

IRRIGATION AUTHORITY ACT
Act 39 of 1978 – 20 January 1979

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IRRIGATION AUTHORITY ACT

1. Short title

This Act may be cited as the Irrigation Authority Act.

2. Interpretation

In this Act—

“authorised person” means any person designated by the Authority;

“Authority” means the Irrigation Authority established under section 3;

“Board” means the Board referred to in section 6;

“irrigation area” means an area declared as such under section 14;

“Minister” means the Minister to whom responsibility for the subject of agriculture is assigned.

3. Establishment of Authority

(1) There is established for the purposes of this Act an Irrigation Authority.

(2) The Authority shall be a body corporate.

4. Objects of Authority

The objects of the Authority shall be to—

- (a) study the development of irrigation and to make proposals to the Central Water Authority for the preparation of schemes for the irrigation of specific areas;

- (b) implement and manage irrigation projects in every irrigation area and do all other acts incidental thereto; and
- (c) undertake research into the optimum use of water made available by the Central Water Authority for irrigation.

5. Powers of Minister

(1) The Minister may, in relation to the exercise of the powers of the Board under this Act, give such general directions to the Board as he considers necessary in the public interest and the Board shall comply with those directions.

(2) The Authority shall furnish to the Minister—

- (a) such information with respect to the activities of the Authority, in such manner and at such times; and
- (b) such return or copy of such documents, including the minutes of proceedings of the Board and the accounts of the Authority,

as the Minister may require.

6. The Board

(1) The Authority shall be under the general management and control of the Board.

(2) The Board shall consist of—

- (a) a Chairperson to be appointed by the Minister;
- (b) a representative of the Ministry responsible for the subject of agriculture;
- (c) a representative of the Ministry responsible for the subject of finance;
- (d) —
- (e) a representative of the Ministry responsible for the subject of energy;
- (f) a representative of the Ministry responsible for the subject of lands;
- (g) a representative of the Ministry responsible for the subject of co-operatives;
- (h) the General Manager of the Central Water Authority or his representative;
- (i) 5 representatives of the agricultural community, to be appointed by the Minister;
- (j) not more than 2 representatives of persons or entities financing the implementation of the irrigation project in Mauritius, to be appointed by the Minister.

(3) The members to be appointed under subsection (2) (i) and (j) shall hold office for such period as the Minister may determine and shall be eligible for reappointment.

7. Meetings of Board

(1) The Board shall meet as required at such time and place as the Chairperson may appoint.

(2) Six members shall constitute a quorum.

8. General Manager

(1) There shall be a chief executive officer of the Authority who shall—

- (a) be known as the General Manager; and
- (b) subject to the approval of the Minister, be appointed by the Board on such terms and conditions as it may determine.

(2) The General Manager shall—

- (a) attend every meeting of the Board;
- (b) be responsible for the execution of the policy of the Board and for the control and management of the Authority's day-to-day business.

(3) In the exercise of his functions, the General Manager shall act in accordance with such directions as he may receive from the Board.

9. Delegations

(1) The Board may delegate to the General Manager, subject to such general instructions as it may give, such of its powers as are necessary to enable him effectively to perform his duties.

(2) The General Manager may, with the approval of the Board, delegate any of his functions to such members of staff as he may determine.

10. Appointment of staff

(1) The Board may employ, on such terms and conditions as it may determine, such staff as may be necessary for the proper discharge of its functions under this Act.

(2) All staff of the Authority shall be under the administrative control of the General Manager.

11. Conditions of service of staff

The Board may make provision, in such form as it may determine, to govern the conditions of service of the staff of the Authority, and in particular, to deal with—

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given by, staff;

- (b) appeals by staff against dismissal and other disciplinary measures.

12. General Fund

The Authority shall establish a General Fund—

- (a) into which all monies received by the Authority shall be paid; and
- (b) out of which all payments required to be made by the Authority shall be effected.

13. Receipt of money

The Authority may receive any money—

- (a) accruing from the Government;
- (b) lawfully accruing to the Authority from other sources.

13A. Power to borrow money

The Authority may, with the approval of the Minister, borrow money in such manner and on such terms and conditions as it thinks fit for the purposes of this Act.

[S. 13A inserted by s. 3 of Act 38 of 2004.]

14. Irrigation areas

Where the Minister is satisfied that it is necessary or expedient in the interest of development or utilisation of water or land resources in any area of Mauritius, he may, by regulations, declare the area to be an irrigation area.

15. Preparation of irrigation projects

(1) The Authority shall prepare projects for—

- (a) the irrigation of land; and
- (b) the distribution of water supplied in bulk from the Central Water Authority meters,

in every irrigation area.

(2) Where, for the purposes of the preparation of an irrigation project, the Authority is unable, by private agreement, to obtain the consent of any owner or occupier of any land, it shall give notice to that effect in 2 issues of the *Gazette* and of 2 daily newspapers, there being in each case an interval of at least 7 days between the first and the second publications.

(3) A notice under subsection (2) shall—

- (a) state the approximate extent of the land;
- (b) describe the boundaries of the land.

(4) An authorised officer, or any person delegated by him, may at all reasonable times, 7 days after the date of the last publication of a notice under subsection (2), in relation to any land specified in the notice—

- (a) enter, survey and take or mark levels;

- (b) dig, bore into, or take samples of, the subsoil;
- (c) set out boundaries and the intended line of the work proposed to be done;
- (d) place marks and cut trenches;
- (e) where necessary, cut down and clear away any standing crop, fence, tree or bush;
- (f) with the concurrence of the Central Water Authority, set up and maintain gauges in any stream or watercourse.

16. Implementation of irrigation projects

(1) Where an irrigation project is prepared under section 15, it shall be made available for inspection with a map or plan of the irrigation area to which it relates.

(2) The Minister shall, by notice published in the *Gazette*, give notice of the preparation of an irrigation project and the place at which it shall be available for inspection.

(3) No irrigation project shall be implemented except after 3 months of the publication of the notice in the *Gazette* under subsection (2).

17. Objections

(1) Any person having a right in land to be included in an irrigation project who wishes to object to the implementation of the project may, within one month of the publication of the notice under section 16 (2), give written notice of his objection to the General Manager.

(2) The General Manager shall submit to the Board all objections received by him under subsection (1), with such observations as he may wish to make on the objections to enable the Board to adjudicate on them.

(3) The Board shall, after hearing an objector or his legal representative, maintain, vary or cancel the irrigation project to which the objection relates.

(4) The Board shall, not later than 48 hours after reaching its decision on any objection, give written notice to the objector of the decision.

18. Compulsory acquisition of land

(1) Where an owner or occupier, after notification of the decision of the Board under section 17 (4), still objects to the implementation of an irrigation project, the land may be compulsorily acquired by Government in accordance with the Land Acquisition Act.

(2) Compensation payable for the acquisition of land under subsection (1) shall be assessed in relation to the value of the unirrigated land at the date of the publication of the notice under section 16 (2).

19. Irrigation due in favour of Authority

(1) For the purposes of this Act, an irrigation due shall be levied on the acreage of land in any irrigation area.

(2) The rate of irrigation due leviable under subsection (1) and the irrigation areas in respect of which it is leviable shall be determined annually by the Minister after consultation with the Board and shall be notified in the *Gazette*.

(3) The irrigation due leviable under subsection (1) shall be paid in respect of—

- (a) any land planted in whole or in part with sugar cane, by the broker to whom the sale price of the sugar accruing to the planter is paid without incurring any liability to any person;
- (b) land planted otherwise than with sugar cane, by the owner or occupier of the land,

at such time and in such manner as the Authority may determine.

20. Privilege to secure payment of irrigation due

(1) Any irrigation due payable under section 19 shall be secured by a privilege on the land in respect of which the due is leviable.

(2) A privilege under subsection (1) shall—

- (a) rank immediately after the privileges enumerated in article 2148 of the Code Civil Mauricien;
- (b) operate independently of inscription; and
- (c) bind any person to whom the ownership of the premises may be transferred, whether by purchase, devolution, judgment adjudication (including adjudication before the Master's Court) or other process of law, assignment, donation *inter vivos* or will.

21. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Regulations made under subsection (1) may provide—

- (a) for the taking of fees and the levying of charges;
- (b) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees.