its powers under Part VII of the Act, so as to determine whether any of such functions should be exercised.

(2) With respect to any investigation under paragraph (1), the following provisions shall have effect—

- (a) the persons holding the investigation (hereinafter referred to as the Tribunal) shall do so in such manner and under such conditions as the Tribunal thinks most effectual for ascertaining the facts of the matter under investigation;

- (b) the Tribunal shall have for the purposes of the investigation all the powers of a Resident Magistrate to summon witnesses, call for the production of books and documents and to examine witnesses and the parties concerned on oath;
- (c) any person summoned to attend or to produce books or documents under this regulation, who refuses or neglects to do so, or refuses to answer any question put to him by or with the concurrence of the Tribunal, commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months:

Provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such investigation be entitled to the same privileges to which he would be entitled if giving evidence before a court;

- (d) any witness attending at the request of, or upon summons by, the Tribunal shall, subject to any order made by the Tribunal, be entitled to allowances for expenses as if summoned to attend a Resident Magistrate's Court.

9.—(1) An applicant for a licence may appeal in writing to the Minister against any refusal of the Authority to grant a licence, within thirty days of being informed of the refusal.

(2) A licensee may appeal in writing to the Minister against—

- (a) any decision of the Authority to suspend or revoke the licence; or
- (b) any term or condition of the licence, within thirty days of being informed thereof.

(3) After considering an appeal under paragraph (1) or (2) and hearing any representations made by the Authority, the Minister may—

- (a) in the case of an appeal under paragraph (1)—
 - (i) confirm the decision of the Authority; or
 - (ii) direct the Authority to issue the licence, for such period and subject to such terms and conditions as the Minister thinks fit;
- (b) in the case of an appeal under paragraph (2)—
 - (i) confirm the decision of the Authority; or
 - (ii) cancel the decision and re-instate the licence subject to such terms and conditions (if any) as the Minister thinks fit.

THE IRRIGATION ACT

ORDER
(under section 66)THE IRRIGATION AUTHORITIES (VESTING OF FUNCTIONS IN THE
NATIONAL IRRIGATION COMMISSION LIMITED) ORDER, 1990*(Made by the Minister on the 27th day of March, 1990)*L.N. 25C/90
Amdt
L.N. 79C/96
Citation

1. This Order may be cited as the Irrigation Authorities (Vesting of Functions in the National Irrigation Commission Limited) Order, 1990.

2. This Order shall be read and construed subject in all respects to the Irrigation Act (hereinafter referred to as the Act) and the several words and expressions to which meanings are assigned by the Act shall have in this Order the same respective meanings.

Construction

3. In this Order—

Interpretation

“the Commission” means the National Irrigation Commission Limited, a company incorporated under the Companies Act;

“prescribed Authority” means—

- (a) the Saint Dorothy Plain Irrigation Authority;
- (b) the Mid-Clarendon Irrigation Authority;
- (c) the Hounslow Irrigation Authority;
- (d) the Braco Irrigation Authority; and
- (e) the Yallahs Irrigation Authority,

established by orders made under section 56 of the Act;

“prescribed irrigation area” means—

- (a) the Saint Dorothy Plain Irrigation Area;
- (b) the Mid-Clarendon Irrigation Area;
- (c) the Hounslow Irrigation Area;
- (d) the Braco Irrigation Area; and
- (e) the Yallahs Irrigation Area,

declared as such by the Minister by orders made under section 3 of the Act;

“prescribed period” means a period of ten years beginning on the relevant date;

“relevant date” means the 4th day of April, 1990.

Vesting of functions of prescribed Authority in Commission.

4. During the prescribed period every prescribed Authority shall be divested of the functions conferred on it under the Act and those functions shall, during that period, be vested in the Commission.

Vesting of assets and liabilities, etc., in Commission.

5.—(1) During the prescribed period there shall be vested in the Commission without any conveyance, assignment or transfer all property which, on the day immediately prior to the relevant date, was held by a prescribed Authority, including all interests, rights and easements in relation to such property.

(2) Any property vested pursuant to sub-paragraph (1) shall continue to be subject to all and any trusts, debts, liabilities and obligations affecting the same.

Transfer of responsibility for staff of prescribed Authority to Commission.

6. Unless and until other arrangements are made with the approval of the Minister, all persons in the employment of a prescribed Authority immediately prior to the relevant date shall as from that date be employed by the Commission upon the like terms and conditions of employment.

Application of revenues.

7. Notwithstanding anything contained in Part VI of the Act, the revenues derived from irrigation rates and dues shall, during the prescribed period, be received by the Commission and shall be applied by the Commission for the purposes of the functions vested in it by this Order.

General duty of Commission as to finance.

8. It shall be the duty of the Commission as far as is practicable in carrying out its functions under this Order, to seek to secure that the revenues referred to in paragraph 7 become at least sufficient to meet all sums properly chargeable to revenue account (including sums required for the repayment of loans and interest thereon).

Power of Minister to grant additional sums.

9. Where the Minister is satisfied that additional sums may be required to finance the functions of the Commission under this Order the Minister may grant the additional sums to the Commission and any sums so granted shall be paid out of the Consolidated Fund.

Collection of arrears accrued prior to relevant date.

10. The Commission may collect any amounts which are at the relevant date outstanding as irrigation rates and dues under the Act.