



LAWS OF KENYA



IRRIGATION ACT

CHAPTER 347

Revised Edition 2012 [1986]

Published by the National Council for Law Reporting
with the Authority of the Attorney-General

www.kenyalaw.org

CHAPTER 347

IRRIGATION ACT

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

Section

1. Short title.
2. Interpretation.

PART II – ESTABLISHMENT AND INCORPORATION OF BOARD

3. Establishment and incorporation of Board.
4. Authentication of seal and proof of documents.
5. Meetings of Board.
6. Appointment of secretary and other officers and staff.
7. Appointment and powers of agents.
8. Committees of Board.
9. Delegation of powers.
10. Remuneration and expenses.
11. General Manager.
12. Declaration of interest.

PART III – FUNCTIONS AND POWERS OF BOARD

13. Directions of Minister.
14. Designation of national irrigation schemes and vesting of land.
15. Functions and powers of Board.

PART IV – FINANCIAL PROVISIONS

16. *Repealed.*
17. Establishment and operation of general fund and other funds, and investment of funds.
18. Board's powers with regard to receipt of moneys.
19. Borrowing powers of Board.
20. Special application of revenues.
21. Accounts.
22. Audit.
23. Annual report.

PART V – GENERAL

24. Board to appoint advisory committees.
25. Protection of Board, etc., from liability.
26. Appeals.
27. Regulations.

SCHEDULE – CONSTITUTION OF BOARD AND OTHER MATTERS
RELATING TO BOARD

CHAPTER 347

IRRIGATION ACT

[Date of assent: 11th March, 1966.]

[Date of commencement: 24th June, 1966.]

An Act of Parliament to provide for the development, control and improvement of irrigation schemes, and for purposes incidental thereto and connected therewith

[L.N. 243/1976, Act No. 6 of 1979, Act No. 13 of 1988, Act No. 5 of 2007.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Irrigation Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**agriculture**” and “**agricultural produce**” have the meanings assigned to those expressions in the Agriculture Act (Cap. 318);

“**Board**” means the National Irrigation Board established by section 3;

“**national irrigation scheme**” means an area of land designated as a national irrigation scheme under section 14.

[Act No. 6 of 1979, Sch.]

PART II – ESTABLISHMENT AND INCORPORATION OF BOARD

3. Establishment and incorporation of Board

(1) There is hereby established a Board, to be known as the National Irrigation Board, which shall be a body corporate having perpetual succession and a common seal, with power to sue and be sued, and capable of purchasing or otherwise acquiring, holding, managing and disposing of any property movable or immovable, entering into contracts, and doing all things necessary for the proper performance of its duties, and discharge of its functions under this Act and any subsidiary legislation made thereunder.

(2) The provisions of the Schedule shall have effect as to the constitution, membership, proceedings of and otherwise in relation to the Board.

(3) The Minister may, subject to this Act and on the advice of the Board, by order amend the Schedule.

4. Authentication of seal and proof of documents

(1) The affixing of the seal of the Board shall be authenticated by the signature of the chairman, the vice-chairman or one member of the Board duly authorized by the Board in that behalf, and the signature of the secretary to the Board.

(2) Any document, other than one required by law to be under seal, made by and any decision of, the Board may be signified under the hand of the chairman, or the vice-chairman, or any member of the Board authorized by the Board in that behalf, or the secretary to the Board.

(3) Any document purporting to be a document duly executed or issued or signified under the seal of the Board, or on behalf of the Board in accordance with this section, shall be received in evidence, and shall be deemed to be a document so executed or issued or signified, as the case may be, without further proof, unless the contrary is shown.

5. Meetings of Board

(1) The Board shall be convened by the chairman at least four times in every year.

(2) The chairman may at any time convene a special meeting of the Board, and shall do so within one month of the receipt by him of a written requisition signed by at least three members.

(3) At every meeting of the Board, the member presiding shall have a casting as well as a deliberative vote.

(4) The quorum of the Board shall be eight.

(5) Subject to subsection (4), no act, decision or proceeding of the Board shall be questioned on account of any vacancy in the membership thereof or on account of any defect or failure in the appointment of any of its members.

6. Appointment of secretary and other officers and staff

(1) The Board may appoint and employ a secretary and such other officers and servants as may be necessary or desirable for the efficient conduct and operation of the Board.

(2) The Board may establish and make contributions to a pension, superannuation, provident or medical fund or other contributory scheme for its officers and servants, and may grant pensions, gratuities, retiring allowances or sickness or injury benefits to any officers and servants, and may require such officers and servants to contribute to any pension, superannuation, provident or medical fund or contributory scheme.

7. Appointment and powers of agents

The Board may from time to time appoint and employ upon such terms and conditions as it thinks fit any persons or bodies of persons, corporate or unincorporated, to be its agents for the purposes of this Act, and every such agent shall, subject to such limitations as the Board may in each case impose, exercise on behalf of the Board all the powers conferred by this Act or by any subsidiary legislation made thereunder on the Board.

8. Committees of Board

The Board may from time to time appoint committees, whether of its own members or otherwise, to carry out such general or special functions as may be specified by the Board.

9. Delegation of powers

The Board may, by resolution, delegate to any committee, member, officer, servant or agent of the Board the exercise of the powers or the performance of any of the functions or duties which the Board is authorized or required by this Act to exercise or perform, either generally or in any particular case.

10. Remuneration and expenses

(1) The members of the Board (other than public officers in receipt of a salary as such) shall be paid out of the funds of the Board such remuneration as the Board, with the approval of the Minister, shall determine.

(2) The officers, servants and agents of the Board shall be paid out of the funds of the Board such remuneration as the Board may from time to time determine.

(3) The Board may, in its discretion, refund such travelling and other expenses as may reasonably have been incurred by its members, officers, servants and agents in the performance of their duties under this Act.

11. General Manager

(1) There shall be an officer of the Board, to be known as the General Manager, who shall be appointed by the Board, subject to the approval of the Minister, and who shall be responsible for the execution of the policy of the Board and for the control and management of its day to day business.

(2) The Board shall delegate to the General Manager such of its functions under this Act as are necessary to transact effectively the day-to-day business of the Board of any kind whatsoever, and in particular, and without prejudice to the generality of the foregoing, the Board shall delegate to the General Manager the power, subject to any instructions of a general nature as may be given by the Board—

- (a) to control and supervise the acts of all officers, servants and agents of the Board in the matters of executive administration in the whole field of irrigation and in all matters concerning the accounts and records of the Board; and
- (b) to dispose of all questions relating to the service of officers, servants and agents of the Board and their pay, privileges and allowances.

12. Declaration of interest

Every member of the Board who is or is likely to be concerned in, or who participates or is likely to participate in the profits of, any contract with or work done for the Board otherwise than in his capacity as a member of the Board shall, on the matter coming before the Board for consideration, immediately declare his interest therein, and shall, unless the Board otherwise agrees, retire from the meeting, and shall in any case abstain from voting on the matter.

PART III – FUNCTION AND POWERS OF BOARD**13. Directions of Minister**

In the exercise of its powers and the performance of its functions under this Act, the Board shall act in accordance with any general or special directions that may be given to it by the Minister.

14. Designation of the national irrigation schemes and vesting of land

(1) The Minister may, by notice in the *Gazette*, designate any area of land to be a national irrigation scheme.

(2) In respect of land, other than Trust land, in a national irrigation scheme, the Minister shall, in accordance with the law for the time being relating to the compulsory acquisition of land, take such steps as may be necessary to acquire the right, title or interest in such land and to vest it in the Board for the purposes of this Act.

(3) In the case of Trust land forming part of a national irrigation scheme, the Minister, on behalf of the Board, may take the land on lease, on terms to be agreed between the Minister and the county council concerned.

(4) In default of agreement between the Minister and the county council as to the terms of a lease under subsection (3) of this section, the provisions of section 118 of the Constitution of Kenya shall have effect.

15. Functions and powers of Board

(1) The Board shall be responsible for the development, control and improvement of national irrigation schemes in Kenya.

(2) The Board shall have and may exercise all such powers as are necessary to enable it to perform its functions under this Act, and, without prejudice to the generality of the foregoing, the Board shall have power—

- (a) to conduct research and investigation into the establishment of national irrigation schemes;
- (b) in conjunction with the Water Resources Authority established under the Water Act (Cap. 372), to formulate, and be responsible for the execution of, policy in relation to national irrigation schemes;
- (c) in consultation with the Minister and the Minister for the time being responsible for finance, to raise funds for the development of national irrigation schemes;
- (d) to co-ordinate and plan settlement on national irrigation schemes;
- (e) to design, construct, supervise and administer national irrigation schemes;
- (f) to determine the number of settlers to be accommodated in a national irrigation scheme;
- (g) to provide land in national irrigation schemes for public purposes;
- (h) to promote the marketing of crops and produce grown or produced on national irrigation schemes and to liaise with organizations responsible for the marketing of agricultural produce;
- (i) to provide, either by itself or by agreement with other persons, for the processing of agricultural produce grown or produced on national irrigation schemes;
- (j) to award scholarships and bursaries for the study of irrigation (both in Kenya and elsewhere) or any other subject which the Board considers to be of benefit to the Board.

PART IV – FINANCIAL PROVISIONS

16. *Repealed by No. 5 of 2007, s. 18.*

17. Establishment and operation of general fund and other funds, and investment of funds

(1) The Board shall, with the approval of the Minister, establish a general fund—

- (a) into which all moneys received by the Board shall in the first instance be paid; and
- (b) out of which all payments made by the Board shall be paid.

(2) The Board may, with the approval of the Minister, establish such other funds as it may deem necessary.

(3) The Board may, with the approval of the Minister, open a banking account or banking accounts to handle such funds as the Board may establish, and may, subject to such conditions as the Minister may impose, invest such of its funds as are not for the time being required for the purposes of its duties and functions under this Act.

(4) The powers of the Minister under subsection (3) shall be exercised with the concurrence of the Minister for the time being responsible for Finance and shall, in relation to investments, extend to the amount which may be invested, the nature of the investment and the terms and conditions thereof, and the Minister's approval may be either general or limited to a particular investment.

18. Board's powers with regard to receipt of moneys

The Board is hereby empowered to receive and apply—

- (a) all funds which may from time to time be provided by Parliament for the purposes of the Board; and
- (b) revenue accruing from any cess imposed under section 16; and
- (c) loans raised under section 19; and
- (d) any moneys properly accruing to the Board from any other source.

19. Borrowing powers of Board

(1) The Board may, with the approval of the Minister and the Minister for the time being responsible for finance, borrow by way of overdraft or otherwise such sums as it may from time to time require, for all or any of the following purposes—

- (a) the provision of working capital;
- (b) the establishment or acquisition of property or undertakings required by the Board for the purposes of this Act;
- (c) any other expenditure properly incurred by the Board for the purposes of this Act.

(2) The Board may also obtain by way of advance from the Treasury, and the Treasury may, out of moneys provided by Parliament, advance to the Board, moneys for all or any of the purposes referred to in subsection (1).

(3) The Board shall pay interest on advances under subsection (2) at such rates as the Treasury may fix, and the money so advanced and from time to time outstanding, together with the interest thereon, shall, unless the Treasury otherwise agrees, be a first charge on the property, assets, revenues and funds of the Board or of such part thereof as shall be hypothecated to secure such advance, but not upon the property, assets and funds of any pension, superannuation provident or medical fund, or other contributory scheme created in favour of the officers or servants of the Board.

20. Special application of revenues

(1) The Board shall make proper provision for the renewal of wasting assets, for payments of interest and sinking fund charges where appropriate, and for contributions to such reserve and stabilization funds as may be required.

(2) Any excess of the revenues of the Board for any financial year over the total sums (including sums provided under subsection (1)) properly chargeable by the Board against its revenues for that year shall be applied by the Board in such manner as the Minister, after consultation with the Board, may direct.

21. Accounts

The Board shall cause to be kept proper books of account, records and vouchers in relation to all its undertakings, funds, activities and property and shall cause to be prepared in respect of each financial year—

- (a) trading and profit and loss accounts;
- (b) a balance sheet; and
- (c) such other accounts as the Minister may require.

22. Audit

(1) The accounts of the Board shall be examined, audited and reported upon annually by the Auditor-General (Corporations).

(2) The Board shall produce and lay before the auditors all books and accounts of the Board, with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the auditors shall be entitled to require from all members, officers, agents or servants of the Board such information and explanation as may be necessary for the performance of their duties as auditors.

(3) The expenses of and incidental to the audit shall be paid by the Board.

[Act No. 13 of 1988, Sch.]

23. Annual report

(1) The Board shall, within a period of seven months after the end of each financial year, or within such longer period as the Minister may approve, submit to the Minister a report on its operations during that year, and the auditor's report,

together with the yearly balance sheet and such other statements of account as the Minister shall require; and the Board shall publish them in such manner as the Minister may specify.

(2) A copy of every auditor's report, balance sheet and other statements of accounts submitted in accordance with subsection (1) shall be sent by the Board to the Controller and Auditor-General, who may at any time examine the accounts of the Board, and shall be entitled to require from the Board and the auditors such further information and explanation as he may consider necessary.

(3) The Board's report, with the yearly balance sheet and such other statements of account as the Minister may deem appropriate, together with the auditor's report and any report made by the Controller and Auditor-General, shall be laid by the Minister before the National Assembly as soon as possible after it has been submitted to him.

PART V – GENERAL

24. Board to appoint advisory committees

(1) The Board shall appoint an advisory committee in respect of each national irrigation scheme.

(2) The Board shall, with the approval of the Minister, regulate the membership, powers and duties of the advisory committees appointed under subsection (1).

25. Protection of Board, etc., from liability

No liability shall attach to the Board or its members, officers, agents or servants for any loss or damage sustained by any person as a result of any act or omission done or omitted to be done in good faith and without negligence in the performance or exercise of any duty or power imposed or conferred by or under this Act.

26. Appeals

Any person aggrieved by the revocation by the Board of the appointment of an agent for any purpose under this Act, and who has had his representations thereon rejected in writing by the Board, may within twenty-eight days of such rejection being communicated to him appeal to the Agricultural Appeals Tribunal established under Part XV of the Agriculture Act (Cap. 318), and the provisions of that Part (excepting section 195(2) thereof) shall apply *mutatis mutandis* in relation to every such appeal.

27. Regulations

(1) The Minister may, after consultation with the Board, make regulations generally for the better carrying out of the purposes and provisions of this Act, and without prejudice to the foregoing generality those regulations may provide for—

- (a) the administration and day to day control of national irrigation schemes;

- (b) the standards of good husbandry and the control of pests and diseases in national irrigation schemes;
- (c) the regulation of, and the rates payable for, the use of water on national irrigation schemes;
- (d) *deleted by No. 5 of 2007, s. 19;*
Provided that different regulations may be made for different national irrigation schemes, and that before issuing any licences or leases in accordance with regulations made under this section the Board shall consult the Commissioner for Lands;
- (e) the methods of harvesting, collection, storage, transport, processing, marketing and sale of produce grown on national irrigation schemes;
- (f) the licensing of contractors to perform any function connected with a national irrigation scheme.

(2) Any regulations made under this section may require acts to be performed to the satisfaction of a prescribed authority, may prohibit their performance without the prior approval of a specified authority, and may empower a specified authority to impose conditions.

(3) Any regulations made under this section may be made to apply generally to all national irrigation schemes or to any specified national irrigation scheme or to any specified area or areas thereof.

(4) Any regulations made under this section may provide for such penalty for the breach of any provision thereof, not exceeding a fine of ten thousand shillings and imprisonment for one year, as the Minister may think fit.

[Act No. 5 of 2007, s. 19.]

SCHEDULE

[Section 3, L.N. 243/1976.]

CONSTITUTION OF BOARD AND OTHER MATTERS RELATING TO BOARD

1. The Board shall consist of the following members—

- (a) a chairman who shall be appointed by the Minister;
- (b) the Director of Agriculture or a person deputed by him in writing to exercise his functions on the Board;
- (c) one representative from each province in which a national irrigation scheme exists, or is being planned, appointed by the Minister from a panel of not less than three persons associated with irrigation submitted to him by each Provincial Agricultural Board concerned:

Provided that, should a province have no Provincial Agricultural Board, the Minister shall appoint a representative for such province after consultation with persons representing irrigation interests in that province;

- (d) the Director of Water Development or any person deputed by him in writing to exercise his functions on the Board;
- (e) the chairman of the Water Resources Authority established under the Water Act (Cap. 372), or any person deputed by him in writing to exercise his functions on the Board;
- (f) the Permanent Secretary to the Treasury or any person deputed by him in writing to exercise his functions on the Board;
- (g) the Permanent Secretary for Agriculture or any person deputed by him in writing to exercise his functions on the Board;
- (h) not more than three persons appointed by the Minister, who, in his opinion, have qualities of benefit to the Board;
- (i) the Permanent Secretary for Health or any other person deputed by him in writing to exercise his functions on the Board.

2. The Board shall elect a vice-chairman annually from among its members.

3. In the absence of the chairman and the vice-chairman from any meeting of the Board the members present shall elect one of their number to preside, and such member shall, for the purposes of that meeting, have all the powers and attributes of the chairman.

4. All appointments to the Board and all changes of such appointments shall be notified in the *Gazette*.

5. The members of the Board appointed under paragraph 1(h) shall hold the office at the pleasure of the Minister.

6. The chairman shall retire at the end of the third year after appointment but shall be eligible for re-appointment.

7. Two members appointed under paragraph 1(c) shall retire annually but shall be eligible for re-appointment.

8. The members to retire under paragraph 7 shall be those members who have been continuously longest in office (re-appointments being deemed for this purpose to break continuity of office), and as between members who have been continuously in office for an equal period shall, in default of agreement, be determined by the Board by ballot.

9. Notwithstanding the provisions of paragraphs 5, 6, 7 and 8, the office of a member of the Board shall, upon declaration by the Minister, become vacant—

- (a) if he resigns his office by writing under his hand addressed to the Minister;
- (b) on his death;
- (c) if he is certified to be insane or otherwise adjudged to be of unsound mind under any written law;
- (d) if in the judgment of the Minister he becomes physically or otherwise incapable of discharging his duties as a member, and remains so for a period of forty consecutive days;

- (e) if he is absent, without the permission of the Board, from three consecutive meetings of the Board;
- (f) if he is adjudged or otherwise declared bankrupt under any written law;
- (g) if he is sentenced by a court to a term of or exceeding six months imprisonment.

10. Any declaration by the Minister under paragraph 9 shall be conclusive, and shall not be questioned in any court.

11. On any office becoming vacant under this Schedule, the Minister may by notice in the *Gazette*, and, in the case of a vacancy under paragraph 1(c), after submission of a panel of persons as provided therein, appoint another member to fill the vacancy, and, except in the case of a vacancy arising under paragraph 9, may in so doing reappoint the member vacating.

CHAPTER 347

IRRIGATION ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

	<i>Page</i>
1. National Irrigation Schemes	17
2. Irrigation (National Irrigation Schemes) Regulations, 1977	19

Designated Areas under section 14

NATIONAL IRRIGATION SCHEMES

[L.N. 67/1977.]

- (a) The area known as Perkerra Irrigation Area in Baringo District of the Rift Valley Province, the boundaries of which are set out in the Schedule to a setting apart notice published as *Gazette* Notice No. 4643 of 1959;
 - (b) the area known as Mwea/Tebera Irrigation Area in the Kirinyanga District of the Central Province, the boundaries of which area are set out in the Schedule to setting apart notices published as *Gazette* Notices Nos. 3090, 3093, 3095, 3096, 3097, 3098, 3100, 3101, 3102, 3103 of 1960;
 - (c) the area known as Galole Special Settlement Area in the Tana River District of the Coast Province, the boundaries of which area are delineated in Legal Notice No. 274 of 1963; and
 - (d) the area known as the Ahero National Irrigation Pilot Scheme in the Kisumu District of the Nyanza Province, the boundaries of which area are set out in the Schedule to a setting apart notice published as *Gazette* Notice No. 2163 of 1968.
-

Regulations under section 27**IRRIGATION (NATIONAL IRRIGATION SCHEMES) REGULATIONS, 1977**

[L.N. 68/1977.]

1. These Regulations may be cited as the Irrigation (National Irrigation Schemes) Regulations, 1977 and shall apply to such areas of land as the Minister may, by notice in the *Gazette*, designate to be national irrigation schemes.

2. In these Regulations, unless the context otherwise requires—

“**authorized dependent**” means, in relation to a licensee, his father and mother, wives and such of his children as are unmarried and under the age of eighteen years;

“**court**” means the Court having jurisdiction in the scheme;

“**committee**” means an irrigation committee appointed under regulation 3;

“**holding**” means that part of an area specified in a licence;

“**licence**” means a licence granted under regulation 4;

“**licensee**” means any person to whom a licence has been granted, and includes any person who succeeds a licensee under regulation 7;

“**manager**” means such person as may from time to time be appointed by the Minister to be in charge of a national irrigation scheme.

“**scheme**” means any area designated to be a national irrigation scheme under section 14 of the Act;

3. (1) The Minister may appoint a committee for any scheme, such committee to be known as an irrigation committee, to be responsible for advising the manager on the general administration of the scheme in accordance with Government policy.

(2) The committee may either be the District Agricultural Committee of the district in which the scheme is situate or may be composed of such members as the Minister may appoint.

4. Any person who resides in, carries on business in, or occupies any part of the scheme or grazes any stock thereon shall, unless he is the holder of a valid licence granted to him under these Regulations by the manager with the approval of the committee or is the authorized dependant of such licensee, be guilty of an offence.

5. (1) Every licence shall be in the form in the First Schedule, and shall be prepared in duplicate; the original shall be given to the licensee and the duplicate shall be retained by the manager.

(2) The manager shall maintain a register in which he shall enter the name of every licensee, the number of his holding and the names of his authorized dependants.

(3) The manager shall also maintain a separate register in which he shall enter the name of any successor nominated by the licensee under regulation 7, together with the number of the holding in respect of which the successor has been nominated.

6. Before issuing a licence, the manager shall—

(a) cause these Regulations to be read and explained to the licensee in a language which he understands;

(b) give the licensee a copy of these Regulations; and

[Subsidiary]

- (c) obtain from the licensee, in the form in the Second Schedule, a receipt for the Regulations, an acknowledgement that he understands them and an undertaking to observe them.

7. (1) A licensee may, at any time after the date of being granted a licence, nominate, in writing to the manager, another person to succeed him as licensee in the event of his death; and a licensee may at any time, in writing to the manager, revoke or alter the nomination which may have been made by him:

Provided that no person nominated as successor may succeed until he has attained the apparent age of eighteen years; if he has not reached that age, his guardian under customary law may, within one month of the licensee's death, and with approval of the manager, appoint a person to act on his behalf until the successor is of age.

(2) No person nominated as a successor may succeed without the approval of the committee.

(3) The authorized dependant of a deceased licensee may, within thirty days of his death, appeal to the Court against the nomination, under paragraph (1), of a successor.

(4) The authorized dependant may—

- (a) where a licensee dies without having nominated a successor in accordance with paragraph (1); or
- (b) where, under paragraph (3), an appeal to the Court against the nomination of a successor has been successful,

within one month of the death of the licensee or one month after the determination of the appeal, as the case may be, nominate, in writing to the manager, a successor who must be approved by the Court.

(5) In the event of—

- (a) no person being appointed within the time prescribed in the proviso to paragraph (1); or
- (b) no person nominated within the time prescribed in paragraph (4); or
- (c) any person nominated or appointed under this regulation failing to accept such nomination or appointment or failing to assume the responsibilities inherent in such nomination or appointment within a period of three months from the death of the licensee; or
- (d) no successor being acceptable to the committee,

the holding shall be deemed to have been vacated, the license in respect of such holding shall terminate, and a fresh license may be granted in accordance with regulations 5 and 6.

(6) In the event of a holding being deemed to have been vacated in terms of paragraph (5)—

- (a) the manager may make provision for the cultivation of any such holding and where appropriate recover the costs from the incoming licensee; and
- (b) in accordance with regulation 23 reasonable compensation may be paid to the authorized dependant of a licensee in respect of any improvement to the holding effected by the licensee.

8. (1) Every license shall be granted subject to the following conditions—

- (a) a licensee shall devote his full personal time and attention to the cultivation and improvement of his holding and shall not, without the permission, in writing of the manager allow any other person to occupy his holding or to cultivate it on his behalf;

[Subsidiary]

- (b) a licensee shall maintain the boundaries of his holding in a manner satisfactory to the manager;
- (c) a licensee shall maintain at all times his holding and all field, feeder and drainage channels to the satisfaction of the manager;
- (d) a licensee shall maintain to the satisfaction of the manager all irrigation channels and works on or serving his holding;
- (e) a licensee shall cultivate his holding to the satisfaction of, and in accordance with the crop rotation laid down by the manager, and shall comply with all instructions given by the manager relating to the cultivation and irrigation of his holding;
- (f) a licensee shall comply with all instructions given by the manager with regard to good husbandry, the branding, dipping, inoculating, herding, grazing or watering of stock, the production and use of manure and compost, the preservation of the fertility of the soil, the prevention of soil erosion, the planting, felling, stumping and clearing of trees and vegetation and the production of silage and hay;
- (g) a licensee shall not hire, cause to be hired or employ stock or machinery for cultural operations, other than stock and machinery owned by the manager, without prior approval, in writing, from the manager;
- (h) a licensee shall not absent himself from the scheme for longer than one month without prior approval, in writing, of the manager.

(2) Any licensee who fails to comply with the conditions specified in paragraph (1) shall be guilty of an offence.

(3) Any licensee who refuses, or without reasonable excuse fails, to comply with any of the conditions of this regulation shall, in addition of any penalty that may be imposed under paragraph (2), be liable to have his license terminated by the Minister, on the recommendation of the manager (after confirmation by the committee) and the Minister's decision shall be final.

9. (1) A licensee shall pay to the manager, on demand such rates in respect of water and other services in respect of his holding as shall be calculated in accordance with rates prescribed by the Minister from time to time.

(2) The whole or part of any rates prescribed under paragraph (1) may be varied or remitted by the Minister either generally or in any particular case, in his absolute discretion.

10. (1) The manager may allocate to a licensee a house to be occupied by him within the scheme, or may permit a licensee to erect his own house.

(2) In either event it shall be the duty of the licensee to maintain his house and precincts to the satisfaction of the manager, and if the manager is dissatisfied with the condition of the house or precincts he may give written notice to the licensee to the repairs which he considers necessary and specify a reasonable time within which they must be completed.

(3) If the licensee fails to complete such repairs within the time specified and to the satisfaction of the manager, the manager may cause such repairs to be carried out and may recover the cost thereof from the licensee.

(4) The licensee may not occupy any house other than that allocated to him without prior permission, in writing, from the manager.

(5) A licensee shall not construct buildings or other works of any kind on his holding or elsewhere in the scheme without the prior consent, in writing, of the manager and in the event of his having erected a structure or building without such consent, the manager may

[Subsidiary]

direct, in writing, that the structure be removed and the land returned to its original state and if the licensee fails to comply with this direction within one month, the manager may enter the building or structure for the purpose of demolition and any expenses incurred by the manager for the removal of the building or structure may be recovered from the licensee.

11. (1) If a licensee is sentenced to imprisonment for a term of six months or more, his licence may be terminated forthwith.

(2) If a licence is terminated under paragraph (1), a successor may be nominated or appointed in accordance with regulation 7.

12. The manager shall have power to order the destruction of any crops planted in contravention of his instructions or of the provisions of these Regulations and to recover the expenses incurred from the licensee and no compensation shall be payable in respect of crops so destroyed.

13. If, in the opinion of the manager, it would be beneficial to a licensee's crops or to all the licensees in the scheme to cultivate by machinery, or to apply fertilizers, or manure, or to treat any crops or stocks in any way to protect them against diseases, pests, or damage of any kind, then the manager may do so and recover the costs thereof from the licensee or licensees.

14. (1) As soon as each crop other than paddy has been harvested the licensee shall deliver it, other than such portion as he may wish to retain for his own consumption and that of his authorized dependants living with him, to the manager at a collecting station to be appointed by the manager, or shall otherwise dispose of it in accordance with the instructions of the manager.

(2) The licensee shall deliver all paddy harvested to the manager at the collection station appointed by the manager, or shall otherwise dispose of it in accordance with the instructions of the manager.

(3) The licensee may purchase such quantities of milled rice from the manager for his own consumption and that of his authorized dependants living with him, as the manager may from time to time authorise.

(4) Any licensee who fails to comply with the provisions of paragraph (1) or (2) shall be guilty of an offence.

15. (1) The manager may, when necessary, collect, process and market the crops delivered to him under regulation 14 and may arrange for the sale of such crops, in which event he shall give the licensees details of the sales of all such crops as soon as possible.

(2) The manager shall not be obliged to keep or sell the crops of individual licensees separately.

16. (1) A licensee shall not keep on his holding any stock other than those specified in his licence and shall declare to the manager annually the natural increase in such stock and shall comply with any instructions issued by the manager as to their disposal.

(2) A licensee who fails to comply with the provisions of paragraph (1), or with any instructions issued by the manager thereunder, shall be guilty of an offence and where any additional undeclared stock is found in the possession of a licensee within the scheme, the manager may order a licensee to remove such additional stock from the scheme forthwith.

(3) If a licensee fails to remove his additional stock in accordance with an order to that effect given by the manager under paragraph (2), the manager may confiscate and sell such additional stock, paying the proceeds thereof, less any expenses incurred by such confiscation and sale, to the licensee.

17. (1) If in the opinion of the manager, a licensee has been negligent in the use of his land, the use of irrigation water or the cultivation of his crops, the manager may direct him to take such steps as the manager may specify to remedy the effects of such negligence, and, in the event of a licensee failing to comply with any such directions, the manager may take such measures as he considers necessary to safeguard the crop and to preserve the holding and irrigation water and may recover the costs of any such measures from the licensee.

(2) If a licensee is absent owing to illness or any other reasons, the manager may take such measures as he considers necessary to safeguard the crop and to preserve the holding and irrigation water, and may recover the costs of any such measures from the licensee.

18. A licensee shall not permit any of his stock to be upon any part of the scheme which is closed to stock or to damage to any crops or water installations or communications or other property, and shall be liable to pay the cost of the repair of any damage so caused.

19. (1) Any licensee who wilfully or negligently causes to be damaged any road, bridge, or culvert within the scheme shall be guilty of an offence.

(2) The manager may where such damage has been caused by a licensee, repair any such damage and shall recover the cost of the repairs to such damage from the licensee.

20. The manager may deduct from the proceeds of the sale, under regulations 15 and 16, of any crops or stock belonging to a licensee—

- (a) the costs of expenses incurred by the manager—
 - (i) in the making of provisions for the cultivation of any holding under regulation 7(6)(a);
 - (ii) in the removal of any building or structure or repairs carried out to any house under regulation 10;
 - (iii) in the destruction of any crops under regulation 12;
 - (iv) in providing manure, fertilizers, insecticides or any agricultural operations under regulation 13;
 - (v) in the collecting, processing and marketing of crops under regulation 15;
 - (vi) in remedying the negligence or safeguarding crops or preserving the holding under regulation 17;
 - (vii) in repairing any damage caused by stock under regulation 18;
 - (viii) in repairing damage under regulation 19(2); and
- (b) any amounts due for rates payable under regulation 9, any outstanding amount of any advance made to such licensee for the purpose of the cultivation, irrigation or other improvement of his holding, and such charges as may be agreed to by the Minister on the recommendation of the committee.

21. Any person who causes any motor vehicle to be driven within the scheme over any road other than a public road within the meaning of the Public Roads and Roads of Access Act (Cap. 399) unless he is in possession of a permit issued by the manager, and unless he complies with all conditions made on such permit by the manager, shall be guilty of an offence.

[Subsidiary]

22. (1) Where the manager is satisfied that a licensee has failed to comply with any of the provisions of these Regulations or with any instructions given thereunder or under any other law for the time being in force, he may serve a notice in writing on the licensee requiring him to comply with the said provisions, instructions or regulations within such time as is specified in the notice.

(2) If the licensee fails within such time to comply with the requirements of such notice, the manager may, by notice in writing, call upon the licensee to show good cause, by a date specified in the notice, why his licence should not be terminated.

(3) If the licensee fails to show good cause as aforesaid to the satisfaction of the manager, the manager may, with the approval of the committee, give notice in writing to the licensee requiring him to remove himself, his dependants and his stock from the scheme within a period specified in such notice.

(4) A licensee who is given notice under paragraph (3) may, within twenty-eight days of such notice, appeal in writing to the Minister whose decision shall be final.

(5) If there is no appeal, the licence shall be deemed to have terminated on the date specified in the notice.

(6) If there is an unsuccessful appeal, the licence shall terminate on such date as the Minister may specify.

(7) Any person whose licence has been terminated under this regulation and who fails to comply with the terms of the notice given him shall be guilty of an offence.

23. Where any licence is terminated in accordance with any of the provisions of these Regulations, a Board consisting of the manager and one representative of both the outgoing and the incoming licensees, shall assess the amount, if any, due to the outgoing licensee or his dependants in respect of capital and labour expended by him in improving the holding, and the manager shall make arrangements for the payment of such amount by the incoming licensee within such time as the manager considers reasonable.

24. The manager shall have power, in the event of any emergency, to order all licensees to undertake emergency repair work in any part of the scheme, and any licensee who refuses to obey any such order by the manager shall be guilty of an offence.

25. Subject to the provisions of regulations 7, 8, 11 and 22, every licence shall be valid for a period of one year and from year to year thereafter, but may be terminated at any time—

- (a) by the licensee giving to the manager six months notice in writing of his intention to surrender his licence;
- (b) by the manager, on instruction of the Minister, giving to the licensee 12 months' notice in writing of his intention to terminate the licence.

26. Any person who—

- (a) unlawfully interferes with the flow of irrigation water in canals or the opening or closing of control gates within the area;
- (b) makes unlawful use of irrigation water by taking irrigation water out of turn or otherwise;
- (c) refuses to permit the authorized passage of irrigation water across his holding;
- (d) wilfully damages or obstructs canals or control works; or
- (e) refuses to accept or drain off irrigation water when required to do so,

shall be guilty of an offence.

Irrigation

[Subsidiary]

27. (1) Any person who is guilty of an offence under these Regulations shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding two months, or to both such fine and such imprisonment.

(2) Where any person is convicted of an offence under regulation 4, regulation 14(4) or regulation 22(7), the court may, in addition to any penalty it may impose, authorize any administrative officer or police officer to cause such person, together with his dependants and property, if any, to be removed from the scheme.

SCHEDULES

FIRST SCHEDULE

[Regulation 5]

Licence No. National Irrigation Scheme
Licence to Occupy Holding

son of ... of the ... District of the ... Province, is hereby authorized to occupy holding No. ... of the ... National Irrigation Scheme for the period from the ... day of ..., 20 ... to the ... day of ..., 20 ... and from year to year thereafter unless sooner terminated in accordance with the provisions of the above Regulations, and to keep thereon not more than the following number of stock—

- bovines, goats, sheep, mules, donkeys, (other stock),

subject to the conditions prescribed by the above Regulations, Dated this ... day of ..., 20

Manager

In accordance with regulation 6 of the above Regulations, I have caused the Regulations to be read and explained to the above-named licensee in the ... language, which he understands.

SECOND SCHEDULE

[Regulation 6]

I, ..., son of ... of the ... District of the ... Province,

Irrigation

[Subsidiary]

SECOND SCHEDULE—*continued*

hereby acknowledge receipt of a copy of the Irrigation (National Irrigation Schemes) Regulations, I have had these Regulations explained to me and I fully understand them and I undertake to observe them and to pay all sums of money payable by me.

.....
Signature or thumb-print of Licensee

.....
Witness

.....
Date
