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THE NATIONAL IRRIGATION ACT, 2013
(ACT NO.5 OF 2013)

(Made under section 74)

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THE NATIONAL IRRIGATION ACT, 2013
(ACT No.5 OF 2013)

REGULATIONS

(Made under section 74)

THE IRRIGATION REGULATIONS, 2015

PART I
PRELIMINARY

- Citation 1. These Regulations may be cited as the National Irrigation Regulations, 2015.
- Interpretation 2. In these Regulations, unless the context otherwise requires-
- Act No.5 of 2013 "Act" means the National Irrigation Act;
- "constitution" means the constitution of the irrigators' organization and shall include by-laws where appropriate;
- "Commissioner" has the same meaning as ascribed under the Act;
- "dispute" means disagreement or argument or difference of opinion between members of the organization or persons claiming through them and the Management or the Board or any officer or between one organization and another;
- "Form" means Forms appended to these Regulations;

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“local government authority” has the same meaning as ascribed under the Local Government (District Authorities) Act;

“irrigable land” means such lands as irrigated or capable of being irrigated by flow from an irrigation work being under its command and shall include in the opinion of the commission or irrigation officer such cultivated lands which receive by percolation or otherwise from an irrigation work or by indirect flow, percolation or drainage from or through adjoining land, an advantage beneficial to and sufficient for the requirements of the crop;

“irrigation office” means an office of the Commission, Regional Irrigation Engineer or local government authority;

“Irrigation Officer” means an officer appointed by the Commission to exercise control or jurisdiction over an irrigation work or any part thereof and shall include an Irrigation Engineer, Inspector and any other duly authorized officer at the local government authority;

“Irrigators Organisation” has the same meaning as ascribed to it under the Act;

“Management Committee” means the governing body of a registered Irrigators’ organization to which the management of its affairs is entrusted and shall also mean any governing body of the organization incorporated under any other written law which is recognized under these Regulations and issued with certificate of compliance in terms of regulation 9 herein;

“occupier” includes an occupier of land or property who cultivates or possesses the same for the time being;

“owner” includes every person having interest in the ownership of land or property and all rights and obligations which is attached to an owner under the

provisions of the Act or these Regulations and shall attach jointly and severally to every person having such joint interest in the ownership;

“project” means the irrigation project developed and operated by Government, Commission, local government authority, irrigators’ organization or an individual and the expression also includes the project transferred to the Irrigators’ organization by government or the project developed and operated by the Irrigators’ organization itself;

“Project Office” means an office responsible for the management of irrigation and drainage infrastructures includes the project office of the Commission, local government authority, irrigators’ organization or an individual irrigator;

“political position” means a position of Village Chairman, Village Council, Village Executive Officer, Ward Executive Officer, Councilor, District Commissioner, Regional Commissioner, a Member of Parliament and any other person serving as leader in a political party;

“scheme office” means the Office which operates such irrigation scheme and in the case of the irrigation system developed and operated by Commission and Office of the irrigators’ organization which operates and manages such irrigation in the case of irrigation which is developed by Government, Local Government Authority or Commission and transferred to the irrigators’ organization and this expression also includes the office which operates and manages such irrigation in the case of irrigation system developed, operated and managed by any individual or legal entity;

“Regional Irrigation Office” means an office of the Commission established under section 11 of the Act;

“service” means the irrigation service made available to

- users or beneficiaries by the project;
- “service provider” means any stakeholder who provides irrigation services in an irrigation area;
- “structure” means a dam, canal, branch or secondary canal, minor or tertiary canal, water course, field channel constructed to reserve, control or supply water from its source and road, embankment, bridge, culvert, drain built for that purpose as well as building, machine, tools, equipment in the use and the area occupied by it and it also includes tube-well, pump, pump-house in case of groundwater and other electrical equipment as well as the distribution system.

PART II

FORMATION, REGISTRATION, PROCEDURES AND CONDUCT OF IRRIGATORS' ORGANISATIONS

Irrigators'
organisations

3.-(1) The irrigators shall form the irrigators organisation for the proper management of irrigation schemes.

(2) Irrigators' organization shall be formed by ten or more persons engaging in irrigation within a particular area.

(3) Subject to provisions of the Act and any written law, irrigators organisation may establish other economic entities as it deems fit.

Commission

4.-(1) For effective discharge of its functions, the Commission shall-

- (a) promote the formation of irrigators' organizations;
- (b) register and deregister irrigators or irrigators' organizations;
- (c) keep and maintain register of irrigators and irrigators' organizations;
- (d) ensure the publication of the names of irrigators and irrigators' organization registered or de-registered in

the *Gazette*;

- (e) determine appeals of irrigators' organization;
- (f) ensure that irrigators' organizations furnish information regarding their operations to the Commission;
- (g) monitor, keep records and reports regarding performance of irrigators' organizations; and
- (h) ensure that irrigators' organizations in discharging their functions comply with constitutions or by-laws.

(2) Notwithstanding anything contained in any written law, where the Commission is satisfied that, there is non-compliance or breach of the constitution or by-laws of the irrigators' organization it shall-

- (a) by notice in writing, cause to be held a special general meeting including suspending members of Management Committee; and
- (b) where the special general meeting has suspended members of Management Committee, it shall elect a caretaker Management Committee amongst the delegates to administer the affairs of the irrigators' organization for the period not exceeding ninety days.

(3) The Commission shall before taking any action against an irrigators organization which was issued certificate of compliance in terms of regulation 8, consult relevant authority to which the organisation was established.

Register of
irrigators

5.-(1) There shall be a register of irrigators where all matters relating to irrigators must be entered.

(2) The register shall consist of the following information:

- (a) Name of the irrigator or irrigators' organization;
- (b) Legal status (individual, irrigators' organizations, company or any other entity);
- (c) Physical area of operation;

- (d) Postal address and physical location of the office;
- (e) Names of office bearers;
- (f) Registration number and date;
- (g) Number of irrigators; and
- (h) Area under irrigation, water source and Water Use Permit.

Certificate of
Registration

6. Each irrigators' organization shall be identified by a certificate of registration or compliance issued by the Commission as the case may be.

Application
for
registration

7.-(1) Irrigators intending to be registered as irrigators' organization shall make an application to the Commission in **Form No. NIA. 1** as set out in the First Schedule to these Regulations.

(2) An application for registration shall be accompanied by:

- (a) four original copies of constitution or by-laws;
- (b) four passport size photographs of elected members of the Management Committee and their particulars;
- (c) four original copies of minutes of a meeting which passed the constitution containing full names and signatures of members who attended the meeting;
- (d) letter of recommendation from relevant local government authority;
- (e) duly filled application form, signed, stamped and accompanied by recommendations from respective local government authority;
- (f) application fee; and
- (g) any other particulars or information as may be required by the Commission.

(3) Every application shall be signed by the Chairperson or Secretary and all the notification shall be signed by Chairperson and Secretary of the irrigators' organization.

National Irrigation Regulations

GN. No. 402(contd.)

Certificate of
compliance or
approval

8.-(1) Subject to section 75(1) of the Act, any organization, association, cooperative society or any other entity or body corporate that performs any function as irrigators' organization registered under any other written law shall make an application to the Commission for a certificate of compliance in **Form No. NIA. 2** as set out in the First Schedule to these Regulations.

(2) Notwithstanding anything containing in these Regulations, Irrigators' Organizations issued with certificate of compliance under sub-regulation (1) shall be managed in accordance with the applicable law for which it was established.

Fees

9. There shall be a fee chargeable and payable to the Commission as prescribed in the **Second Schedule** to these Regulations.

Consideration

10.-(1) The Commission shall, within fourteen days, upon receipt of the application, determine whether to accept or refuse application for registration.

(2) Subject to sub regulation (1), where the Commission refused an application for registration, shall notify the applicant of the reason for the refusal on **Form No. NIA.3** as set out in the First Schedule to these Regulations.

(3) Where the Commission accepts an application for registration shall issue a certificate of registration on **Form No. NIA.4** as set out in the First Schedule to these Regulations.

(4) The certificate of registration shall contain:

- (a) the name of the irrigator organisation;
- (b) such terms and conditions in respect of which a certificate is issued.

National Irrigation Regulations

GN. No. 402(contd.)

Grounds for
refusal or
approval

11. The Commission may refuse to register or approve the irrigators' organization if it is satisfied that:

- (a) The application does not comply with provisions of the Act and these Regulations;
- (b) the objects of the irrigators organization are contrary to any written law;
- (c) the application has given false or misleading information; or
- (d) the reasons for non registration given by relevant local government authority are true and correct.

Appeal
against the
decision of
the Director
General

12.-(1) Any applicant who is aggrieved by the decision of the Director General may appeal to the Minister within twenty one days after receiving a notification of the decision for refusal.

(2) The Minister shall within twenty one days from the date of receiving the appeal consider and determine the appeal.

(3) In determining the appeal, the Minister may-

- (a) uphold, quash or vary the decision of the Director General;
- (b) require the Director General to revise or review the decision; and
- (c) require the Director General to inquire into specific information from the appellant and make further consideration of the application.

Suspension
and
cancellation
of
registration

13.-(1) The Director General may suspend or cancel registration of irrigators' organization if satisfied that:

- (a) the terms and conditions as prescribed in the certificate have been violated;
- (b) the organization has ceased to exist;
- (c) the organization operates in violation of its constitution.

(2) Where registration has been suspended, the Director General shall;

- (a) notify the irrigators' organization in **Form NIA. 5** as set out in the First Schedule to these Regulations; and
- (b) order such organization to stop its operation.

(3) Where registration has been cancelled, the Director General shall give notification in **Form NIA. 6** as set out in the First Schedule to these Regulations.

Annual
reports

14. Every irrigators' organization shall prepare and furnish to the Director General annually returns containing the following:

- (a) annual audited financial reports;
- (b) reports of the activities conducted annually; and
- (c) minutes of the proceedings of the Annual General Meeting.

Notification
as to changes

15.-(1) Every irrigator's organisation shall notify the Director General on any change of-

- (a) office bearers as set out in the **Form Na. NIA. 7** in the First Schedule to these Regulations;
- (b) irrigators' organisation name and issue a notice in **Form Na. NIA.9** as set out in the First Schedule to these Regulations;
- (c) its registered office in **Form Na. NIA.10** as set out in the First Schedule to these Regulations.

(2) Every irrigator's organisation issued with certificate of registration pursuant to regulation 6, shall apply to the Director General for change of its organisation name in **Form Na. NIA.8** as set out in the First Schedule to these Regulations.

(3) The Director General may approve the change of name and issue a notice in **Form Na. NIA.9** as set out in the First Schedule to these Regulations.

(4) An irrigators' organization shall apply to the Director General for any change of its constitution in **Form Na. NIA.12** as set out in the First Schedule to these Regulations.

(5) The Director General shall approve amendment of the constitution of irrigators' organization and issue a notice in **Form Na. NIA.13** as set out in the First Schedule to these Regulations.

(6) Notwithstanding the provisions of sub-regulations (2) to (5), every irrigators' organization issued with certificate of compliance pursuant to regulation 8 herein shall notify the Director General for any change of its organization name, registered office, postal address and its constitution and by-laws.

Management
Committee

16.-(1) Each irrigators' organization shall have Management Committee elected at the general meeting of its members which shall include the chairperson and vice chairperson.

(2) Members of the Committee shall be elected among the members of the organisation members.

(3) Irrigators' organization Management Committee shall constitute of not less than five and not more than nine of which at least one third shall be women.

(4) While constituting the irrigators' organization Management Committee under sub-regulations (1) and (2), there shall be a representation of at least two third of irrigators in the irrigated area of such canal, branch or secondary canal, minor or tertiary canal, water course, field channel distributed water from which canal, branch or secondary canal, minor or tertiary canal, water course, field channel is to be used.

(5) The provisions of sub regulation (1) shall not apply to those irrigators organisation incorporated under any other written laws.

National Irrigation Regulations

GN. No. 402(contd.)

Functions of
Irrigators'
Organization

17.-(1) In addition to the functions provided for under section 31 of the Act, the Irrigators' Organization shall be responsible for the following:

- (a) repair, maintain, operate and manage the irrigation system operated by it, and if any change or replacement of the equipment or the physical structure affecting the irrigation system is needed then, prior approval of Irrigation Officer shall be required.
- (b) avail water to the irrigators at appropriate time and in proper quantity as required by the type of crop and the condition of the land;
- (c) keep the record of the land in which service could not be availed and recommend exemption of the service fee by such users;
- (d) distribute water to new irrigators without causing any harm to the previous users who are receiving the service;
- (e) mobilize irrigators participation for maintenance of the irrigation system;
- (f) collaborate with village governments and other stakeholders in major maintenance works;
- (g) construct additional structures where necessary in order to increase irrigable area considering the supply of water and upon approval from Irrigation Officer;
- (h) collect irrigation service fee from users and deposit the same as prescribed by an authorized Irrigation Office;
- (i) collaborate with relevant authority to enforce penalty for irrigators who fail to pay or delay payments of irrigation service fee and collect late charge and inform the same to authorized Irrigation Office;
- (j) provide notice to the authorized Irrigation Office of any information pertaining to any demolition or destruction, alteration, obstruction or any knowledge about the possibility of the similar activities towards the irrigation system or structure.

(2) In case technical consultation is required while exercising the functions, duties and powers pursuant to sub regulation (1), the irrigators' organization may request to the concerned Irrigation Officer and the local government authority shall provide necessary technical consultation.

(3) Subject to sub-regulation (1), some functions, duties and powers may be delegated by constituting various sub-committees from among the irrigators who are using the service.

(4) The procedure for conducting the affairs of irrigators' organizations shall be as set out in the **Third Schedule** to these Regulations.

Code of ethics

18.-(1) Members of the Management Committee shall not hold any political position in the village or religious position in religious organization while in office.

(2) The Commission shall in consultation with stakeholders formulate codes of ethics for the members of the irrigators' organization and the Management Committee and each member shall abide to it.

Irrigators' Coordination Committee

19.-(1) Irrigators' organization which uses water flowing in the main canal, branch or secondary canal, minor or tertiary canal shall on the basis of nature and extension of such irrigation system, constitute irrigators' coordination committee for each main canal, branch or secondary canal, minor or tertiary canal with representation of one representative from each and notification to that effect shall be given to the concerned Office at the local government authority and the Commission.

(2) The irrigators' Coordination Committee constituted pursuant to sub regulation (1) shall coordinate the activities relating to operation, maintenance and distribution of water from such canal, branch or secondary canal, minor or tertiary canal.

(3) The irrigators' coordination committee working procedure and other necessary matters shall be determined by the Coordination Committee itself.

Power to
make
constitution

20.-(1) Irrigators' organization established under these Regulations shall have power to make their constitution or by-laws for any such things necessary or desirable for the purpose of which the irrigators' organization is established.

(2) Irrigators' organizations' constitution or by-laws shall prescribe among others the following:-

- (a) Name and address of the organization;
- (b) Area of operation;
- (c) Objects for which the irrigators' organization is established;
- (d) Membership qualifications;
- (e) Administration and structure of the organization;
- (f) Procedures of conducting its meetings;
- (g) Procedures for meetings;
- (h) Mode of election of office bearers;
- (i) Procedures for dispute settlement;
- (j) Amendment of constitution;
- (k) Procedures for winding up, and
- (l) Any other rules governing the operation and management of irrigation schemes.

Financial
records

21.-(1) Every irrigators' organization shall maintain proper records in relation to business and affairs of the organization which shall include record of the service fee paid by irrigators and expenditure.

(2) Irrigators' organization, may recruit or hire an internal auditor for inspection of its accounts subject to approval of its annual general meeting.

(3) The accounts of irrigator organization shall be audited at the end of every financial year by a competent and registered auditor appointed by the general meeting and

approved by the Director General.

(4) As soon as annual accounts of irrigators' organization have been audited, the Management Committee shall cause to be sent to the Director General a copy of the audited report and management audit report.

Apex forum

22. Subject to section 28(2) (g) of the Act, for effective management of irrigators' organizations apex forum may be formed at river basin management sub-system and at national level which shall be responsible for sharing of information, experiences and lobbying for matters relating to irrigation and drainage management.

Winding up

23.-(1) Irrigators' organizations established and registered under the provisions of regulations 7 and 8 of these Regulations may wind up their operations through voluntary and compulsory winding up.

(2) Voluntary winding up of an irrigators' organizations shall be effective where-

- (a) the general meeting attended by three quarter of members have passed 9 resolution that, the organization shall wind up its affairs; and
- (b) notice with reasons thereof has been submitted to the Director General.

Compulsory winding up of irrigators' organizations shall be-

- (a) by order of the court of competent jurisdiction; or
- (b) by cancellation by the Director General as provided under regulation 3 of these Regulations.

(4) Subject to sub-regulation (2) the irrigator's organisation shall propose to the Director General the name of a liquidator through the General meeting.

(5) Upon cancellation of an irrigators' organization, the Director General shall publish in such manner as he thinks proper, a ninety days notice requiring claims against the irrigators' organization to be submitted to him or to such

person as he may appoint as a liquidator within one month.

(6) All creditors recorded in the books of any irrigators organization shall be deemed *ipso-facto* to have been duly notified.

(7) When an order canceling the registration of irrigators' organization is made by the Director General, the liquidator shall immediately from the date on which the order takes effect, take charge of the books of the irrigators' organization for winding up its affairs.

(8) The liquidator shall proceed to determine the assets and liabilities of the irrigators' organization as they stood at the time of cancellation of its registration and shall determine the contributions to be made by the members and past members respectively to the assets of the irrigators' organization.

(9) The liquidator shall also determine by what person and in what proportions the cost of liquidation shall be borne.

(10) The Director General may provide the appropriate procedure and forms for the liquidation process.

(11) The liquidator shall make an order noting the names of members and past members and the amount to be realized from each as the contribution.

(12) The order made shall be submitted to the Director General for his approval, and he may modify it or refer it back to the liquidator for further inquiry or other action.

(13) In the event of winding up, members shall be obliged to become members to other organization or form another irrigators' organization.

Recognition
of Individual
farmer and
body
corporate

24.-(1) For the purpose of section 27 (2) of the Act, individual farmer owning or occupying land in a particular irrigated farm shall be recognized and approved as an irrigator.

(2) The owner or occupier of land shall be the holder of the Water Use Permit for irrigation purposes.

Procedure for
recognition
and approval

25.-(1) An individual or body corporate shall make an application to the Director General for recognition as an irrigator by filling **Form No.14** as provided in these regulations.

(2) Application for recognition shall consists of the following details-

- (a) Name of an individual or body corporate;
- (b) Evidence of owning or occupying land; and
- (c) Water use permit for irrigation purposes.

(3) Upon receipt of an application for recognition, the Director shall issue a certificate of recognition as provided for in **Form No.15** of these regulations.

Obligation of
a recognized
irrigator

26. Recognized irrigator shall be obliged to submit annual statistics related to crop production and any other information that may be required by the Director General.

PART III

FORMULATION OF IRRIGATION PROJECTS AND CONSTRUCTION OF IRRIGATION WORKS

Formulation
of irrigation
projects

27. The approach on formulation of irrigation projects in an irrigation area shall be participatory and demand driven process using guidelines formulated by the Commission.

Power to
enter and
carry out
investigations

28.-(1) Without prejudice to section 14 of the Act, any Irrigation Inspector or authorized officer, may-

- (a) enter upon any land to any irrigation work or water-course, or through which any irrigation work or water-course is to be made, and undertake investigation or levels thereon;

- (b) dig and bore into sub-soil;
- (c) make and set up suitable land-marks, level-marks, water-gauges and other apparatus;
- (d) do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected irrigation work or watercourse under the charge of the said authorized officer;
- (e) where inquiry cannot be completed, cut down and clear away any part of any standing crop, fence or jungle; and
- (f) enter upon any land or premises for the purpose of inspecting or regulating the use of the water supplied, or measure the lands, irrigated thereby or chargeable with irrigation revenue and do all things necessary for the proper regulation and management of any irrigation work;

Provided that, if such authorized officer or person proposes to enter into any premises shall give the occupier of such premises a reasonable notice in writing of his intention to do so and shall consult relevant authorities in respective area.

(2) Where the Commission proposes to construct any projected irrigation work after completion of the survey and enquiry as may be necessary shall, in accordance with the provisions of sub regulation (1), publish in the prescribed manner the description of the said work indicating the situation thereof and the area likely to be benefited or adversely affected thereby along with any further particulars as may be prescribed and call for objections or suggestions from persons interested to be filed before the prescribed authority within a time to be specified in these Regulations.

(3) Every objection or suggestion under this regulation shall be heard and considered by the Commission or appointed officer on behalf who shall after the close of the

enquiry submit the entire record of the proceedings along with the report and recommendations to the Commission for decision making which shall be final:

Provided that nothing in this sub regulation shall apply in respect of any minor irrigation work and the procedure to be followed in the construction of any such work shall be as prescribed herein.

(4) For the purposes of this regulation, 'construction of any projected irrigation work' shall include the extension or improvement of any irrigation work if as a result of such extension or improvement-

- (a) the area limit of such irrigation work is increased; or
- (b) such irrigation work is assigned a class higher than that to which it belong.

Procedures
for
application
for
construction
of irrigation
works

29.-(1) The application for construction of irrigation works shall be made in a **Form No. NIA 16** as set out in the First Schedule to these Regulations.

(2) Subject to section 20 of the Act, application for construction of irrigation works shall contain among others, the following:

- (a) name and physical address of the applicant;
 - (b) location and size of the proposed irrigation project;
 - (c) expected date of commencement and completion of the project;
 - (d) recommendation from the Irrigation Officer in the relevant local government authority; and
 - (e) Environmental Impact Assessment certificate.
- (3) The application shall be accompanied by-
- (a) requirements listed under section 20(3) of the Act;
 - (b) Non- refundable application fee; and
 - (c) Any other information as required by the Commission.

(4) Application for construction of irrigation works under these Regulations shall be filed before the Commission through the Regional Irrigation Engineer.

(5) For smallholder development projects, comprehensive guidelines shall be followed for implementation.

30.-(1) The Commission shall within sixty days upon receipt of the application for construction of irrigation works, form a team of at least three experts to scrutinize and decide upon the application.

(2) If the Commission has refused to grant the approval, shall within fourteen days after the results from team of experts notify in writing the applicant of the decision and grounds thereof.

(3) Where the Commission is satisfied that the application complies with the requirements of the Act and these Regulations, shall approve the construction of irrigation works and issue a permit as provided for under Form No. NIA 17 as set out in the First Schedule to these Regulations.

(4) The applicant, whose application has been refused, may appeal to the Minister within fourteen days from the date of receipt of notification for refusal.

(5) The Minister shall, upon receipt of the appeal, consider and determine the appeal within twenty one days.

Consideration
of the
application
for
construction
of irrigation
works

Publication

31.-(1) When a projected irrigation work is proposed to be constructed, it shall be published and notified to the local community for objections or suggestions.

(2) The Commission or any relevant authority shall cause copies of the notice to be published:-

(a) in the local newspapers of wider circulation;

(b) on the notice boards of the Office of Basin Water Boards, local government authority offices and

irrigators' organization within the limits of any land which is likely to be benefited or affected by the proposed work is situated;

- (c) at a conspicuous place in every village in any land which is likely to be benefited or affected by the proposed work is situated in presence of not less than two witnesses whose signatures or thumb impressions shall be obtained on a copy of the notice filed in the Commission's records.

(3) Objections or suggestions, referred to in sub regulation (2) shall be filed before the Commission.

Notice for
objections and
suggestions

32.-(1) When a minor projected irrigation work is proposed to be constructed, the Commission shall notify the local community by giving the description of the said work and call for objections or suggestions by a date specified in the notice where copies of the notice shall be published-

- (a) in the local newspapers of wider circulation;
- (b) on the notice boards of the office of Basin Water Boards, local government authority offices and irrigators' organization within the limits of any land which is likely to be benefited or affected by the proposed work, is situated;
- (c) at a conspicuous place in every village in any land which is likely to be benefited or affected by the proposed work, is situated, in presence of not less than two witnesses whose signatures or thumb impressions shall be obtained and copy of the notice to be filed in the Commission's records.

(2) All objections or suggestions under sub regulation (1) shall be filed before the local government authority offices and a copy of, objection or suggestion shall be kept open for inspection by public in the office of the Irrigation Officer and Irrigators' Organization until final orders is

passed under these Regulations.

(3) Any person having the same ground of objection or suggestion may jointly file the same.

Determination
of objections
and
suggestions

33.-(1) All objections and suggestions under regulation 32(1) shall be heard and determined by the Commission or any Officer appointed on that behalf.

(2) Any appointed Officer of the Commission shall be competent to decide, if the work should be executed or not with such modification, if any, as he may specify, after close of the enquiry.

(3) The appointed Officer shall, immediately after the close of the enquiry, submit the entire record of proceedings along with his report and recommendations to the Commission.

Notification
regarding
decision of
the
Commission

34.-(1) The Commission may, after considering the report in respect of any projected irrigation work which is not a minor irrigation work direct that, the proposed work be executed or not with such modification, if any, as the Commission may determine and specify.

(2) The Commission may, at its own discretion make further inquiry or cause such an inquiry to be made by such person as may be specified in his behalf or hear any of the persons filing objections or suggestions before coming to a decision.

(3) The decision made by the Commission under sub regulation (1) shall be notified on the notice board of the office of Basin Water Boards, local government authority and irrigators' organization.

Guidelines for
irrigation
management

35.-(1) The Commission shall prepare and issue guidelines for irrigation management and any other guidelines in relation to the implementation of the provisions of the Act and these Regulations.

(2) The guidelines issued by the Commission under sub-regulation (1) may contain but not limited to the following:

- (a) procedures for the construction, repair, protection, use and maintenance of irrigation works, channels, infrastructures and drainage systems;
- (b) flood plain use, occupation, protection and general management;
- (c) application and permit for cultivation of river beds, sand bars and tidal flats;
- (d) procedures for prevention of water pollution; and
- (e) any other terms and conditions which the Commission may deem fit for attaining the objectives of the Act.

Circumstances
of variation
or withdrawal
from the
investment

36. The Commission may vary or withdraw from the investment due to the following circumstances:

- (a) natural disasters;
- (b) occurrence of land and water use conflicts;
- (c) insolvent of the other party; or
- (d) any other events which is beyond control.

Monitoring
and
evaluation
team

37.-(1) Without prejudice to section 49 of the Act, there shall be a monitoring and evaluation team at every region authority depending on the requirement of the respective regional authority, which shall be responsible for monitoring and evaluation of irrigation activities in quarterly basis and provide advice to the relevant region and the Commission.

(2) The monitoring and evaluation team shall be composed of such number of technical experts from the Commissions and regional secretariat as it shall be determined by the relevant regional authority which in all cases shall not exceed five members.

Certificate of
Quality

38.-(1) Without prejudice to any certificate which may be issued under specific irrigation work construction contracts, in order to ensure quality of irrigation works, the

Commission shall issue certificate for approving the quality of any irrigation work.

(2) Certificate referred to under sub-regulation (1) shall be issued by the Commission upon being satisfied that construction standards and specifications have been adhered to by the contractor during construction of irrigation works.

Operation and
Maintenance
manual

39.-(1) The Commission shall ensure that Operation and Maintenance manual forms part of construction contract.

(2) The manuals referred to under sub regulation (1) shall be handed over by the contractor to the scheme beneficiaries.

Supervision

40. For the purpose of ensuring construction of quality irrigation and drainage infrastructure, continuous supervision of construction works shall be undertaken by competent personnel registered by respective bodies and in accordance with the terms, conditions, and design specifications provided for in the construction contract.

Water points
for other
purposes

41. Where irrigation scheme has incorporated watering points for purpose of drinking water for livestock and other uses, the irrigators' organization or scheme owners shall put in place a mechanism for water use.

Construction
of
watercourses

42. For the purpose of making use of the water for an irrigation work the watercourses shall be constructed by the persons to be benefited at their own cost.

Construction,
extension,
improvement
or alteration
of a
watercourse

43.-(1) Any owner of land desiring for the construction, extension, improvement or alteration of a watercourse shall apply in writing to the Commission in accordance with the procedures stipulated under these Regulations.

(2) The Commission may, after giving such notice and cause such enquiries as may be prescribed, permit the applicant to construct, extend, improve or alter the said watercourse or, if the applicant so desires, have it constructed, extended, improved or altered through any government agency on such terms and conditions fixed by the Commission regarding payment of costs, mode of execution, time of completion, facilities to be afforded by the applicant to safeguard other interests or to benefit other lands whose owners may apply for the same, and other matters as may be relevant in each case or may reject the application.

(3) Any person aggrieved by an order made under sub regulation (1) may within thirty days from the date of intimation of the order, appeal to the Minister and his decision thereon shall be final.

(4) If it is necessary to acquire any land for the purpose of sub regulation (1), the Commission may on application for the said purpose proceed to initiate land acquisition process in accordance with relevant land law.

Obligations of
owners of
land receiving
supply of
water from
watercourse
Cap.331

44.-(1) Subject to the relevant provisions of the Water Resource Management Act and conditions regulating Water Use Permit, all owners and occupiers of land receiving supply of water from a specified watercourse shall be bound to-

- (a) maintain such watercourse in a fit state of repair;
- (b) allow any person who is entitled to use to the same in accordance with the terms and conditions for Water Use Permit;
- (c) construct and maintain all works necessary for the passage across the watercourse of canals, drainage, channels and public roads existing at the time of construction and of the drainage intercepted by it; and
- (d) afford proper communications across it for the

convenience of the occupants of the neighbouring lands.

(2) If the owners and occupiers of lands receiving supply of water from a specified watercourse fail to fulfill any obligation imposed on them under the Act or these Regulations the Irrigation Officer may require them by public notice to execute the necessary work or repair within such period as may be prescribed not being less than five days from the date of the said notice and in case of their default the Irrigation Officer may execute the same on their behalf.

(3) Any cost incurred by the Irrigation Officer on any work or repair under Sub-section (2) shall be recoverable *pro rata* on the basis of the acreage of land benefited by the watercourse from the defaulters as arrears of government revenue.

Use of land
acquired for
irrigation
watercourse

45. No land acquired for irrigation purpose and construction of watercourse shall be used for any other purpose without the prior consent in writing of the Commission.

Sanctioning
the
construction
of
watercourses

46.-(1) The plan and estimate for construction of watercourses of any irrigation work shall be separately prepared and sanctioned by the Commission or authorized officer on that behalf.

(2) The plan shall show the alignment of watercourses and delimitation of blocks.

Construction
of
watercourses

47.-(1) In the case of existing works under construction, where the system of watercourses which is necessary has not been provided or shown in the approved plan the Commission shall:

(a) sanction the construction of the watercourses.

(b) before sanctioning the construct, publish in the office of the Village Executive Officer and in the office of the concerned irrigators under whose jurisdiction the land is situated and in a conspicuous place of every village in which the lands to be benefited or affected by the execution of the proposed watercourse lie and invite objections, if any.

(2) Objections to the proposed construction shall be received by the Commission within thirty days from the date of publication of the description of the proposed work in the village.

(3) The Commission shall on the date fixed for hearing of the objections or on any subsequent date to which the hearing may be adjourned, hold or cause to be held such summary enquiry as he thinks fit, after giving the notice to the persons concerned and shall decide about the construction and issue directions to the persons benefited to construct the watercourse by a date specified by him which shall not be less than one month from the date of the order.

Construction
of
watercourse
where private
arrangement
is not possible

48.-(1) Any person who has a desire to construct, extend, improve or alter a water course shall request in writing to the Commission stating that, he is ready to defray all costs necessary for constructing, extending, improving or altering such watercourse as well as the cost of acquisition of land, if any.

(2) If the Commission considers such work to be expedient, it may require such a person to deposit ten percent of the costs, and upon such deposit being made, shall cause an enquiry to be made into the most suitable alignment for the said watercourse and mark out the land which, in its opinion is required for the construction thereof.

(3) The deposit made under sub regulation (2) shall be adjusted where recovery of the cost for construction,

extension, improvement or alteration is made after completion of the work.

(4) The Commission shall forthwith publish a notice in every village through which the watercourse is proposed to be taken.

(5) The said notice shall also call upon any person who wishes to have benefit of such watercourse to his lands to make a request in writing to the Commission within thirty days of publication.

Construction
of
watercourses
by
Government

49. Where the Commission considers it expedient to construct the watercourses pertaining to any irrigation work, at the cost of Government, it shall establish the layout of the entire system of watercourses or a substantial section of it, and effect recovery of the cost so incurred from the owners and occupiers of the lands benefited thereby in the form of a general enhancement of the compulsory basic irrigation service fees or by the imposition of a special rate per acre in the manner prescribed.

Provided that in consideration of special circumstances the Commission may decide to exempt the said owners and occupiers either wholly or partly from such payments.

Improving
integrated
water
resources
management
and water
sources
conservation

50.-(1) The Commission shall collaborate with other relevant water resources management authorities in order to:

- (a) implement water resources development plans in those places where irrigation systems have been or are to be developed;
- (b) build capacity key actors at basin, region, and district levels for improved management of water resources;
- (c) pilot options for increasing water use efficiencies within catchment areas;
- (d) identify and demarcate important water sources for gazettelement;

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- (e) identify and pilot testing incentives and raise awareness on conservation and protection of water sources; and
- (f) identify water sources pollution hotspots for compliance and implement monitoring plans.

Recovery of
expenses
incurred by
Government

51. Expenses incurred by the Government in connection with the construction of irrigation scheme, construction and maintenance of water course and acquisition of lands under any irrigation works may be recovered from beneficiaries as agreed between the parties:

Provided that, upon consideration of any special circumstances the Commission may exempt such beneficiaries either wholly or partly from payment of such expenses.

Classification
of irrigation
works

52. All irrigation works belonging to or constructed by or on behalf of the Government or Commission shall be classified into such number of classes as the Commission may determine having regard to the cost of construction the duration and amount of water supplied, and the compulsory basic irrigation service fee shall be levied in respect of each class of irrigation work in any district or specified area at such charges as may be fixed by the Commission in the prescribed manner.

Supply and
use of water
for irrigation

53.-(1) All supply of water from an irrigation work shall be subject to such rules or orders as may be prescribed or issued by the Commission or relevant irrigators' organizations from time to time with respect to charges, conditions or any other matter.

(2) Conditions and use of water from water sources shall be in accordance with the terms and conditions governing Water Use Permit.

Delimitation
of areas for
crops

54.-(1) The Irrigation Officer may delimit into blocks areas for crops other than the staple cereal crops and each block shall have a period of rotation according to the cropping cycle and pattern determined by the persons having lands in the blocks by mutual agreements.

(2) In case of disagreement between irrigators, the Irrigation Officer in collaboration with the Agricultural Officer shall prepare a draft crop pattern for each block under his charge.

(3) Crop pattern prepared under sub regulation (2), shall be published in a conspicuous place of the village in which the block is situated in presence of two witnesses from the locality inviting objections and suggestions to be filed before the Irrigation Officer within fifteen days from the date of publication

(4) The Irrigation Officer after the last date fixed for filing objections and suggestions, and after giving due notice to the parties concerned shall proceed to hear the objection and suggestions received.

(5) As soon as the Irrigation Officer completes the hearing he shall finalise the crop pattern for each block and cause the same to be published in a conspicuous place of the village in presence of two witnesses from the locality.

(6) Any person aggrieved with the order of the Irrigation Officer may file an appeal before the Commission within thirty days from the date of publication and the decision of the Commission shall be final.

(7) The crop pattern fixed for a block may be revised at the close of every third cycle.

Preparation of
irrigation
charts

55.-(1) Irrigators' organizations shall prepare an irrigation chart for lands under each irrigable land showing the quantity of water supplied according to the time schedule indicated therein.

(2) The draft chart shall be tabled in the General Meeting of irrigators' organization for discussion amongst members.

(3) The finalised irrigation charts shall be displayed at the office of the irrigators' organizations before commencement of crop season.

Supply of
water for
irrigation

56.-(1) It shall be the duty of irrigators' organizations to supply water at the outlets according to the finalised irrigation charts as may be finalized by the irrigator or modified on appeal.

(2) The internal distribution of water to lands within a block from the watercourses shall be left to the persons having lands in the block.

Insufficiency
water for
irrigation

57. Where for any cause, water for irrigation is insufficient to meet the demands, issues regarding the allotment of the available supply, quantity and regulation thereof, shall be subject to the general or specific orders of the Irrigation Officer in consultation with relevant authorities including Basin Water Boards.

PART IV

OPERATION AND MAINTENANCE OF IRRIGATION WORKS

Power to
enter for
repairs and
prevent
accidents

58. Subject to the provisions of the Act, in case of any accident happening or being apprehended to an irrigation work, any Irrigation Officer or person acting under his general or special orders in writing on his behalf, may enter upon any lands adjacent to such irrigation work, and execute all works which may be necessary for the purpose of repairing the damages caused by or preventing such accident.

Power to
prohibit
obstructions

59. Whenever it appears to the Commission that damage to land or to public health or public convenience has arisen or

may arise from the obstruction of any river, spring, stream, irrigation work or drainage work in an irrigation area, the Commission may, by notice in any local news paper, prohibit within limits to be defined in such notification, the formation of any obstruction, or the removal or modification of such obstruction.

Power to
remove
obstructions

60.-(1) The Commission, or any Irrigation Officer authorized on behalf of the Commission, may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify it within a fixed time.

(2) Where, within the time fixed, such person does not comply with the order, the Commission or the said authorized Irrigation Officer may remove or modify the obstruction and the expenses incurred in such removal or modification shall be recoverable from the person concerned as arrears of government revenue:

Provided that the Commission or the said authorized Irrigation Officer may, in cases of emergency, remove the obstruction before publication and the expenses incurred shall be recoverable in the same manner.

Provision of
canal
crossings

61.-(1) The Irrigators shall at their own costs, provide a suitable means of crossing canals constructed or maintained at such places as the Commission consider necessary for the reasonable convenience of the inhabitants of the adjacent lands.

(2) On receiving a statement in writing, signed by not less than five persons who are owners or occupiers of such lands, to the effect that suitable crossings have not been provided on any canal, the Commission shall cause an enquiry to be made in the manner as it deems fit.

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Power to
impress
labour in
emergency

62.-(1) Whenever it appears to the Irrigation Officer or any officer acting under his general or specific orders on his behalf, that, a serious damage may happen or continue to happen to any irrigation work as is likely to cause or continue to cause serious public injury or interruption on the normal course of irrigation and that, the labour necessary for the proper execution thereof cannot be obtained in the ordinary manner in time to prevent such injury or interruption or to remedy it within a reasonable time, the Irrigation Officer, or any officer acting under the said orders may, by public proclamation or order of relevant government office, require every owner and occupier of irrigable land resident in any neighbouring villages of the place where the work is to be executed, and every agricultural labourer employed by them, to attend in person at such place aid to carry out such duties as he may allot to them in connection with the execution of the work necessary for the safety of the particular irrigation work.

(2) Where the Irrigation Officer, or any officer acting under his orders is of the opinion that the amount of labour likely to attend is not sufficient, he may at any time, and subject to the conditions laid down in sub regulation (1) issue an order requiring the attendance of all cultivators or agricultural labourers or resident from all surrounding villages of the place where the work is to be executed.

(3) Notwithstanding sub-regulation (2), the Irrigation Officer or any officer acting on his order shall collaborate with respective local government Authority.

(4) No person shall be required to carry out any duties under this regulation for which such person is unfitted by reason of age, health or physical capacity.

Operation and
maintenance

63.-(1) Subject to section 40 of the Act, irrigators shall put in place a mechanism of which beneficiaries shall

contribute for operation and maintenance of irrigation and drainage systems.

(2) For the purpose of sub regulation (1), the mechanism shall be in form of a routine, periodical and special maintenance.

(3) Routine and periodical maintenance shall be undertaken in accordance with the operation and maintenance plan as provided for in the Operation and Maintenance Manual as stipulated in the existing Comprehensive Guidelines.

(4) In case of a damaged irrigation and drainage systems which due to its magnitude requires special maintenance, the Management Committee of the Irrigators' organizations shall make an assessment of the damage and submit the report to the relevant local government authority and the Commission.

(5) The local government authority in collaboration with the Commission may provide means for rehabilitation of such damaged infrastructures.

Installation of
water gauges

64. Every irrigation scheme shall install water gauge at abstraction points and division structures in order to ensure that water requirements per specific crop is reached and maintained.

Water
allocation
plan

65. Every irrigation scheme shall prepare water allocation plan defining water allocation among different seasons and crops needed to ensure smooth water delivery in the irrigation system.

Water
distribution
and quality
management

66.-(1) Before commencement of cropping season, every management committee shall-

(a) employ temporary or permanent basis gate keepers to ensure that water is equally distributed in accordance

with the agreed time table:

- (b) prepare a water requirement budget;
 - (c) ensure that crop calendars are prepared and followed for smooth water distribution;
 - (d) ensure that distribution of water to every irrigator in the command area takes into consideration the size of irrigated area thereby maintaining equity in the distribution of canal water;
 - (e) introduce the block system of water distribution in the outlet commanding area as provided in the respective guidelines in irrigation scheme where there is scarcity of water;
 - (f) make an examination of irrigation water quality before irrigation to avoid pollution;
 - (g) take measures to improve the quality of irrigation water used in irrigation area.
- (2) During cropping season, every Management Committee shall:
- (a) make an examination of water quality before draining excess water to its original course in order to control pollution;
 - (b) take measures to improve the quality of water in the drainage systems.

Control of
navigation in
irrigation
works

67. A person interested in transportation of goods and service in an irrigation work shall make a request to the Irrigation Officer subject to the following conditions;

- (a) that the vessel operates in a specified time so as not to interfere with normal water distribution in irrigation and drainage systems;
- (b) that the vessel used is seaworthy;
- (c) that the vessel and anyone therein shall not pollute water in irrigation systems by any means.

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Duration of
scheme
management
support teams

68.-(1) For the purpose of section 28(2)(i) of the Act, duration of scheme management support teams shall not exceed four years.

(2) The scheme management support team shall comprise of such number of experts relevant for management of irrigation schemes.

Notification
and
submission of
contracts

69.-(1) For the purpose of section 28(2)(j) of the Act, public entities and private investors shall notify and submit to the Commission, Regional Secretariat and Local Government Authorities, a certified copy of prevailing contractual agreements with the out growers in a particular irrigation scheme.

(2) For future contracts, public entities and private investors shall submit to the Commission, Regional Secretariat and Local Government Authorities certified copies of the contracts within twenty one days from the date of its commencement.

Management
of irrigation
scheme by
private
service
providers.

70. For the purpose of section 28(2)(k) of the Act, unless otherwise provided, the period for management of irrigation infrastructure by service provider shall not exceed four years.

Maintenance
of irrigation
data

71. Subject to section 28(2)(n) of the Act, irrigators' organizations shall keep records regarding production, water use, inputs, processing and marketing and furnish the same to the local government authorities and the Commission annually.

Notification
of farming
systems and
irrigation
methods

72. For the purposes of farming systems and irrigation methods on any irrigation area, the Commission shall publish in widely circulated newspaper and on a notice board of a

respective irrigation scheme a notification containing the following details:

- (a) farming system and irrigation method;
- (b) technical support needed for such farming systems and irrigation; and
- (c) any other information that the Commission may deem fit.

Notification and condition for taking over

73.-(1) The Commission shall issue in writing a minimum of twenty one days notice to the owner or occupier of irrigation works before taking over irrigation works for maintenance.

(2) A notice referred under sub regulation (1), shall contain the following details:

- (a) name of the owner and irrigation scheme;
- (b) purpose;
- (c) duration;
- (d) operation and maintenance costs; and
- (e) any other information that the Commission may deem fit.

(3) The Commission shall, prior to taking over irrigation scheme from any person or body of persons, require in writing the owner of such irrigation scheme to show cause as to why the Commission should not take over irrigation scheme and thereafter recover the costs relating to operation and maintenance thereof.

Provision of proper bunds

74.-(1) The Commission shall issue a twenty one days notice to the owner or occupier of any land within irrigation area requiring provision of proper banks or bunds to specified levels and distribution or drainage channels for the supply, drainage, retention or exclusion of water.

(2) In case the bunds or protection arrangements are likely to endanger the irrigation works below, Irrigation Inspector shall serve a notice in writing of twenty one days to

the owner requiring him to maintain such bunds or protection arrangements within such period.

Handing over
of the project

75.-(1) A project or a canal, branch or secondary canal, minor or tertiary canal, water course or field channel of such project developed by government, local government authority or the Commission may be handed over to irrigators' organization which is registered with the objectives of operating such project, canal, branch or secondary canal, minor or tertiary canal, water course or field channel.

(2) The handing over of the project to irrigators' organization shall be through standard agreement as set out in **Form No. NIA 18** appearing in the **First Schedule** to these Regulations.

Terms and
conditions of
handing over
of the project

76. While handling over the project pursuant to regulation 75 the following terms and conditions shall be specified-

- (a) put restriction to pledge the handed over structure or to hand over its ownership to others by way of sale, donation, exchange or agreement or otherwise;
- (b) put restriction to damage, spoil or change the structure;

Provided that, change may be made for the purpose of necessary maintenance and those goods including the tools and equipment which cannot be re-used or could be damaged or spoiled if they are kept idle and can be sold or handed over on prior approval of the Commission-

- (a) to put restriction to carry out any activity which mitigate the quantity and quality of the water for irrigation;
- (b) to put restriction to reduce the quantity of water used by the irrigators except on the circumstances as provided in these Regulations;

(c) to put restriction or authorization to any other person or organization for operation.

Joint
Management
System

77.-(1) The large-scale projects which may not be fully handed over to the irrigators' organization may be operated jointly by concluding an agreement between the government, local government authority or the Commission and irrigators' organization as the case may be.

(2) While operating service after the conclusion of an agreement pursuant to sub regulation (1), the obligation and responsibility of the activities carried out in accordance with the Act and these Regulations including collection of Service Fee, share percentage of irrigators' organization and arrangement for maintenance shall be as specified in such Agreement.

Application
for the use of
service

78.-(1) A person who has intention to benefit from the services of the irrigation project developed and operated by the government, local government authority or the Commission, or a project handed over to irrigators' organization after being developed by the government, local government authority or the Commission and irrigators' organization shall be required to submit an application to the relevant irrigation office at local government authority or the Commission.

(2) Upon receipt of the application pursuant to sub regulation (1), the local government authority or the Commission, shall deliver the service after making an inquiry on the technical and other necessary details as to whether the service can be provided or not within fourteen days.

(3) If the service applied for under sub regulation (1) is denied, the applicant shall be notified in writing within twenty one days from the date of the decision.

(4) If a person is not satisfied with the notice served pursuant to sub regulation (3), may submit a complaint

against such decision within thirty days to the Irrigation Officer who shall conduct necessary inquiries and issue an order which shall be final.

Conditions
for the use of
the irrigation
service

79.-(1) The conditions of utilization of irrigation service by an irrigator shall be as specified by the Irrigation Office at the relevant local government authority or the Commission.

(2) The conditions specified pursuant to sub regulation (1), shall not be in contrary to the Act and these Regulations.

Basis for
water
management
services

80.-(1) The Irrigation Officer shall determine the priority order for distribution of water in consultation with scheme extension officer and irrigators' organization.

(2) The following matters shall be taken as basis while fixing the order of priority pursuant to sub regulation (1):

- (a) geographical location of the area;
- (b) area of the land;
- (c) the quantity of water available at the source;
- (d) type of crop to be cultivated on the land;
- (e) nature of soil of the land; and
- (f) the capacity of the structure and other technical matters.

(3) On the circumstances that the demand of water exceeding the availability of water at the source or the capacity of structure or the service could not be supplied or according to the demand, the Project Office upon consultation with irrigators' organization may decide to reduce the service partially subject to the order as specified in sub regulation (1).

(4) While making decision pursuant to sub-regulation (3), the Project Office shall be required to consult with the concerned Irrigation Office and the concerned local authorities.

(5) The Project Office may stop service in the following circumstances:

- (a) where, irrigators' organization failed to deposit the amount supposed to be deposited upon collection;
 - (b) where, the irrigator violates any condition prescribed in the agreement concluded between Project Office and the user, until redemption as maintained in the agreement has been complete;
 - (c) where, the structure has been damaged or such possibility exists, until necessary repair and maintenance is completed.
- (6) Where the Project Office requires reducing or stopping service pursuant to sub-regulation (5), the concerned Irrigators' Organization and local authority shall be notified in writing within seven days before the date of the decision.

Irrigators'
duty and
responsibility.

81.-(1) The duty and responsibility of the irrigators shall be as follows:

- (a) to pay irrigation service fee as may be required from time to time;
 - (b) to comply with all directives regarding water and land management;
 - (c) to comply with good agricultural practices;
 - (d) to inform the scheme office immediately if someone has disrupted water schedule or caused leakage of water or has attempted to commit such an act;
 - (e) to provide necessary assistance to the irrigators office on works of construction, repair, maintenance and protection of the structure; and
 - (f) to comply with cropping pattern and calendar.
- (2) Any person who contravenes the provision of sub regulation (1) commits an offence.

Growing
crops in the
edge of
watercourses.

82.-(1) No crops shall be grown on the edge of any watercourse.

(2) Every irrigator shall ensure compliance to the Good Agricultural Practices including adherence to the appropriate land use management measures.

Service fee.

83. For purposes of prescribing irrigation service fees under section 39(1) of the Act, the Minister shall consult relevant stakeholder's including local government authorities.

Requirement to pay the service fee.

84.-(1) Every irrigator who benefits from the service shall be required to pay service fee to irrigators' organization or authorized office pursuant to these Regulations.

(2) Irrigators' Organization shall collect approved irrigation service fee from every irrigator as prescribed by the Minister and the proceeds shall be distributed in a manner as provided for in the Fourth Schedule to these Regulations.

(3) Irrigator organization shall maintain a separate bank account of which all collected service fees shall be deposited.

Penalty on delayed fee

85.-(1) The Minister shall impose a penalty to any irrigator who has delayed payment of prescribed service fee under these Regulations.

(2) The fee payable pursuant to sub regulation (1) may be paid in lump sum or in installments.

(3) The mode of payment and time limit for payment and delayed fee shall be as prescribed in the *Gazette*.

PART V MISCELLANEOUS

Security arrangement of the irrigation infrastructure

86.-(1) The following acts are hereby prohibited to ensure the security of irrigation infrastructure and prevent theft, misutilization or unauthorized use of water:

- (a) trespassing into the structures;
- (b) destruction close or make any alterations therein to the

- structures;
- (c) increasing or decreasing the flow of water on the structure;
- (d) polluting the water of the structure;
- (e) damaging or transfer the signs or signals placed for the purpose of irrigation;
- (f) moving, transferring or damaging any equipment or its part placed for controlling the flow of water;
- (g) moving, grazing or leaving freely the livestock within the prohibited irrigation area;
- (h) driving any vehicle within the prohibited irrigation area.

Provided that, the responsible project office may grant permission to drive vehicles without causing any damage to irrigation system within such prohibited area upon application in writing if it is necessary to facilitate any beneficial irrigation activities.

- (i) collecting stone, sand and related materials within the area as determined by relevant irrigation office around the structure located in river and head works of the irrigation system;
- (j) cutting the embankment of the canal, alter the source of water flowing into or out of the structure or canal or an attempt to commit such acts;
- (k) controlling the flow of water by obstructing the current of river stream in a way making the structure less beneficial;
- (l) encroaching or cause to encroach river, stream, falls, lake, pond or any part in a way causing adverse effect to the irrigation system; and
- (m) pumping out the water without permission from relevant authority.

(2) The relevant Project Office or irrigators' organization shall publish a notice pertaining the prohibition of the activities specified in the act and these Regulations at important places of a particular irrigation area and Irrigation Office.

(3) The constitution of irrigators' organization shall empower the irrigators' organization to take administrative or disciplinary measures against its members in the matters related to irrigation pursuant to sub regulation (1).

Cost sharing
in
development
of irrigation
projects

87. The Commission shall in consultation with stakeholders, prescribe the portion of investment by which the Irrigators shall contribute to the project developed by the Commission or any government agency.

Annual
inspection

88.-(1) In respect of irrigation works under the control of the Commission or any government authority, the annual inspection on all works shall be according to the Guidelines issued from time to time by the Commission.

(2) For proper discharge of their responsibility, the Commission shall maintain a complete list of all such irrigation works.

(3) The Irrigation Officer shall inspect each irrigation work under his control at least once annually and submit a report to the Commission regarding the condition of the work.

(4) In his report to the Commission, the Irrigation Officer shall indicate as to whether the work needs repairs or not and if so, a brief description of repairs to be made.

(5) For the sufficient maintenance of irrigation works in the local government authority, the Commission shall maintain a permanent ledger showing the name of irrigation work, the amount of expenditure sanctioned and other details as prescribed in **Form No. NIA. 19** to these regulations.

(6) An Irrigation Officer shall submit to the Commission annually a report showing the following particulars:

- (a) the number of works reported during the year to be in need of repairs;
- (b) the number of works in (a) above inspected by the Commission;
- (c) the number of works found on actual inspection by the Irrigation Officer do not require repairs;
- (d) the number of works that have been repaired; and
- (e) reason for not taking up or completing repairs of works requiring repairs.

Lease of
services

89.-(1) Notwithstanding anything contained in these Regulations, the Commission or irrigators' organization may lease or contract out the responsibility of operation and maintenance as whole or in part, on the basis of competition, to a person, company or organization of the canal, branch or secondary canal, minor or tertiary canal, water course under the system operated by the Commission, irrigators' organization or joint management system.

(2) The notice of at least thirty five days shall be published in the newspaper with wider circulation pursuant to sub regulation (1) and other procedure shall be as mentioned in the Notice or Circular issued from time to time by the Commission.

Management
and
responsibility
on handing
over

90.-(1) The regular management responsibility as carried out by Government or Commission on large-scale and medium scale irrigation system constructed by the Government or Commission and presently managed under joint management system may be handed over to the local authorities on the basis of demand, technical capacity and availability of resources of the local bodies.

National Irrigation Regulations

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(3) Other procedures regarding handing over of the management shall be as stipulated in the issued Circular.

Evaluation
and quality
control

91.-(1) The Commission, may issue directives to the concerned official after conducting an inquiry on whether irrigation works implemented in each irrigation area by the irrigation project office are in progress as per target and of reasonable quality.

(2) It shall be the duty of every person to abide by the directives issued pursuant to sub regulation (1).

(3) The irrigation project office shall submit a progress report to the Commission or Regional Irrigation Office.

Procedure for
inquiry

92.-(1) Unless otherwise provided in the Act and these Regulations, enquiries may be of a summary nature.

(2) The Inquiring Officer may give an opportunity to both parties to be heard.

(3) The said officer shall issue notice to the parties to appear before him at a specified time and place with their witnesses and documents, if any, in support of their respective claims.

(4) The hearing shall proceed from day to day unless for sufficient reasons to be recorded, it has to be adjourned to some other day and in case the parties desire summons to be issued for the appearance of any witness or production of any document, such officer shall summon accordingly;

(5) The Inquiring Officer may hold public enquiry and the report on enquiry shall form a part of the record.

(6) The Inquiring Officer may dispense with the personal attendance of any party.

Passage on or
across
irrigation
work

93.-(1) Except where a public right of way exists, no person shall without the written permission of the Irrigation Officer, pass, cause any animal or vehicles to pass on or across any irrigation work, banks or channels of a canal or drainage work, except by means of such bridges, fords and ferries and their approaches as may have been provided for that purpose.

(2) No owner or occupier of land under the irrigable command area of an irrigation work shall refuse to allow free passage of water through or over lands in his possession or control for purpose of irrigation or drainage of lands except when such free passage causes unnecessary loss or damage to his own land.

(3) Any person who contravenes the provision of this regulation commits an offence.

Offences
endangering
stability of
irrigation
work

94.-(1) Subject to section 61 of the Act, any person who without proper authority:

- (a) pierces or cuts through, or attempts to pierce or cut through, or otherwise damage, destroy or endanger the stability of any irrigation work;
- (b) opens, shuts or obstructs, or attempts to open, shut or obstruct any sluice of any irrigation work;
- (c) makes any dam or obstruction for the purpose of diverting or opposing the current of a river, spring, stream or canal on the bank whereof there is a flood embankment, or refuses or neglects to remove any such dam or obstruction when lawfully required so to do;

is guilty of an offence.

(2) Whenever any person is convicted for offence under sub regulation (1), the convicting Court may order that he shall remove the obstruction or repair the damage in respect

of which the conviction is made within a period to be fixed in such order.

(3) If such person neglects or refuses to obey such order within the period so fixed, any Irrigation Officer duly empowered in this behalf may remove such obstruction or repair such damage, and the cost of such removal or repair, as certified by the said officer, shall be realized from such person by the Commission through civil action or an arrear on his land revenue.

Power to
summon,
examine
witnesses and
manner of
serving
notices

Cap 33

95.-(1) Any officer empowered under the Act or these Regulations to conduct any inquiry, may exercise all such powers connected with the summoning and examining the witnesses and the production of documents as are conferred on a Civil Court by the Civil Procedure Act and every such enquiry shall be deemed to be a judicial proceeding.

(2) Service of any notice under the Act or these Regulations shall be made in accordance with the provisions of the Civil Procedure Act.

Settlement of
disputes

96.-(1) Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, among joint owners of a water-course as to their respective shares of the expenses of constructing or maintaining such water-course or as to the amount severally to be contributed by them towards such expenses or as to failure on the part of any owner to contribute his share, any person interested in the matter of such dispute may apply in writing to the dispute settlement committee stating the matter in dispute.

(2) In exercising powers under sub-regulation (1), the dispute settlement committee shall thereupon proceed to make a summary enquiry into the matter in the manner prescribed and pass orders thereon.

(3) An appeal shall lie against the order of the dispute settlement committee to the Director General within thirty days from the date of communication of the said order and the decision of the Director General in appeal shall be final unless set aside by order of the Civil Court.

Dispute
settlement
Committee

97.-(1) There shall be a Committee of not less than three and not exceeding five members in every irrigators' organization responsible for dispute settlement.

(2) The Committee members shall be elected by members of irrigators' organization in the General Meeting.

(3) The Committee shall be accountable to the General Meeting of the irrigators' organization.

(4) The Committee members shall be elected from members not in any leadership position in their respective irrigators' organization.

Duties of
irrigators
dispute
settlement
committee

98.-(1) The dispute settlement Committee established under regulation 97 shall have the following duties:

- (a) conduct an inquiry on any disputes prevailing in the irrigation schemes
- (b) receive and hear disputes from parties, determine the dispute and inform the parties in writing of the decision.

(2) Members of dispute settlement Committee may be paid such allowances or honoraria as may be determined by the General Meeting of the irrigators' organization.

Appeal
against the
decision of
irrigators
dispute

99.-(1) Any person aggrieved by the decision of the dispute settlement committee may appeal to the Director General within thirty days from the date of decision.

National Irrigation Regulations

GN. No. 402(contd.)

settlement
committee

(2) The Director General shall determine the appeal within thirty days.

Role of Local
Government
Authorities

100. Subject to the provisions of the Act, the Local Government Authorities may make by-laws for the better implementation of the Act and these Regulations.

Irrigation
stakeholders'
meeting

101.-(1) There shall be an annual irrigation stakeholders meeting which shall be composed of key irrigation stakeholders as set out in the Fifth Schedule to these Regulations.

(2) Stakeholders shall adopt the stakeholders meeting procedures as provided for in the Fifth Schedule.

(3) The Commission shall serve as Secretariat to the Stakeholders forum until the establishment of formal Secretariat.

(4) The Secretariat shall be responsible to follow up and coordinate the implementation of all stakeholders meeting resolutions.

(5) For the purpose of ensuring implementation of resolutions in the stakeholders meetings, local government authorities may present their implementation report in the annual stakeholders meeting.

Roles of
stakeholders

102. Without prejudice to the provisions of section 67(1), the stakeholders shall be responsible for the following:

- (a) developing a strategic plan for the development of the irrigation sector in the respective areas;
- (b) sharing of knowledge, information, capacity building and mobilization of resources for the irrigation development;
- (c) deliberating and advising proper collaboration amongst key players in the irrigation sector.

Power to
issue Rules
and Circulars.

103. For effective implementation of the provisions of the Act and these Regulations, the Commission may from time to time issue Rules and Circulars.

Staff
performance
evaluation
scheme

104. The Commission shall develop staff performance evaluation scheme, which shall be based on physical achievement of the set out targets derived from Strategic Action Plan.

General
offence and
penalty

105. Any person who contravenes any provisions of these Regulations where there is no other punishment specifically provided, commits an offence and upon conviction, shall be liable to a fine of not less than one million shillings or to imprisonment for a term of one years or to both.

SCHEDULES

FIRST SCHEDULE

FORMS

FORM. No. NIA. 1

APPLICATION FOR REGISTRATION OF IRRIGATORS' ORGANIZATION

(Made under regulation 7(1))

To: The Director General :

We.....
..... of
P.O. Box.....

1. Physical location of Head Office:
2. Name and address of organization:
3. Irrigation scheme used or to be used:
4. Attached herewith are:-
 - a. Four original copies of Constitution or by-laws;
 - b. Four copies of particulars and passport size of members of Management Committee;
 - c. Four copies of minutes of a meeting which passed the constitution or by-laws containing full names and signature of members who attended the meeting;
 - d. Letter of recommendation from relevant Local Government Authority.

National Irrigation Regulations

GN. No. 402(contd.)

Office Bearer applying on behalf of the Irrigators' Organization:

Full Name Designation:

Address..... Signature:

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(a) Local Government Authority :

I recommend/do not recommend registration of
the applicant's organization.

Address: Title: Date:

Note: Give reason (s) if the application is not recommended: Director General

Application No.

I ,Director General, do accept /do not accept registration of
the applicant's organization.

Note: Give reason (s) if the application is not accepted

This registration is accepted toirrigators' organizations in order to
carry out its objectives and functions subject to the provisions of the Act and Regulations.

Signature: Date:

Director General

National Irrigation Regulations

GN. No. 402(contd.)

FORM. No. NIA.2

APPLICATION FOR A CERTIFICATE OF COMPLIANCE

(Made under regulation 8(1))

To: the Director General:

1. Name of the applicant (organization, association, cooperative society or any other entity or body corporate):
2. Address:
.....
3. Physical location of head office:
4. Declaration: I/We do hereby make an application to be registered as an irrigators' organization by the name of.....
5. Name of irrigation scheme where the applicant: conducts /shall conduct its business.....
6. Attached herewith are:-
 - (a) Certificate of registration or incorporation.
 - (b) List of existing members.
 - (c) Constitution/ by-laws/Memorandum and Articles of Association/Trust Deed
 - (d) Personal particulars of office bearers (CV).
 - (e) Others (specify if any)

Name: Signature:

Name: Signature:

Stamp/ Seal

National Irrigation Regulations

GN. No. 402(contd)

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(b) Local Government Authority:

I I recommend/do not recommend registration
of the applicant's organization.

Address: Title:..... Date:.....

Note: Give reason (s) if the application is not recommended

Director General :

Application No.....

I , Director General, do approve /do not approve
registration of the applicant's organization.

Note: Give reason (s) if the application is not approved

This application is granted to
to carry on the business of irrigators' organization subject to the conditions set out in the
Act or Regulations.

Certificate No.....

Signature:.....Date.....

Director General.

National Irrigation Regulations

G.N. No. 402(contd.)

FORM No NIA.3

NOTICE OF REFUSAL FOR REGISTRATION

(Made under regulation 10(2))

To.....
.....
.....

This is to notify you that your application for registration of
as an irrigators' organization under the National Irrigation Act has been refused on the grounds that
.....
.....

Pursuant to regulation 14 of the Irrigation Regulations, you have a right appeal to the Minister
within a period of 21 days from the date of this notice.

Dated this.....day of.....20.....

.....
Director General.

National Irrigation Regulations

GN. No. 402(contd.)

FORM NO. NIA.4

CERTIFICATE OF REGISTRATION

(Made under regulation 10 (3))

I hereby certify that.....has this day been
registered as an Irrigators' Organization to perform irrigation activities under the National
Irrigation Act and its Regulations.

GIVEN UNDER MY HAND, thisday of.....20.....

(official seal)

.....
Director General.

FORM No. NIA.5

NOTICE TO SUSPEND THE REGISTRATION OF IRRIGATORS' ORGANIZATION

(Made under regulation 13(2))

To.....
.....
.....

This is to notify that the registration of.....irrigators' organization is
suspended on the ground that:-

.....
.....
.....
.....
.....

Dated this.....day of.....20....

.....
Director General.

National Irrigation Regulations

GN. No. 402(contd.)

FORM No. NIA.6

NOTICE TO CANCEL REGISTRATION OF IRRIGATORS' ORGANIZATION

(Made under regulation 13(3))

To.....
.....
.....

This is to notify that the registration of.....irrigators' organization is
cancelled on the ground that:-

.....
.....
.....
.....
.....

Dated this.....day of.....20...

.....
Director General.

FORM NO. NIA 7

NOTICE OF CHANGE OF OFFICE BEARERS

Made under regulation 15(1)

Name of the irrigators' organization

1. The following persons have ceased to be office-bearers of the above irrigators' organization.

Full names	Designations	Date of ceasing
.....
.....
.....
.....
.....
.....
.....
.....

2. The following persons are the present office-bearers of the above organization.

3. Full names	Designations	Date of appointment
.....
.....
.....
.....
.....
.....
.....
.....

Name: Title
Signature (First office Bearer)

Name: Title
Signature (Second office Bearer)

National Irrigation Regulations

GN. No. 402(contd.)

FORM No.NIA.8

APPLICATION FOR CHANGE OF NAME

(Made under regulation 15(2))

Application is hereby made for approval of the proposed change of the name of irrigators' organization as follows:

1. The existing name is
2. The proposed new name is
3. The reason(s) for change is/are
.....
.....
4. Attach the organization's resolution to change the name

Dated this day of20.....

Submitted to the Director General by the following officer bearers:

Name:
Title
Signature *(First office Bearer)*

Name:
Title
Signature *(Second office Bearer)*

National Irrigation Regulations
GN. No. 402(contd.)

FORM No. NIA.9

NOTICE FOR CHANGE OF NAME

(Made under regulation 15(3))

Notice is hereby given that the irrigators organization formerly known as

.....
has changed its name to.....

The reason why this change is desired is

Dated this.....day of20.....

.....
Director General

National Irrigation Regulations

GN. No. 402(contd.)

FORM No. NIA.10

NOTICE TO CHANGE REGISTERED OFFICE

(Made under regulation 15 (1))

Notice is hereby given that the situation of the registered office of the irrigators organization known as was on the day of changed from..... to.....

Dated this.....day of 20...

Submitted to the Director General by the following officer bearers:

Name:
Title
Signature *(First office Bearer)*

Name:
Title
Signature *(Second office Bearer)*

NOTICE TO CHANGE OF POSTAL ADDRESS

(Made under regulation 15 (6))

Notice is hereby given that the postal address of the registered office of the irrigators organization known as was on the day of changed from.....to.....
Dated this..... day of20...

Submitted to the Director General by the following officer bearers:

Name:
Title
Signature (First office Bearer)

Name:
Title
Signature (Second office Bearer)

National Irrigation Regulations

GN. No. 402(contd.)

FORM No. NIA 12

**APPLICATION FOR AMENDMENT OF CONSTITUTION OF IRRIGATORS'
ORGANIZATION**

(Made under regulation 15(4))

Notice is hereby given for the change of the constitution of the irrigators' organization
named:in the following respects, that is to
say:

.....
The reason why these changes are desired is
.....
.....

Dated this.....day of20...

Submitted to the Director General by the following officer bearers:

Name:

Title

Signature *(First office Bearer)*

Name:

Title

Signature *(Second office Bearer)*

National Irrigation Regulations

GN. No. 402(contd.)

FORM No. NIA.13

APPROVAL FOR CHANGE OF CONSTITUTION OF IRRIGATORS' ORGANIZATION

(Made under regulation 15(5))

Notice is hereby given to approve the change the Constitution of the irrigators' organization known asin the following respects, that is to say:
.....

GIVEN UNDER MY HAND this.....day of 20...

.....
Director General

National Irrigation Regulations

GN. No. 402(contd.)

FORM No. NIA. 14

APPLICATION FOR RECOGNITION AS IRRIGATOR

(Made under regulation 25(1))

1. Name of the Applicant:.....
2. Status of the applicant (individual or body corporate):.....
3. Physical location and
address:.....
4. Attached herewith are:-
 - (a) Certified copy of document showing evidence of owning land; and
 - (b) Certified copy of water use permit for irrigation purposes.

Name:..... Date:..... Signature:.....

FORM No. NIA 15

CERTIFICATE OF RECOGNITION AS AN IRRIGATOR

(Made under regulation 25(3))

I hereby certify that..... has this day been recognized as an irrigator to perform irrigation activities under the Act and its regulations.

Given under my hand this.....day of.....20...

(official seal)

.....
Director General.

THE NATIONAL IRRIGATION COMMISSION

FORM No. NIA.16

APPLICATION FOR A CONSTRUCTION PERMIT OF IRRIGATION WORKS

(Made under regulation 29 (1))

1. Name of the applicant:.....
(a company/ Cooperative Society/ Public Corporation/ NGO/ irrigators' Organization/
Association/ Individual)
2. Post address: District ward Town Region
3. If work as a legal entity, stated date of registration:.....
4. Trading license (if any) :.....
5. Water Use Permit No.....
6. Location of the proposed irrigation project:
 - (a) Name of water course:.....
 - (b) Village.....
 - (c) Ward
 - (d) District
 - (e) Region.....
7. Size of the Project: (Small scale/Medium/ Large Scale)
8. Name of land/plot owner:..... Title/Right of occupancy No
9. Expected date of commencement.....
10. Expected completion

National Irrigation Regulations

GN. No. 402(contd.)

11. Investment costs:
12. Beneficiaries of the Project:
13. Any partnership to the Project:
14. Date of feasibility study:
15. Environmental Impact Assessment carried out on (Attach Certificate)
16. List with copies of registration card of the relevant equipment and vehicle possessed by you or to be hired (attach extra sheet of paper if necessary):
.....
.....
.....
.....
17. Give brief experience of you which relate to irrigation construction (attach relevant qualification(s)) and any previous irrigation works undertaken:
.....
.....
18. Give brief details of name, age, relevant qualification and experience of personnel, Firm of company which will undertake the assignment (attach relevant permit(s)):
.....
.....
.....
.....
19. List and attach any further information to support your application:
.....
.....
.....
.....
20. Attach a map and showing location of the proposed work in relation to the water course and land in the immediate vicinity.

National Irrigation Regulations

GN. No. 402(contd.)

21. DECLARATION OF THE APPLICANT:

I/ wedo hereby certify that the information provided in this form is correct to the best of our knowledge. I/we agree that no decision will be made nor action taken with respect to this application until I/ we receive notification from the Commission that my/ our application has been approve.

Name of the applicant:

Signature:Date:

Note that: This application must be addressed to the Commission together with non-refundable fee as provided for in these Regulations. The Commission may require you to publish this application in any local newspaper in the manner specified at your own cost.

RECOMMENDATIONS OF THE REGIONAL IRRIGATION ENGINEER

Name of the Regional Irrigation Engineer:

Recommendations:

Reasons for recommendations:

Signature:Date:

OFFICIAL USE ONLY

Receipt date:Application No.

Name of the Verifying Engineer of the Commission:

Recommendations and reasons:

Signature:Date:

Signature:Date:

Director General

THE NATIONAL IRRIGATION COMMISSION

FORM No. NIA.17

PERMIT FOR THE CONSTRUCTION OF IRRIGATION WORKS

(Made under regulation 30(3))

Permit No:.....

Subject to full compliance with the terms and conditions set out below, permission is granted to
.....of
undertake construction of irrigation works at as follows:

1. Location of the proposed irrigation project:
 - (a) Name of water course:.....
 - (b) Village:.....
 - (c) Ward
 - (d) District
 - (e) Region.....
2. Size of the Project: (Small scale/Medium/ Large Scale)
3. Expected date of commencement.....
4. Expected completion date

National Irrigation Regulations

GN. No. 402(contd.)

5. Investment costs:
6. Beneficiaries of the Project:
7. Terms and conditions of Permit:
 - (a) Strict compliance with any directive of the Commission or Irrigation Office at the local government authority.
 - (b) Construction of works shall comply to the relevant laws including the Environmental Management Act, 2004
 - (c) Construction of works shall be in accordance with the approved designs and plans.
 - (d) The permit holder shall not alter any work constructed in pursuant to this permit except in accordance with the terms and of a further Permit.
 - (e) This permit is does not guarantee the right to extract water except with the conditions in the Water Use Permit.
 - (f) This permit is not transferable.
 - (g) This permit is valid from.....to.....

Signature: Date:.....

Director General

AN AGREEMENT FOR HANDING OVER
IRRIGATION PROJECT TO IRRIGATORS' ORGANIZATION

(Made under regulation 75(2))

THIS AGREEMENT made on the
.....BETWEEN the
The National Irrigation Commission (hereinafter called the 'Commission') of the one part
and the Irrigators' Organization (Registration
No.....) which is registered under the National Irrigation Act and its
Regulations, and having its head office at..... Post Office
.....
(hereinafter called the "Irrigators' Organization ") of the other part;

WHEREAS for the purpose of smooth participation in irrigation work including
maintenance thereof, the government through the Commission is handing over the
responsibility of Irrigation Management for maintenance and distribution of water in an
area of Ha. of land under the command of the distribution system
within the Irrigators' Organization and the maintenance of minor/sub-minor including
structures of (i)Km. length of Canal
(ii)Km. of..... Canal and (iii).....Km.
of..... Canal ofIrrigation Project belonging to the
Commission to the Irrigators' Organization on certain terms and conditions as
hereinafter appearing; (A copy of the map showing the said command area with the land
schedule and land plan of acquired land by Commission, hydraulic particulars of each
canal system, structure details in each canal and with such other related property list as
may be in the account of the concerned canals are annexed herewith).

NOW THEREFORE, the parties hereto/ hereby agree as follows:

ARTICLE I

RIGHTS AND RESPONSIBILITIES OF THE COMMISSION

1. The Commission will operate the head works, the main system and the head regulator of the minor/sub-minor. It may suggest improvements, if any, for operation and maintenance below the minor or sub-minor which is turned over to the Irrigators' Organization.
 - (a) It will ensure supply of the allocated quota of water to the Irrigators' Organization at minor/sub-minor head as agreed upon or as may be decided by the Commission.
 - (b) If in any year water available in the reservoir/barrage, pond of the project is lesser than the flow expected in a normal year due to reasons like vagaries of monsoon, repair, restoration etc. of the project then quantum of water allocated to the Irrigators' Organization will be proportionately reduced and due intimation in advance in this regard will be given to the Irrigators' Organization before the beginning of the season.
 - (c) It will inspect the position of water supplied, irrigation works in the command, distributors/ minors or sub-minor and field level structures under the jurisdiction of the Irrigators' Organization to verify whether or not the agreement is implemented satisfactorily.
2. Commission also reserves the right to sanction or reject extra demand for water, if any from the Irrigators' Organization depending upon the availability of water in reservoir /pond.
3. The allocation of water supplied to the Irrigators' Organization is to be utilized for irrigation purpose only, and the same shall not be utilized for any other purpose. If

water is required for any other purpose, the Irrigators' Organization may submit separate application to the Irrigation Officer concerned for the same and obtain sanction for this demand.

4. The charge of water supply on volumetric basis or on any other basis as would be decided by the Irrigators' Organization and for other purposes and the fees/ cess, etc. chargeable for the purpose will be fixed by the Commission from time to time, and the Irrigators' Organization will abide by that, Commission have also got the right to review the water charges, cess etc. at such intervals as it deems proper.
5. A monthly statement or water account will be made available to the Irrigators' Organization for purpose of transparency on water availability.
6. The rights of ownership of the distribution system including all structures so handed over for operation and maintenance, land acquired by Commission and all other work executed in Irrigators' Organization area will remain with the Commission.

ARTICLE II

RIGHTS AND RESPOSIBILITIES OF IRRIGATORS' ORGANIZATION

1. The Irrigators' Organization will assume full responsibility for operation and maintenance of the minor/sub-minor and all structures turned over to it. It will also ensure construction/ maintenance and repair of all the water resources, field channels, field drainage in the said area as covered under the agreement jurisdiction of the Irrigators' Organization. For this purpose, the Irrigators' Organization will establish its own operation and maintenance fund (O&M. Fund) to meet the operation and maintenance expenditure.
2. The following items of work are included in repair and maintenance work, namely :
 - (a) Removal of slit from minor/sub-minor/water courses/field channel and field drains and proper upkeep of the same.

- (b) Repair and maintenance of inspection path and service road to keep them in good condition.
 - (c) Removal of grass, shrubs and bushes from the canal embankments, and canal beds.
 - (d) Repairs and maintenance of all structures in the distribution system so handed over for operation and maintenance to keep them in good working condition.
 - (e) Earth work to restore backs to proper shape and profile.
 - (f) Repairs to lining, painting plastering, replacing damaged portion, repairs to masonry and other structures, etc.
3. The Irrigators' Organization shall ensure construction, maintenance and repair of all the water courses, field channels, field drains and other drains structure within the jurisdiction of the Irrigators' Organization.
 4. The Irrigators' Organization will protect the entire system covered under the said area within its jurisdiction from any damage whatsoever.
 5. The Irrigators' Organization will undertake/suggest measures for improved water management at the level of minor/sub-minor.
 6. The Irrigators' Organization will receive water from the source pursuant to the Water Resource Management Act, 2009 and shall distribute it amongst the irrigators, whether members or non-members according to the requirement of their area under crop. It will observe economy and equitability in this regard. Wherever possible water shall be supplied to Irrigators' Organization on volumetric basis. It will organize better improved water management methods at the farm level. It will decide for internal distribution of water.

7. The Irrigators' Organization will have the right to decide its own cropping pattern within the allocated water.
8. The Irrigators' Organization may ask for and obtain from the Basin Water Board information on planned operation and maintenance activities in the entire system.
9. It may also request and obtain assistance from the concerned Irrigation Engineers and the plan for operation and maintenance in the concerned distributaries/minors/sub-minors for proper irrigation management.
10. The Irrigators' Organization may obtain permission relevant Government authority to utilise in any unutilised land acquired by the Government. However, due care will be taken to protect environment and any damage or disadvantage to the irrigation system.
11. The Irrigators' Organization shall notify to the project authorities promptly if there is any damage due to unforeseen natural calamities like earthquake, heavy rains, etc.
12. The Irrigators' Organization shall facilitate collection of irrigation service fees from the members/ non-members of the organization as per the charge prescribed by the Government in accordance with provision of the National Irrigation Act and its Regulations and any other rules made thereunder. The fee charged shall vary from time as determined by the under the Regulations

IT IS HEREBY FURTHER AGREED between the parties hereto as follows:

13. In case of negligence by the Irrigators' Organization in maintenance of the system turned over to it by the Government, the Commission will have the right to stop the supply of water by giving 15 days prior notice.

National Irrigation Regulations

GN. No. 402(contd.)

14. In case of repeated negligence and when Irrigators' Organization fails to take corrective action within a period as specified by the concerned Irrigation Engineer to bring in improvement in the system, Commission shall terminate this agreement and take back the management and maintenance responsibilities from the Irrigators' Organization.
15. In the event of violation of any of the provisions contained in the agreement with regard to water management system Commission may also take similar action as provided in clause 14 above.
16. The concerned irrigation Officers or their authorized representative) shall have the right to inspect the operational, maintenance and position of water- supply to the Irrigators' Organization and to inspect the said area covered under this agreement/jurisdiction and to verify whether the agreement entered into by the parties is being implemented properly or not.
17. The Irrigators' Organization will be duty bound to comply with the observations, if any, made by the Government Officers in course of inspection.
18. With a view to achieve optimum utilisation of land, infrastructure and available water –
 - (a) Commission may make provisions for grants to Irrigators' Organization toward operation and maintenance on terms and conditions as stipulated by it from time to time and grant benefits of special schemes Irrigators' Organization, if any, floated by Government.
 - (b) Besides, Irrigators' Organization will spend out of their own funds towards operation and maintenance which will include the collection from the non- members towards the cost of operation and maintenance on pro rata basis of the acreage of land benefited.

National Irrigation Regulations

GN. No. 402(contd.)

19. All disputes in respect of various provisions made under this agreement will be resolved amicably and in case of difficulty in resolving it, matter will be referred to concerned Regional Administrative Secretary of relevant areas for settlement.
20. This agreement will remain in force for a period of two years with effect from the date of signing the agreement and will continue for such further period as may be decided by both the parties in writing before expiry of the period of agreement.

IN WITNESS WHEREOF the parties hereto have hereunder signed this agreement on the date and year first before written.

Signed for and behalf of the Government acting through the Commission:

Name:

Title:

Signature:

In the presence of -

Address :

Title:

Signature:

Signed for and behalf of the Irrigators' Organization:

Name:

Title:

Signature:

In the presence of -

Address :

Title:

Signature:

National Irrigation Regulations

GN. No. 402(contd.)

FORM No. NIA.19

LEDGER FOR MAINTENANCE OF IRRIGATION WORKS

(Made under regulation 88(5))

Local Government Authority

.....Region:.....

Irrigation scheme.....

Period/ season:

No.	Name of irrigation work	Nature of maintenance done	Amount of money sanctioned	Remarks

Name of the Irrigation Officer :

Designation:.....

Signature:..... Date:.....

SECOND SCHEDULE

FEEES FOR IRRIGATORS' ORGANIZATIONS

(Made under regulation (9))

Matter	Fee (Tshs)
1. On application for registration	15,000.00
2. Registration fee	60,000.00
3. Annual fee	100,000.00
4. On notification change of constitution / by-laws	25,000.00
5. On notification change of name for irrigators organization	25,000.00
6. Surcharge for delay to furnishing annual reports to the Commission	100,000.00
7. Delay of paying annual fee	40,000.00
8. Application for certificate of compliance	15,000.00

THIRD SCHEDULE

PROCEDURES FOR IRRIGATORS' ORGANIZATIONS

(Made under regulation 18(4))

First general meeting	<p>1.-(1) Every irrigators' organization upon registration within three months from the receipt of the certificate of registration shall hold the first general meeting.</p> <p>(2) During the first meeting the formation Management Committee shall resign and the members elect the Management Committee, and other leadership positions as established in the Act and in their constitutions.</p>
Meetings of Irrigators Organizations	<p>2. Meeting of irrigators' organizations shall be, Ordinary General Meetings, Annual General Meetings and Special General Meetings.</p>
Ordinary Meetings	<p>3.-(1) Every irrigator's organization shall hold ordinary general meetings at least twice in a year.</p> <p>(2) The business of the ordinary general meeting shall include:-</p> <ul style="list-style-type: none"> (a) amendment of the constitution where the need arises; (b) the election, suspension or removal of members of the management committee; (c) the consideration and adoption of the interpretation and implementation of the irrigators organization policies and rules; (d) the approval of contracts and agreements proposed by the Management Committee; (e) appoint an external auditor; (f) do any such business necessary for furtherance of the development of the irrigators' organization.
Annual General Meetings	<p>4.-(1) Every irrigators organization shall hold an annual general meeting of its members or in every calendar year as prescribed in their constitutions.</p> <p>(2) Major businesses of the Annual General Meeting of the irrigators' organization shall be-</p> <ul style="list-style-type: none"> (a) to receive and consider annual financial accounts, summary of management audit report, and other reports as may be deemed fit; (b) to receive and consider the annual budget estimates, (c) to consider and approve plans of the irrigators organization (d) to consider any other business as the Management Committee may find relevant.
Special General	<p>5.-(1) The Management Committee shall cause to hold a special general</p>

National Irrigation Regulations

GN. No. 462(contd.)

Meetings	<p>meeting at any time where needs arises.</p> <p>(2) Members of irrigators' organization shall have power to convene a special meeting where the Management Committee may not be willing to convene such a meeting</p> <p>(3) The Director General shall have power to call for a special meeting if there is a need to so.</p> <p>(4) Such special general meeting shall be held by the irrigators' organization where at least one third of members signify in writing the intention to hold such meeting and such intention shall be copied to the Director General.</p> <p>(5) Without prejudice paragraph (1), such special general meeting shall have one specific agenda.</p>
Notices of meetings	<p>6.-(1) Notice of annual general meeting of irrigators' organizations shall be not less than fourteen days, for the case of ordinary meetings it shall be not less than seven days and special meetings not less than three days.</p> <p>(2) The notice shall contain a statement of the purpose, agenda, place and time of the meeting.</p>
Quorum	<p>7.-(1) Constitutions of irrigators' organizations shall prescribe the quorum at a general meeting.</p> <p>(2) In the event the quorum prescribed in their constitutions if is not adequate to hold a meeting, such meeting shall be postponed for seven days.</p> <p>(3) Where the postponed meeting has been summoned after seven days and the quorum does not suffice again the meeting shall be cancelled.</p> <p>(4) Provided that a special meeting summoned by the Director General shall proceed for any number of members or delegates present at the meeting and the resolution passed at such meeting shall be binding to all members.</p>
Election procedures	<p>8.-(1) The procedure for election of members of the Management Committee shall be as follows:-</p> <p>(a) the members of Management Committee shall be elected by the members of the of irrigators organization present at the general meeting;</p> <p>(b) every election of the Management Committee shall be done in the presence of the Election Supervising Officer who shall be appointed at the ordinary meeting or appointed by the Director General if he sees the need for that;</p> <p>(c) every member aspiring to be elected to the Management Committee and Conflict Resolution Committee shall have to fill a relevant form provided by the Director General;</p> <p>(d) during the election, vote shall be by secret ballots.</p>
Maximum office terms for Management Committee	<p>9. The maximum office terms for Management Committee shall be two terms of three years each subject to renewal.</p>

National Irrigation Regulations

GN. No. 402(contd.)

FOURTH SCHEDULE

(Made under regulation 84(2))

Table of Distribution of Collected Irrigation Service Fee from the Irrigators

Sharing of irrigation service fee collected by irrigators' organizations (in percentage)	
The Irrigation Development Fund Twenty Five Percent (25%)	To be retained by the Irrigators' Organization Seventy Five Percent (75%)

FIFTH SCHEDULE

(Made under regulation 101(1))

PROCEDURES FOR IRRIGATION STAKEHOLDERS MEETING

1.0 Purpose

The purpose of this Schedule is to provide guideline of the Irrigation stakeholders' meeting. The following sections provides for the procedures and how the Stakeholders' meeting will be conducted.

2.0 Meeting and Composition

2.1 Composition

The Stakeholders' meeting shall be composed of the following members:

1. Fifteen representatives of small scale irrigators nominated from each agricultural zone as will be determined by the Commission after consultation by relevant local government authorities.
2. Ten representatives of large scale irrigators nominated from each agricultural zone as will be determined by the Commission after consultation by relevant local government authorities.
3. Two representatives from each agricultural zone as will be determined by the Commission from time to time.

4. Two representatives from the Ministry responsible for Agriculture.
5. Ten Executive Directors representing Local government Authority recommended by the Ministry responsible for local government authorities
6. Ten Agricultural Officers from ten Local government Authority recommended by the Ministry responsible for local government authorities.
7. One representative from Rufiji Basin Development Authority.
8. One representative from the Ministry responsible for Lands.
9. One representative from the Ministry responsible for works.
10. One representative from the Ministry responsible for Labour.
11. One representative from the Ministry responsible for Environment.
12. One representative from the Ministry responsible for Finance.
13. One representative from the Ministry responsible for Livestock.
14. Two representatives from higher learning institution offering irrigation training.
15. Seven representatives from the Commission.
16. Three representatives from farmers' umbrella organizations.
17. One representative from Cooperative Development Commissions.
18. Five representatives from NGOs, FBOs, and Financial Institutions.

2.2 **Coooption:** Stakeholder may co-opt any persons including donors or development partners to attend its meetings and such co-opted person shall not have right to vote.

2.3 **Stakeholders' meetings**

- 2.3.1 The Commission shall schedule Stakeholders' meetings on annual basis, or on an "as-needed" basis upon request by the Stakeholders.
- 2.3.2 The Commission shall serve as facilitator for all Stakeholders' meetings.
- 2.3.3 Notice of each Stakeholder's meeting shall be posted/ advertised on the Newspaper of wide circulation. E-mail notifications shall be sent by the Commission to the designated contact or signatory specified as well as to all other subscribers to the Stakeholder Process e-mail list. Meeting date, time, location, and draft agenda information shall be made available at least two weeks prior to each meeting.
- 2.3.4 Solicitation for meeting agenda items shall be included in each meeting announcement. Final meeting agenda and associated meeting materials shall be posted before the meeting or distributed during the meeting.
- 2.3.5 A stakeholders meeting shall be duly constituted by at least the majority (51%) of voting members present
- 2.3.6 Final minutes of each Stakeholder's meeting shall be adopted at the next subsequent meeting.

3.0 **Chairman of the meeting**

- 3.1 The Stakeholders' meeting as a whole shall appoint a Stakeholders' meeting Chairperson.
- 3.2 The Chairperson shall serve no more than two consecutive terms of a maximum of two (2) years per term.
- 3.3 The Chairperson should step off for one (1) term after final term before being nominated again.
- 3.4 The Chairperson shall preside at meetings. If the Chairperson is not present thirty (30) minutes after the time set for the meeting, or it is known that he/she will not be able to attend, the meeting shall proceed if the Members present comprise a quorum and appoints an interim Chairperson to preside on that meeting only.
- 3.5 If items or circumstances that are not covered in these Rules and Procedures shall arise at a meeting, then the Chairperson will decide on the course of action.
- 3.6 The Chairperson shall endeavor to achieve a full discussion by the Stakeholders meeting of all agenda items and employ his/her best effort to allow adequate voice of all representatives during meetings.
- 3.7 Commission shall be the Secretary and shall be responsible to provide the Secretariat.
- 3.8 The Secretary shall be responsible for recording meeting notes and drafting recommendations.
- 4.0 Communications**

- 4.1 The Commission shall support a Stakeholder-wide e-mail list server at an e-mail address that will be given to the stakeholders from time to time.
- 4.2 Requests for individual meetings with Stakeholders can be sent to respective stakeholders' email address referred under Regulation 4.1 above by the stakeholder requesting the meeting. The Request has to be supported by the reason of the request and the agenda of the requested meeting.

5.0 Attendance and Representation

- 5.1 All Stakeholders' meeting members are expected to attend all required meetings of the Stakeholder.
- 5.2 Members who are unavoidably absent shall send in their written views preferably before the meeting so their views can be made known, recorded and taken into account by those present.
- 5.3 All written views received sufficiently in advance of the meeting shall be taken into account in the written recommendations submitted to the Commission.
- 5.4 If any Stakeholder cannot attend a meeting but has an interest in submitting a vote despite his/her absence, may provide written authorization to another Stakeholder member to act as a representative.

6.0 Stakeholder Membership - Representation

- 6.1 Each stakeholder shall ensure fully representation of his or her organization, constituency or forum.

7.0 Role of Secretariat

- 7.1 The Chairperson shall form the secretariat to the annual stakeholders meeting
- 7.2 The Secretariat shall attend Stakeholders meetings to take notes.
- 7.3 Other Secretariat staff members may attend to present and address agenda items, or attend to logistical matters.
- 7.4 The Director General is the senior Secretariat liaison officer to the Stakeholders and shall attend the meetings and may delegate this role to others within the Secretariat to manage communications and programs related to the Stakeholders' meeting, as needed.
- 7.5 The functions of the secretariat of stakeholders meeting shall include-
 - (a) To record the minutes of the meeting;
 - (b) To prepare meeting proceedings, agendas and any other documents relevant in stakeholders meetings;
 - (c) To ensure effective and efficient transmission of agendas and proceedings of subsequent meetings to members.

8.0 Scheduling Meetings

- 8.1 Regular meetings of the Stakeholder will be held at minimum once a year.
- 8.2 The Secretariat, through the chairperson will propose locations and dates for the meetings.

9.0 Notice of Meetings

- 9.1 The date and location of annual meeting of the next meeting will be determined at the close of every annual meeting, giving all members one year's advance notice.
- 9.2 Should the date or venue of the annual meeting need to be changed for logistical reasons, all members will be notified of the change at least thirty (30) days in advance.
- 9.3 Draft agendas and proposed resolutions will be circulated by publication in news papers at least twenty one (21) days in advance of the annual meeting.

10.0 Agenda of the Meeting

- 10.1 The Chairperson, in consultation with the Secretariat, will propose an agenda. The draft agenda will be circulated to stakeholders by way of publication in newspapers at least twenty one (21) days before the meeting.
- 10.2 The members may propose amendments or additional agenda items up to seven (7) days before the meeting.
- 10.3 Any member may propose an agenda item.
- 10.4 Any additional or proposed agenda by the member must be provided in writing to the Chairperson with a copy to the Secretariat which shall read all the proposed agenda at the meeting for adoption or otherwise by the stakeholders.
- 10.5 When formulating the meeting agenda, the Chairperson and Secretariat shall take into consideration the need for adequate time for a thorough discussion of all agenda items.

11.0 Proposing and Passing Resolutions

- 11.1 When a resolution is to be determined by a vote, a simple majority of the members, including proxy votes submitted (i.e., not just those in attendance) is required to pass the resolution.
- 11.2 When the vote concerns a matter of principle, the vote shall be a show of hands or by open ballot and the votes recorded.
- 11.3 When voting concerns a matter of a person or persons (e.g., appointment), such vote must be by secret ballot. If there is no challenge to the ballot results by the time that the meeting terminates the ballot papers shall be destroyed.
- 11.4 When a member casts a vote, he/she may state reasons and such reasons shall be noted. Members may also wish to abstain from a vote.
- 11.5 Resolutions of the meeting of the Stakeholders' meeting may also be adopted in a manner other than at a meeting, in writing or otherwise, provided the proposal concerned is submitted to all members and none of them objects to the relevant manner of adopting resolutions.
- 11.6 As much as possible, simple and clear language should be used in the wording of resolutions.

12.0 Extraordinary Meetings

- 12.1 The Chairperson may request an extraordinary general meeting to consider issues of significant importance.
- 12.2 An extraordinary general meeting should only be called if the matter cannot wait to be considered at the regular annual meeting.
- 12.3 The resolutions will have the same effect as that of the regular meetings.

13.0 Official Working Language

The official working languages of the Stakeholder meeting shall be Swahili and all communications shall be in Swahili and may be translated in English.

14.0 Designated Spoke spersons

- 14.1 The Stakeholders' meeting Chairman is the designated spokes person for the Stakeholders meeting.
- 14.2 The Stakeholders' meeting members may speak publicly in their personal capacity but not in official capacity on behalf of the Stakeholders meeting or of the Commission.

15.0 Description of duties and responsibilities for Chairman

- 1 Consult with the Director General in preparation of agenda for stakeholders' meetings
- 2 Chairman of stakeholders' meetings.
- 3 Be a spokesperson for the Stakeholder meeting with media, governments and other stakeholder groups seeking public statements.
- 4 Ensure that all members are encouraged to participate fully the stakeholders' meeting.
- 5 Ensure that the Stakeholders' Meeting receives timely, relevant information, and that they are briefed properly on agenda items and other issues that may arise at the stakeholders' meetings.
- 6 Remain objective in the implementation of the duties
- 7 Ensure business of the stakeholders' meeting is within the budget set for the meeting.

16.0 Disciplinary Procedures

- 16.1 During meetings the stakeholders shall speak after being allowed by the Chairperson
- 16.2 The Chairperson shall have the power to stop any stakeholder from speaking.
- 16.3 Any stakeholder who doesn't stop after being directed to do so by the Chairperson, may be asked to leave the meeting room for such time as the Chairperson shall reasonably determine breach by any person done under this schedule, shall warrant a disciplinary action.
- 16.4 Member of stakeholders meeting may submit to its chairperson through its secretariat, a report of any breach occasioned and the chairperson shall convene a disciplinary proceeding in accordance with the stakeholders meeting procedures prescribed in this schedule.
- 16.5 A person aggrieved by decision of stakeholders' meeting may appeal to Minister within thirty (30) days from the date of the stakeholders meeting decision.
- 16.6 The Minister shall within thirty (30) days from receipt of appeal by an aggrieved person, make a decision in writing and serve a copy to the aggrieved person.
- 16.7 The decision made by the Minister shall be final.

Dar es Salaam,
....., 2015

STEPHEN M. WASIRA.
*Minister of Agriculture Food
Security and Cooperatives*

photocopy
15/11/2016
ending

