

THE IRRIGATION ACT
ARRANGEMENT OF SECTIONS

1. Short title.

PART I. *Preliminary*

2. Interpretation.
3. Irrigation areas.
4. Irrigation Authorities.
5. Duties of Irrigation Authorities.
6. Power to drain land.
7. Authority may require occupier to make, maintain or clean drains.

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

8. Provisional Irrigation Schemes.
9. Notification of schemes.
10. Objection to schemes.
11. Transmission of schemes to Minister.
12. Approved irrigation scheme.
13. Confirmation of approved irrigation schemes.
14. Amendment of confirmed schemes.
15. Modification of confirmed irrigation scheme.

PART III. *Implementing of Schemes*

16. Authority to implement schemes.
17. Acquisition of interest and ancillary rights and extinction of servitudes by agreement.
18. Compulsory vesting of estates interest and ancillary rights and extinction of easements and other rights.
19. Power to divert, impound and raise water.
20. Distribution of water.

IRRIGATION

- 21. Power to withhold water.
- 22. Power to inspect.
- 23. Power to enter and do work upon land.
- 24. Power to require information.

PART IV. Compensation, Enquiries, Water Courts and Legal Proceedings

- 25. Where compensation payable.
- 26. Compensation in respect of the acquisition of proprietary interests in land.
- 27. Compensation payable in respect of acquisition of ancillary rights.
- 28. Compensation in respect of extinction of servitudes.
- 29. Compensation in other cases.
- 30. Restriction upon award of compensation.
- 31. Restriction on right of action.
- 32. Compensation claims.
- 33. Matters preliminary to holding of compensation enquiry.
- 34. Interlocutory powers of President of Water Courts.
- 35. Powers to summon and enforce attendance of witnesses.
- 36. Compensation enquiries.
- 37. Damage to irrigation works.
- 38. Obstruction or damage.
- 39. Waste or abstraction of water.
- 40. Further provision as to wasting water.
- 41. Resale of water without the approval of the Authority, unlawful.
- 42. Tampering with irrigation works.
- 43. Obstruction of officers.
- 44. Failure to furnish information.
- 45. Failure to attend and give evidence, etc., at compensation enquiry.

PART V. Conservation and Protection of Water Resources

- 46. Control of abstraction and prevention of waste in certain areas.

PART VI. Rates and Financial Provisions

- 47. Imposition of irrigation rates and dues.
- 48. Payment of irrigation rates and dues.

- 49. Power of Minister to remit.
- 50. Increase on arrears.
- 51. Recovery of dues or rates and percentage increase.
- 52. Assessment rolls.
- 53. Disposal of irrigation dues and rates.
- 54. Accounts to be audited.
- 55. Financial statements, estimates and report.

PART VII. *Establishment, Incorporation of Authority
and Administration*

- 56. Establishment of Authority.
- 57. Incorporation of Authority.
- 58. Liability of members of the Authority.
- 59. Resignation of office.
- 60. Grant of leave of absence to members.
- 61. Meetings and procedure thereat.
- 62. Appointment of officers and servants.

PART VIII. *Miscellaneous*

- 63. Transfer of Rio Cobre Irrigation works.
- 64. Regulations.
- 65. Authority may require person subdividing land to provide for extension of works.

THE IRRIGATION ACT

[23rd November, 1949.]

Cap. 168.
Laws
40 of 1955,
72 of 1956.

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

Short title.

PART I. *Preliminary*

2. In this Act—

Interpreta-
tion.

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

“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 Irrigation Authority established under section 56;

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

72/1956
S. 2 (a).

“irrigation” includes the inundation of agricultural land;

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

“relevant irrigation area” means the irrigation area for which is established the Authority in relation to which the expression is used;

“interested party” means—

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

(b) in relation to the acquisition of any ancillary right by any Authority, every person in whom is vested

any proprietary interest in the land over which such ancillary right is sought to be acquired; and

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

“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” 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—

- (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

72/1956
S. 2 (b).

works of the nature referred to in paragraph (a) or in paragraph (b) of this definition;

“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;

“private water”, “public water” and “public stream” have the same meaning as in the Water Act;

“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;

“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 the relevant irrigation area;

72/1956
S. 2 (d).

"Water Court" means a Water Court constituted under the Water Act.

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.

Irrigation
Authorities.

4. There shall be established in accordance with the provisions of section 56 an Irrigation Authority for each area declared under section 3 to be an irrigation area.

Duties of
Irrigation
Authorities.

5. The general duties of every Irrigation 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 the relevant 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 works established in the relevant 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 the relevant 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.

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

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

- (a) execute such works as may be necessary for draining all or any part of the relevant irrigation area and for such purpose, 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 so removed on any land adjacent to the watercourse, 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 the relevant 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).

(3) (a) Whenever it appears to the Authority that it is necessary to enter upon land which lies outside the relevant 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 :

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 the relevant irrigation area except—

- (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 the relevant 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.

(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:

Provided that in any case in which the expenses incurred by the Authority exceed the sum of twenty dollars the same may if the Authority think fit be paid by the occupier or owner of the land in twelve monthly payments commencing on the first day of the month next after that in which the work was completed.

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

Provisional
Irrigation
Schemes.

8.—(1) Every 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 the relevant irrigation area.

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

- (a) collecting water (whether by artificially raising subterranean water to the surface of the earth or by diverting or abstracting public water from any public stream within the relevant irrigation area or by diverting or abstracting any private water (whether within or outside such area) with the consent of the owner of such private water) and for impounding and distributing any water so collected for the irrigation of lands within the relevant irrigation area; and
- (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
 - (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
 - (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 irrigation dues or rate 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.

(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 the relevant 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.

(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.

Notification
of schemes.

9. So soon as may be after the preparation of any provisional irrigation scheme every 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—

- (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 public stream is so great as to be likely to occasion to such person substantial prejudice in the exercise of some right enjoyed by him under the Water Act (whether within or without the relevant irrigation area):

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 the relevant irrigation area; and
- (b) any person in whom is vested any term of years in any land in the relevant irrigation area, the unexpired portion of which on the day of 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 who is entitled under the Water Act to exercise any right (except the right conferred by section 5 of that Act) in relation to the use (whether within or without the relevant irrigation area) of any public water in any public stream from which water is proposed to be taken under the scheme.

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.—(1) Subject to the provisions of subsection (2) where the Minister is satisfied that the implementation of any provisional irrigation 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.

(2) Where any person has objected under section 10 to any provisional irrigation scheme the Minister shall not approve of such scheme until the scheme and the objection thereto have been referred to a Water Court and the Minister has considered the report of that Court upon the scheme and the objection thereto :

Provided that this subsection shall not apply where the order approving any provisional irrigation scheme so modifies such scheme as wholly to obviate the grounds upon which the objection was made.

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 and the report of the Water Court upon those objections. Confirmation 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 Amendment of confirmed schemes.

may effect such amendments to the confirmed scheme referred to in this section as may be necessary or expedient.

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

Modification
of confirmed
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 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 proprietorial 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 proprietorial 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—

- (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

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

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 declaration as the case may be to be recorded as a registered deed or writing under the Record Office Act.

19.—(1) Notwithstanding anything to the contrary every Authority may within the relevant irrigation area—

Power to divert, impound and raise water.

- (a) divert, impound and raise to the surface of the earth any subterranean water; and

- (b) abstract, divert and impound any public water in any public stream,

authorized by any confirmed irrigation scheme to be so raised, abstracted, diverted or impounded and may distribute any such water in accordance with the provisions of such scheme without any licence or authorization so to do under the Water Act.

(2) The provisions of the Water Act shall not apply to the doing within any relevant irrigation area by any Authority of any act authorized to be done under any confirmed irrigation scheme relating to such area.

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 the relevant irrigation area.

Distribution of water.

(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.

72/1956
S. 4.

(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 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 Minister.

Power to
withhold
water.

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

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 the relevant 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.

(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 the relevant irrigation area or the particular land in relation to which such power is exercised.

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 the relevant irrigation area and there 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.

Power to enter and do work upon land.

(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 the relevant 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

Power to require information.

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.

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

Where compensation payable.

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

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

(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 by a Water Court after an enquiry in accordance with the provisions of this Act.

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 Water Court—

Compensation in respect of the acquisition of proprietary interests in land.

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

- (a) the market value of such proprietary 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 proprietary interest in respect of which the Water 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 Water 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;
- (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

IRRIGATION

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 Water Court in respect of the vesting in any 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 Water Court is equivalent to the sum by which the market value on the standard date of any proprietorial 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.

28.—(1) The amount of compensation which may be awarded to any person by any Water 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.

- (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.

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 Water 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 any Authority or any servant or agent of any Authority in respect of any act by such 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.

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

IRRIGATION

- (b) the name of the Authority against whom the claim is made; and
- (c) the nature of the act or neglect in respect of which the claim is made; and
- (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) So soon as may be after any compensation claim is filed under this section the appropriate Clerk of the Courts shall notify the President of the appropriate Water Court of the filing of such claim and thereafter shall act in accordance with any directions given under section 33.

Matters preliminary to holding of compensation enquiry.

33. So soon as may be after he receives from any Clerk of the Courts any compensation claim the President of the Water Court shall—

- (a) appoint a place, time and day for the holding of an enquiry (in this Act referred to as a “compensation enquiry”) into such claim; and
- (b) direct such Clerk of the Courts to give not less than twenty-one days’ notice to the person by whom such claim was made and to the Authority of the place, time and day appointed for the holding of such enquiry and to make all necessary arrangements for the holding of such enquiry.

34. The President of the appropriate Water Court may at any time after any compensation claim is filed under section 32 make any interlocutory order which might be made by a Resident Magistrate under any enactment or rules of court for the time being in force in relation to the procedure to be followed in civil actions in the Resident Magistrate's Court if the claim for compensation under this Act were a civil action for damages within the jurisdiction of the Resident Magistrate's Court.

Interlocutory powers of President of Water Courts.

35. The provisions of sections 156, 158, 159, 160, 161, 162 and 164 of the Judicature (Resident Magistrates) Act in so far as they relate to the issue or service of summonses or the proof of service of summonses to witnesses in any civil action in the Resident Magistrate's Court shall apply to the issue or service of summonses or the proof of service of summonses to witnesses in any proceedings for the award of compensation under this Act by a Water Court as if such proceedings were proceedings in a civil action within the land jurisdiction of a Resident Magistrate's Court and the President of the Water Court were a Resident Magistrate and the appropriate Clerk were the Clerk of the Resident Magistrate's Court in which such civil action was pending.

Powers to summon and enforce attendance of witnesses.

36.—(1) At the place and time and on the day appointed under section 33 the Water Court shall hold an enquiry into any claim for compensation.

Compensation enquiries.

(2) The procedure to be followed at the hearing of any compensation enquiry under this Act shall be the same, so far as may be, as the procedure followed upon the hearing of any civil action within the land jurisdiction of a Resident Magistrate's Court.

(3) The provisions of sections 28, 30, 33 and 34 of the Water Act shall apply to proceedings before a Water Court for the assessment of compensation under this Act

as they apply to proceedings before a Water Court under the provisions of the Water Act.

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 relevant 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 tank, basin, dam, channel or watercourse, or who breaches or cuts through the banks of the same, shall be liable on summary conviction before a Resident Magistrate to imprisonment for three months or to a fine of fifty dollars or to both such imprisonment and fine.

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

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 months or to a fine of fifty dollars or to both such imprisonment and fine.

(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 fifty dollars.

Further provision as to wasting water.

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 fifty dollars or to both such imprisonment and fine.

Resale of water without the approval of the authority, unlawful.
72/1956
S. 6.

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 within the relevant irrigation area shall be liable on summary conviction before a Resident Magistrate to imprisonment for three months or to a fine of fifty dollars or to both such fine and imprisonment.

Tampering with irrigation works.

(2) Where by reason of any irrigation 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.

43. Every person who obstructs, molests, or hinders any workman, servant, or agent, of any 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 fifty dollars or to be imprisoned for any term not exceeding three months.

Obstruction of officers.

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 fifty dollars or to be imprisoned for any term not exceeding three months.

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 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 twenty dollars or to be imprisoned for any term not exceeding thirty days.

PART V. *Conservation and Protection of Water Resources*

Control of
abstraction
and preven-
tion of waste
in certain
areas.

46.—(1) Subject to the provisions of subsection (2), no person shall, in any irrigation area or in any restricted area, begin to—

- (a) construct any well, borehole or other work for the purpose of abstracting subterranean water; or
- (b) extend any existing well, borehole or other work for the purpose of abstracting additional quantities of subterranean water,

unless he has obtained a licence from the Authority.

(2) Subsection (1) shall not apply to—

- (a) the construction or extension of any well, borehole, or other work, at a distance of not less than

72/1956
S. 7.

one chain from any channel or watercourse forming part of any irrigation works, by any individual for the purpose of abstracting subterranean water solely and to the extent necessary for a supply of water for the domestic purposes of his household;

- (b) the construction or extension of any well, borehole, or other work, if that construction or extension is expressly authorized by this or any other enactment; or
- (c) any experimental boring required in connection with any such construction or extension as is referred to in paragraphs (a) and (b).

(3) No person shall in any irrigation area or any restricted area abstract subterranean water from—

- (a) any well, borehole or other work constructed or extended in contravention of subsection (1);
- (b) any well, borehole or other work the construction or extension of which was made lawful by paragraph (a) or paragraph (c) of subsection (2) except for the purpose for which it was constructed or extended; or
- (c) any boring or other work constructed or extended for any purpose other than the abstraction of subterranean water,

unless he has obtained a licence from the Authority.

(4) The Authority may, on the application of any person grant a licence for the purposes of subsection (1) or subsection (3), with or without conditions, or may refuse to grant such a licence, but before they refuse to grant such a licence or attach any condition thereto the Authority shall, if requested to do so by the applicant, grant such applicant an opportunity to appear before and be heard by a person appointed for the purpose by the Authority.

(5) Where the applicant for any licence under subsection (1) or subsection (3) is aggrieved by any decision of the Authority refusing to grant such application or attaching any condition to such licence such applicant may at any time within twenty-eight days of the making by the Authority of such decision give notice in writing to the Minister appealing against such decision and upon any applicant giving such notice the provisions of subsection (1) or of subsection (3), as the case may be, and of subsection (4) shall take effect as if for references to the Authority there were substituted references to the Minister and as if the notice of appeal under this subsection were an application for the grant of a licence under subsection (1) or subsection (3).

(6) Before any person begins to construct in any irrigation area or any restricted area any new boring for the purpose of searching for or extracting minerals, he shall give notice of his intention to the Minister, and shall take such measures as may be required by the Minister for conserving water, being measures which in the opinion of the Minister will not interfere with the winning of minerals:

Provided that before imposing any requirement under this subsection the Minister shall, if requested to do so by any person interested in the work, grant such person an opportunity to appear before and be heard by a person appointed for the purpose by the Minister.

(7) Any person who contravenes any of the foregoing provisions of this section or any requirement imposed thereunder or any condition attached to a licence granted for the purposes of subsection (1) or subsection (3) shall be guilty of an offence against this section and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding six months and in the case of a

continuing offence to a further fine not exceeding forty dollars for each day during which the offence continues after conviction and in default of payment to imprisonment with or without hard labour for any term not exceeding six months.

(8) No person shall in any irrigation area or any restricted area—

- (a) cause or allow any subterranean water to run to waste from any well, borehole or other work except for the purpose of testing the extent or quality of the supply or cleaning, sterilizing, examining or repairing the well, borehole or other work; or
- (b) abstract from any well, borehole or other work, water in excess of his reasonable requirements:

Provided that where subterranean water interferes or threatens to interfere with the execution or operation of any subterranean works (whether waterworks or not), it shall not be an offence under this subsection to cause or allow the water to run to waste so far as may be necessary to enable the work to be executed or operated, if no other method of disposing of the water is reasonably practicable.

(9) A person who contravenes any provision of subsection (8) shall, in respect of each offence, be liable on summary conviction before a Resident Magistrate to a fine not exceeding twenty dollars and the Court may on the conviction of any person, order that the well, borehole or other work shall be effectively sealed or may make such other order as appears to the Court as may be necessary to prevent waste of water.

(10) If any person fails to comply with any order of the Court made under subsection (9), the Court may, on the application of the Chief Technical Director, authorize

the Chief Technical Director to take such steps as may be necessary to execute the order, and any expenses incurred in taking any such steps shall be recoverable by the Chief Technical Director as a civil debt from the person convicted.

(11) Any person authorized by the Chief Technical Director shall, on producing, if so required, some document signed by the Chief Technical Director showing his authority, have a right at all reasonable hours—

- (a) to enter any premises in any irrigation area or in any restricted area for the purpose of ascertaining whether there is, or has been, on or in connection with the premises any contravention of the provisions of this section; or
- (b) to enter any premises in which the Chief Technical Director has been authorized to execute an order of the Court made under subsection (10), for the purpose of executing that order, and to take with him such persons as may be necessary for such purpose.

PART VI. *Rates and Financial Provisions*

Imposition
of irrigation
rates and
dues.

47. It shall be lawful for the Minister by notification in the *Gazette*—

- (a) to classify all or any lands within an irrigation area;
- (b) to impose annual irrigation rates upon such lands in accordance with their classification;
- (c) to impose in addition irrigation dues upon such lands in respect of the water supplied or agreed to be supplied thereto;
- (d) to specify the date on which the first payment of the rates imposed shall fall due, or to specify

40/1955
S. 2.

different dates on which such first payment shall fall due in relation to lands of different classifications;

- (e) to provide that the amount of the first payment of the rate, either in relation to lands generally on which the rate is imposed or in relation to lands of any specified classification, shall be a part only of the amount payable for a full year and to specify the manner in which such part is to be determined;
- (f) from time to time to vary or cancel any such notification:

Provided that no lands shall be liable to any increased rate within a period of three years from the date of the last classification unless they shall in the meantime be used for some cultivation other than that for which they were used at the time of such last classification and involving the use of a greater supply of water:

And further provided that no lands shall be liable to any irrigation rate, either—

- (a) if such lands are not capable of being supplied economically with water for irrigation purposes from irrigation works constructed or deemed to have been constructed under this Act; or
- (b) at any time when such lands are adequately irrigated otherwise than under this Act, unless the irrigation works from which such lands are irrigated were constructed subsequent to the construction of irrigation works under this Act from which such lands might have been economically supplied with water for irrigation purposes.

48.—(1) Irrigation rates and irrigation dues shall be paid to the Collectors of Taxes for the parishes in which the lands in respect of which they are imposed are situated.

Payment of
irrigation
rates and
dues.

(2) The first payment of irrigation rates shall be made on the day fixed by notification under section 47. The second payment shall be made during the month of March next after such date and subsequent payments shall be made during the month of March in each succeeding year.

(3) Irrigation dues shall be paid at such times as may be prescribed.

Power of
Minister to
remit.
40(1) 55
S. 3.

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

Increase on
arrearage.

50. Any irrigation dues or rates not paid at the expiration of three months after they shall have become due shall be increased at the rate of five *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
dues or
rates and
percentage
increase.

51.—(1) Any irrigation dues or rates 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, and shall be recoverable by the Collector of Taxes under the provisions of the Tax Collection Act.

(2) Without prejudice to subsection (1), any irrigation dues or rates not paid as aforesaid and any such percentage increase shall be recoverable by the Collector of Taxes 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 rates have been imposed.

52.—(1) The Collectors of Taxes shall keep assessment rolls setting forth in relation to lands within their parishes in respect of which irrigation dues or rates have been imposed—

Assessment
rolls.

- (a) a description of the land;
- (b) the amounts of all sums payable by way of irrigation dues and rates in respect of the land and the dates on which they are due and paid;
- (c) the amount of any percentage increase payable under section 50 and the date on which it is paid;
- (d) any other particulars which the Minister may from time to time prescribe.

(2) Such assessment rolls shall be open to public inspection during office hours and members of the public shall be entitled during office hours to take copies of any entries therein.

53. So soon as may be after the end of each financial year there shall be credited to every Authority such sum as is equivalent to the aggregate of the irrigation dues and rates collected under this Act in respect of any lands within the relevant irrigation area.

Disposal of
irrigation
dues and
rates.

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

Accounts to
be audited.

55.—(1) Every 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.

Financial
statements,
estimates
and report.

(2) Every 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.

(3) Every 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.

(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. *Establishment, Incorporation of Authority and Administration*

Establish-
ment of
Authority.

56.—(1) So soon as may be after the commencement of any order under section 3 declaring any area or restricted area to be an irrigation area the Minister shall by order establish an Irrigation Authority for such area.

(2) So soon as may be after the commencement of any order under section 3 declaring any area to be a restricted area the Minister shall by order declare some Irrigation Authority constituted under subsection (1) to be the Authority for the purposes of subsections (1) and (3) of section 46 in relation to such restricted area.

(3) Every Authority established under subsection (1) shall consist of a Chairman appointed by the Minister who shall hold office for such term as may be determined by the Minister and so many other members as may be specified in the order by which such Authority is established who shall be appointed or elected by such persons at such time for such term and in such manner as may be provided for by such order.

(4) Every order under this section may make such provisions as the Minister may in his absolute discretion think fit in relation to the appointment of members of the Authority other than the Chairman or any matter affecting or connected with such appointment and may make different provisions in respect of the appointment or election of the term of office of different classes of members of the authority established under such order.

(5) Every order under this section shall specify the name which shall be the corporate name of the Authority established by such order.

(6) Every order under this section shall specify the number of members of the Authority established by such order which shall be the quorum for the transaction of business of any meeting of such Authority.

57.—(1) Every Authority established under section 56 shall be a body corporate which shall have perpetual succession and a common seal and the power to purchase, hold, barter, exchange or sell land and other property of whatever description and subject to the approval of the Minister to borrow money in such amounts from such persons at such times and upon such terms and to give such security for the repayment thereof by the issue of debentures or otherwise as may be approved by the Minister.

Incorporation of Authority.

(2) The seal of the Authority shall be authenticated by the signatures of the Chairman, or one member of the Authority authorized to act in that behalf, and the secretary of the Authority, and such seal shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Authority may be signified under the hand of the Chairman, any mem-

ber of the Authority authorized in that behalf, the manager or the secretary of the Authority.

(4) The Authority may sue and be sued in their corporate name and may for all purposes be described by such name.

(5) The powers of the Authority shall not be affected by any vacancy in the membership thereof, nor by the fact that it is afterwards discovered that there was some defect in the appointment of a person purporting to be a member of the Authority.

Liability of
members
of the
Authority.

58. No member of the Authority shall be personally liable for any act or default of the Authority done or omitted to be done in good faith in the course of the operations of the Authority.

Resignation
of office.

59. The Chairman of any Authority by writing under his hand addressed to the Minister and any ordinary member of such Authority by writing under his hand so addressed through the Chairman of such Authority may resign his office.

Grant of
leave of
absence to
members.

60.—(1) The Minister, on the application of any member (including the substantive Chairman) of any Authority, may grant to such member leave of absence for any period not exceeding six months.

(2) If leave of absence is granted under subsection (1) to the substantive Chairman of any Authority the Minister may appoint as acting Chairman of the Authority during the leave of absence so granted to the substantive Chairman either some person other than a member of the Authority or a member of the Authority.

(3) If leave of absence is granted under subsection (1) to any member of any Authority other than the sub-

stantive Chairman or if any member of the Authority is appointed acting Chairman of the Authority under subsection (2) the Authority may co-opt some person to act for the member of the Authority so granted leave of absence or so appointed as acting Chairman of the Authority during the period for which such member is granted such leave of absence or is so appointed acting Chairman of the Authority, as the case may be.

61.—(1) Every Authority shall hold monthly meetings for the transaction of their business, which shall be held at such time and place and on such days as the Authority may determine. Meetings and procedure thereat.

(2) The Chairman may at any time call a special meeting of any Authority and shall call a special meeting within seven days of a requisition for that purpose addressed to him by any two members of the Authority.

(3) The Chairman shall preside at all meetings of the Authority at which he is present, and in the case of his absence the members present and constituting a quorum shall elect one of their number to act as Chairman of the meeting.

(4) All acts of every Authority, and all questions coming or arising before every Authority, shall be done and decided by the majority of such members of the Authority as are present and vote. In any case of an equality of votes, the Chairman of the meeting shall have a second or casting vote.

(5) Every Authority may from time to time make standing orders for the transaction of their business, including the power to appoint any member or committee to whom they may delegate authority to carry out such portions of the duties committed to them as they may from time to time determine.

(6) Every Authority may from time to time delegate to any of their officers or servants authority to carry out such portions of the duties committed to the Authority as the Authority may from time to time determine.

Appoint-
ment of
officers
and servants.

62.—(1) Every Authority may appoint and employ officers and servants upon such terms and conditions as they think fit:

Provided that no officer or servant shall be employed at any salary in excess of one thousand dollars per annum unless with the prior approval of the Minister, nor shall any member of the Authority be eligible to be appointed an officer or servant thereof.

(2) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any officer in the service of the Island to any office under any Authority:

Provided that in relation to pension, gratuity, allowance, and to other rights as a public officer, such officer shall be deemed to be in the service of the Island while so employed.

PART VIII. *Miscellaneous*

Transfer of
Rio Cobre
Irrigation
works.

Cap. 343
(1953
Revised
Edn.
Omitted).

63.—(1) The Minister may by order declare the area irrigated or capable of being irrigated at the date of the making of such order by any irrigation works constructed under the authority of the Rio Cobre Canal Law and vested in the Commissioner of Lands to be an irrigation area for the purposes of this Act with effect from such day as may be specified in such order.

(2) Any order under subsection (1) shall make such provision as the Minister may think fit (being provision which might be made by an order under section 56) for the establishment of an Irrigation Authority under this Act for such area.

(3) On the making of any order under subsection (1) there shall vest in the Authority established by such order with effect from the day specified in such order all the works referred to in subsection (1) together with all stores, plant, machinery, apparatus and appliances of every description vested in the Commissioner of Lands or the Accountant-General, as the case may be, immediately before such day and intended to be used for the purposes of or in connection with such works.

(4) Upon the vesting in the Authority of the works referred to in subsection (3)—

- (a) every cause of action in respect of any matter relating to such works or to any stores, plant, machinery, apparatus or appliances referred to in subsection (3) or to the supply of water from such works or to the recovery of any moneys due by any person in respect of the supply of water from such works which immediately before the vesting of such works in the Authority was vested in the Commissioner of Lands or the Accountant-General, as the case may be, shall be deemed to have been transferred to and shall vest in the Authority; and
- (b) the Authority shall be liable to be sued by any person in respect of any matter relating to the works, stores, plant, machinery or appliances vested in the Authority by an order under this section in respect of which the Commissioner of Lands or the Accountant-General, as the case may be, was liable to be sued by such person immediately before the vesting in the Authority of the works referred to in subsection (1); and
- (c) all instruments executed by the Commissioner of Lands or the Accountant-General, as the case may

Cap. 343
(1953
Revised
Edtn.
Omitted).

Cap. 93
(1938
Edtn.
Omitted).

Cap. 93
(1938
Edtn.
Renumbered
as Ss. 3 to 9
of Cap. 343)
(1953
Edtn.
now
Omitted).

be, in connection with any matter relating directly or indirectly to the irrigation works established under the Rio Cobre Canal Law shall take effect as if there were substituted for references in such instruments to the Commissioner of Lands or the Accountant General, as the case may be, or to the Chief Technical Director references to the Authority; and

- (d) the provisions of sections 3 to 32, both inclusive, of the Rio Cobre Canal Law shall be deemed to be repealed; and
- (e) the provisions of sections 33 to 39, both inclusive, of the Rio Cobre Canal Law shall take effect as if there were substituted for references in such sections to the Commissioner of Lands or the Accountant-General, as the case may be, or to the Chief Technical Director references to the Authority.

(5) No order under this section shall come into force until approved by both Houses of Parliament.

Regulations.

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.

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

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.

(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.