

**IRRIGATION DEVELOPMENT AUTHORITY (IRRIGATION WATER USERS ASSOCIATION)
REGULATIONS, 2016 L.I. 2230**

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IN exercise of the power conferred on the Board of the Irrigation Development Authority by subsection (1) of section 20 of the Irrigation Development Authority Act, 1977 (SMCD 85) and with the approval of the President, these Regulations are made this 12th day of February, 2016.

General

Scope of application

- 1. These Regulations apply to associations of irrigation water users which are formed on irrigation infrastructures constructed by government and other parties on behalf of or in concert with the Government.

Formation and registration of association

Formation of association

- 2. (1) Persons who have been allocated land for farming in an area serviced by an irrigation and drainage system constructed by or on behalf of or in concert with Government, referred to in these Regulations as a "service area" shall form an association of irrigation water users for that area.

(2) Where the persons specified in subregulation (1) are unable or fail to establish an association within twelve months after the coming into force of these Regulations or commencement of operation of an irrigation scheme, the supervising authority may facilitate the formation of the association for these persons.

Persons who qualify to form association

- 3. Persons who possess land on the basis of landholding system and use the land with water supplied from an irrigation infrastructure constructed by Government and other parties on behalf of or in concert with the Government qualify to form an association.

Procedure for the formation of association by persons allocated land for fanning

- 4. (1) Persons who use irrigation water and are not less than fifteen in number may form an association after those persons have set up a provisional initiative team to identify the service area of the proposed association and a founders committee which may not exceed twelve potential members of the association.

(2) The founders committee shall be composed of persons representing different units of the proposed service area so as to ensure fair representation of potential members of the proposed association.

(3) The founders committee shall elect its chairperson and adopt its own rules of procedure to carry out activities preceding the formation of the association.

(4) The founders committee, in consultation with the supervising authority for the service area shall, in respect of the proposed association, prepare

(a) rules and by-laws;

(b) a plan of the proposed service area that shows the size and location of the units, if any;

(c) application forms for the potential members;

(d) a list of potential members, which shall include the name, address and signature of each potential member, a description of the landholding of each potential member and the land certificate number; and

(e) a draft budget and work-plan.

(5) The founders committee shall

(a) distribute the application forms to potential members to fill and execute;

(b) supervise the filling and signing of the application forms by the potential members of the association; and

(c) give the potential members an opportunity to comment on the documents listed in subregulation (4).

(6) The founders committee shall, when at least half of the potential members in the service area for the proposed association have filled and signed the application forms, convene a founders meeting to

(a) approve the regulations, by-laws, budget and work-plan of the proposed association taking into consideration the comments made on these documents by prospective members; and

(b) elect the provisional management committee and other officers of the association.

(7) The quorum for a founders meeting is half of the potential members of the proposed association.

(8) Matters that require decision at a meeting shall be decided by the majority vote of the members present and voting at the meeting.

(9) The provisional management committee shall submit to the supervising authority, an application for registration of the association together with

(a) the minutes of the founders meeting;

(b) three copies of the regulations and by-laws of the association;

(1...) the plan of the proposed service area and the location of the units, if any;

(d) the applications of the potential members of the association; and

(e) the draft budget and work-plan.

(10) The supervising authority shall, within thirty days after the submission of the application, if it is satisfied with the application and the required documents, register the association in the Register of irrigation water users' associations and issue a certificate of registration to the association.

(11) If the supervising authority rejects the application for the registration of an association, the supervising authority shall give a written explanation to the provisional management committee within thirty days after the decision to reject the application is made.

Procedure for the formation of association by the supervising body

5. (1) Where the persons allocated land for farming in a service area do not form an association within twelve months of the coming into force of these Regulations or the establishment of the service area, the supervising authority shall consult with those persons and relevant stake- holders on the need to form an association.

(2) The supervising authority shall, in consultation with the stakeholders, prepare for the proposed association,

(a) rules and by-laws;

(b) a plan of the service area that shows the size and location of the units if any;

(c) application forms for the potential members;

(d) a list of potential members which includes the name, address and signature of each potential member and the land certificate number and a description of landholding of each member; and

(e) a draft budget and work-plan for the proposed association.

(3) The supervisory authority shall

(a) distribute the application forms to potential members to fill and sign;

(b) supervise the filling and signing of the application forms by the potential members; and

(c) give the potential members an opportunity to comment on the documents listed in subregulation (2) (e).

(4) The supervisory authority shall when at least half of the potential members in the service area for the proposed association have filled and signed the application forms convene a founders meeting to

(a) approve the regulations, by-laws, budget and work-plan of the proposed association taking into consideration the comments made on these documents by prospective members; and

(b) elect the provisional management committee and other officers of the association.

(5) The quorum for the founders meeting is the same as the quorum of a founders meeting convened by a founders committee.

(6) Matters that require decision at the founders meeting shall be decided by the majority vote of the members present and voting at the meeting.

(7) The Provisional Management Committee shall

(a) submit the documents specified in subregulation (Y) of regulation 4 for registration; and

(b) within six months of its formation conduct elections in respect of the members of a substantive Management Committee.

(8) Sub regulations (10) and (11) of regulation 4 apply to associations formed with the assistance of the supervisory authority.

Objects of association

6. The objects of an association are

(a) to manage an irrigation and drainage system wholly or partly in its service area and provide irrigation water and drainage services equitably and timely to members of the association;

(b) to maintain, rejuvenate and improve the irrigation and drainage system within its service area and to undertake construction and reconstruction works as may be delegated to the association by the Authority;

(c) to take appropriate measures to combat erosion, salinity, siltation pollution and encroachment;

(d) to make internal rules for the use of irrigation water and collect fees from its members for the services provided;

(e) to procure, maintain and operate irrigation equipment; and

(f) to facilitate the training of members in irrigation techniques, irrigation farming methods, water saving methods and new technologies of irrigation.

Rules of operation of association

7. Each association shall

- (a) act fairly and equitably in making decisions and allocating irrigation water;
- (b) prevent wastage and pollution of water, combat erosion and salinity of soil, and protect and administer irrigation and drainage system within the operation area so as to promote the protection of the environment;
- (c) avoid discrimination on the basis of ethnicity, gender, religion or any other similar grounds in its dealing with members in the utilisation of water;
- (d) apply a transparent and participatory approach in decision making processes;
- (e) encourage members to subscribe to insurance; and
- (f) apply a system of cost recovery and efficient use of resources.

Service area

8. (1) Each association shall operate within a defined service area allocated by the supervising body.
- (2) The service area of each association comprises a distinct irrigation and drainage systems unit with a defined area of land that is capable of receiving irrigation water through the irrigation and drainage system operated by that association from one or more water supply points.
- (3) The service area of an association shall not overlap with the service area of another association.

Name of association

9. (1) Each association shall have a name and the phrase "irrigation water users' association" shall be included in the name of each association.
- (2) An association shall not use the registered name of another association.
- (3) The name of every association shall be written boldly and be placed where the association conducts its activity.
- (4) The name of an association shall be written or stamped on every notice, letter, or document signed on behalf of that association.

Legal personality and liability

10. An association formed in accordance with these Regulations and registered in accordance with the Companies Act, 1963 (Act 179) IS a body corporate limited by guarantee as of the date of its registration.

Membership of the association and rights and duties of members

Membership of association

11. (1) A person who has user rights over land which is located within the service area of an association in accordance with the appropriate land holding system shall be a member of the association.
- (2) A person who acquires user rights over land located within the service area of an association by succession or any other legal means shall become a member of that association upon payment of any outstanding contributions and fees due to the association from the previous user of that land.
- (3) The rights and duties of a member of an association are inseparable from the plots located within the service area of an association and shall be transferred with the plots and shall cease to exist where a plot ceases to lie within the service area as a result of an amendment to the service area of that association.
- (4) A person who uses land located within the service area of an association on the basis of a lease of more than three years shall become a member of the association for the duration of the lease.
- (5) A person who leases out land located within the service area of an association for a period of not more than three years shall continue as member of that association but the lessee
- (a) shall comply with the laws of the association;

(b) may exercise the membership rights of the lessor in the association by written authorisation of the lessor.

Rights of a member

12. A member of an association has the right to

- (a) obtain a fair share of the irrigation water distributed by the association;
- (b) benefit from other services provided by, or through, the association;
- (c) be elected or elect another member to an office of the association upon the payment of the fees of the association;
- (d) propose agenda for discussion at a general assembly meeting of the association;
- (e) propose candidates for election to offices in the different bodies of the Association;
- (f) receive compensation from the association for damages caused to the crops or land of that member as a result of the intentional or negligent act of an employee of the association or as a result of the maintenance activities undertaken by the association;
- (g) visit the office of the association during working hours and peruse records of the association; and
- (h) be provided, on request and at meetings, with information regarding the accounts and management plans of the association.

Duties of a member

13. (1) A member of an association shall

- (a) observe the by-laws adopted by the General Assembly of that association;
- (b) pay promptly a charge or provide labour service determined in accordance with the by-laws of that association and these Regulations;
- (c) use irrigation water in accordance with the watering schedule of that association;
- (d) repair or pay the replacement cost of property or equipment of the association damaged as a result of the negligence or intentional act of that member;
- (e) provide relevant information relating to the use of land or water of that member to the association concerned;
- (f) carry out activities related to cleaning and repairing of the irrigation and drainage system;
- (g) allow an employee of that association or any other person ordered by the association to enter the land of that member with a vehicle or equipment for purposes of undertaking works relating to the operation and maintenance of the irrigation and drainage system; and
- (h) comply with applicable technical rules concerning the operation of the irrigation and drainage system.

(2) A member of an association who contravenes a provision of subregulation (1) is liable to administrative sanctions specified under the by-laws of that association made in accordance with these Regulations.

(3) The Management Committee of an association shall impose the sanction referred to in subregulation (2).

(4) An appeal against a sanction imposed under subregulation (2) lies to the Dispute Settlement Committee established under regulation 54.

Termination of membership

14. (1) A member who has ceased to exercise user rights over land located within the service area of an association may terminate membership with the association upon giving notice, in writing, to the association.

(2) A member is liable for the outstanding fees due to the association at the date on which the membership of that member terminates.

Voting

15. (1) Each member has one vote

(a) in the election of unit representatives; and

(b) at a meeting of the general assembly.

(2) Matters before the association shall be decided by a majority of the members present and voting and in the event of an equality of votes, the chairperson shall have a casting vote.

(3) The general assembly may, subject to approval by the supervising authority develop its own by-laws for proxy voting.

Secretary of the association

Powers and duties of the secretary

16. The secretary of the association shall

(a) organise the secretariat of the association;

(b) keep the documents of the association;

(c) ensure that the minutes of the association are well prepared and kept;

(d) direct the secretarial activities of the association; and

(e) perform any other duties assigned by the chairperson and the management committee.

Management bodies

Management bodies of an association

17. (1) The management bodies of an association are

(a) the General Assembly;

(b) the Management Committee;

(c) the Oversight Committee; and

(d) the Dispute Settlement Committee.

(2) An association may provide in its by-laws for the establishment of other committees that are necessary.

(3) The powers and duties of the management bodies of an association are as determined by these Regulations and the by-laws of the association.

General Assembly

18. (1) The supreme organ of an association is the General Assembly.

(2) The General Assembly of an association constitutes only representatives of the units unless the by-laws of that association otherwise provide that all members of the association may reasonably participate in the meetings of the General Assembly because of the size of the membership.

(3) Despite subregulation (2), members who are not unit representatives may attend meetings of the General Assembly but shall not vote at those meetings.

(4) The by-laws of the association shall, in respect of the General Assembly,

(a) specify the term for service of each unit representative;

- (b) specify the number of unit representatives in proportion to the size of the unit;
- (c) describe the procedures for the election, substitution and removal of unit representatives; and
- (d) stipulate how the unit representatives can reflect the opinion of the members they represent in the meetings and report back the results of the meetings to their members.

Powers of the General Assembly

19. The General Assembly may

- (a) approve the annual work plan and budget of the association;
- (b) elect and dismiss the members of the sub-committees of the General Assembly upon grounds of proven misconduct as may be determined by the by-laws; and
- (c) approve or amend the by-laws and internal rules of the Association.

Duties of the General Assembly

20. The General Assembly shall

- (a) set the amount of membership fees and fines payable by the members
- (b) approve the annual income and expenditure statement and balance sheet and the annual report of the association;
- (c) make decisions on the re-organization or liquidation of the association;
- (d) set a limitation on the sale, purchase, mortgaging or pledging of any assets owned by the association, investment or conclusion of loans, overdrafts or other financial liabilities of the association;
- (e) approve contracts above a certain value or of high significance to the association as may be specified in the by-laws; and
- (f) decide on any issue submitted to it by the management bodies or other committees.

Meetings of the General Assembly

21. (1) The General Assembly shall hold a general meeting at least once in a year.

(2) A general meeting of the General Assembly shall be chaired by the chairperson of the Management Committee or in the absence of the chairperson, by the vice-chairperson.

(3) The quorum for a meeting of the General Assembly shall be specified in the by-laws of the association.

(4) The Management Committee may call an extraordinary meeting of the General Assembly upon written request of one third of

- (a) the members of the association; or
- (b) the unit representatives.

(5) The procedure for calling the meeting of the General Assembly, setting the agenda, proposing additional agenda and in circulating the agenda to the unit representatives and members of the association shall be specified in the by-laws.

(6) The meetings of the General Assembly shall be presided over by the chairperson or in the absence of the chairperson by the vice chair- person.

(7) The decisions of the General Assembly shall be by a simple majority vote except in the case of dissolution, liquidation or re- organisation of the association or amendment of its by-laws or any other matters directly specified in its by-laws, where decisions shall be by a two third majority vote of at least fifty percent of members present and voting.

(8) The procedure for voting at a meeting of the General Assembly shall be prescribed in the by-laws.

- (9) The minutes of the General Assembly meetings shall
- (a) be signed by the chairperson and secretary of the association;
 - (b) contain, as an annex, the names and signatures of members of the association in attendance at the General Assembly meeting; and
 - (c) be kept in the records of the association.

Management Committee

22. (1) Each association shall have a management committee to be elected in accordance with the by-laws of the association.

(2) The management committee shall consist of not less than five members and not more than eleven members.

(3) The term of office of the management committee is, subject to the by-laws of the association, three years.

(4) A member of the management committee shall not be elected for more than two terms.

(5) The by-laws of the association may provide that a member of the management committee shall be elected from the representatives of one or more of the units within the service area.

(6) A member of the management committee who has an interest in a matter for consideration

(a) shall disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) shall not be present at or participate in the discussion of the matter.

(7) A member is not eligible to stand for election to serve on the management committee where that member is subject to outstanding liabilities to the association including fines.

(8) Membership of the management committee shall be by election directly by the General Assembly supervised by the supervising authority.

Powers and duties of the Management Committee

23. The management committee may exercise the powers and discharge the duties specified in the by-laws of the association and shall in particular

- (a) implement decisions taken by the General Assembly;
- (b) prepare the annual work plan and budget of the association and implement them upon approval;
- (c) be responsible for the operations, maintenance and management of the service area;
- (d) prepare agenda for the meetings of the General Assembly;
- (e) call for a meeting of the general assembly in accordance with the by-laws of the association;
- (f) maintain the minutes of meetings of the General Assembly in writing;
- (g) submit reports to the General Assembly on the activities and budget of the association;
- (h) maintain the documents and books of accounts of the association; and
- (i) implement other activities specified in these Regulations or in the by-laws or determined by the General Assembly.

Meetings of the Management Committee

24. (1) The management committee shall convene a meeting once in every month but may hold an emergency meetings at any time that the management committee considers necessary.

(2) The quorum for a meeting of the management committee is as specified in the by-laws of the association.

(3) Decisions of the management committee shall be by consensus and in the absence of consensus, the by-laws may authorise a decision to be by majority vote.

(4) Without limiting this regulation, the management committee may adopt its own rules of procedure for meetings.

Chairperson of the Management Committee

25. (1) The chairperson of the management committee shall be the chairperson of the association.

(2) The chairperson shall

(a) convene and chair the meetings of the management committee and the annual General Assembly;

(b) represent the association in its dealings with third parties;

(c) execute contracts and other legal documents in accordance with resolutions of the management committee;

(d) undertake other duties specified in the by-laws.

(3) The vice-chairperson shall act in place of the chairperson where the chairperson is not in a position to discharge the duties of office.

Allowances for members of the Management Bodies

26. (1) A member of the management committee or the dispute settlement committee shall be paid the allowances determined by the General Assembly in accordance with the budget of the association

(2) A member of the management committee or the dispute settlement committee is entitled to be reimbursed for reasonable expenses incurred for the purpose of performing authorized functions of the committee.

Removal from office

27. (1) A member of the Management Committee or Dispute Settlement Committee may be removed from office by the General Assembly on the grounds of

(a) failure to discharge a duty;

(b) failure to attend scheduled meetings for more than three consecutive times without good reason; or

(c) inability to attend the meeting of the committee on the grounds of being incapacitated.

(2) In the event of the removal of an elected committee member from office under subregulation (1), the General Assembly shall replace that member through election.

Employees of the association

28.(1) An association may employ a manager and supporting staff. (2) Subject to the by-laws of the association, an employed manager shall be a person with suitable qualifications and relevant experience in irrigation management and may not be a member of that association.

(3) The manager is accountable to the management committee and may attend meetings when requested, but shall not vote. on a matter for decision.

(4) Subject to the by-laws of the association, the management committee may authorise the manager to sign contracts which involve the expenditure of specific sums of money.

(5) The recruitment of the administrative staff shall be conducted in accordance with the by-laws of an association.

(6) An employee of an association shall not serve as a unit representative or an elected official of that association.

By-laws of association

29.(1) Each association shall have its own by-laws.

(2) The contents of the by-laws includes the

(a) the name and address of the association;

(b) the objects and functions of the association;

(c) the service area of the association which shall be supported with a plan or map;

(d) the requirements for membership of the association;

(e) the rights and duties of the members of the association;

(f) the powers, responsibilities and duties of the management body and any other employee of the association;

(g) the procedures for calling and holding meetings of the General Assembly of the association;

(h) conditions for the election, term of office, suspension and removal of elected officers and members of other bodies of the association;

(i) provisions on the setting of fees; and

(j) conditions for the termination of the activities of the association.

(3) The by-laws of the association may be amended by a special resolution of two-thirds majority of the General Assembly at a meeting attended by not less than fifty percent of the members.

(4) An amendment of the by-laws shall be effective on the date it is approved and registered by the supervising authority.

Funds of an Association

Sources of funds of an association

30. The funds of an association include

(a) the annual membership fee, dues and levies payable by members of that association;

(b) the component of the irrigation service charge for the association that comprises the cost for the provision of service and the profit margin that is agreed on with members of the Association;

(c) gifts or grants;

(d) interest on outstanding fees due to the association;

(e) interest on moneys deposited in a bank account opened by that association;

(f) moneys that accrue to the association from investments made by the association;

(g) the proceeds of fines or any other sanction imposed on members; and

(h) payments for services provided by the association.

Application of funds

31. (1) The funds of an association shall be applied to

(a) cover the cost of operation and maintenance of the irrigation and drainage system and cleaning any drainage ditches;

(b) pay the service providers for the operation of the irrigation and drainage system or the removal of obstructions from the irrigation system;

(c) pay the salaries of the staff of the association and other administrative costs incurred by the association; and

(d) maintain the Reserve Fund in accordance with regulation 32.

(2) Members of an association with a lower financial cost may agree to pay part of or the full annual membership fee in kind.

(3) For purposes of this regulation, "payment in kind" includes contribution of labour.

Reserve Fund

32. (1) Each association shall keep a Reserve Fund for purposes of (a) emergency repairs; and

(b) improvement or rejuvenation of the irrigation and drainage system of the service area.

(2) The Reserve Fund referred to in subregulation (1) shall be kept in an interest-yielding bank account.

Irrigation service charge

33. An association shall impose an irrigation service charge on each member in proportion to

(a) the volume of irrigation water used by that member; or

(b) the size of the plot of land used by that member for irrigation purposes.

Supervision Mechanism

Supervising authority

34. (1) There shall be a supervising authority for associations formed under these Regulations which shall

(a) provide training and create awareness in connection with the establishment and operation of associations;

(b) provide technical assistance and support to associations in respect of issues bordering on water management, accounting, financial planning, irrigation techniques and practices, maintenance and gender issues;

(c) assist in the formation of new associations in accordance with these Regulations;

(d) establish and maintain the Register of Irrigation Water Users' Associations; and

(e) conduct legal and financial supervision in accordance with regulation 35.

(2) A supervising authority that is in the conduct of legal and financial supervision in accordance with paragraph (e) of subregulation (1) is limited to the activities of the association of which it is the supervising authority.

(3) Subregulation (2) applies to a supervising authority that does not comply with the provisions of these Regulations and applicable accounting rules.

(4) A supervising authority may delegate its powers and duties specified in paragraphs (a), (b) and (e) of subregulation (1) to another appropriate authority.

Legal and financial supervision

35. (1) A supervising authority shall inspect the records of an association where

(a) a written request is filed by two-fifths of the members of that association alleging the mismanagement of or impropriety in the operations of the association; or

(b) there is prima facie evidence of legal or financial malpractice.

(2) Where a supervising authority finds evidence of financial malpractice or non-compliance with the provisions of these Regulations or the by-laws of an association, the supervising authority shall

(a) require the Management Committee of that association to call an extraordinary meeting of the General Assembly within thirty days of its findings; and

(b) present the findings to the members of the association during the meeting.

(3) Where the Management Committee fails to call the extraordinary meeting of the General Assembly in accordance with subregulation (2), the supervising authority shall

(a) call the extraordinary meeting;

(b) present the findings of the investigation to the General Assembly;

(c) facilitate the removal of members of the Management Committee involved in the malpractice; and

(d) ensure the election of new members of the Management Committee at the meeting.

Annual reports

36. (1) Each association shall, within ninety days after the end of each financial year submit an annual report to the supervising authority, in the approved format, together with a copy of the accounts of the association.

(2) The annual assets and liabilities, and income and expenditure statement of the association shall be approved by the General Assembly.

Matters requiring authorisation by supervising authority

37. (1) An association shall obtain the written authorisation of the supervising authority before that association

(a) amends the by-laws of an association;

(b) modifies the service area of an association;

(c) forms a federation;

(d) pledges or mortgages assets of that association;

(e) cancels the water use right of a member of the association in accordance with these Regulations.

(2) An association which requires the written authorisation of a supervising authority before carrying out an activity referred to in subregulation (1) shall submit an application to the supervising authority.

(3) The supervising authority shall within thirty days of receipt of the application take a decision on the application and inform the applicant of the decision taken.

Records to be kept by an association

38. An association shall establish and maintain

(a) a plan showing the service area of that association;

(b) a register of members which is subject to renewal and update every year and which contains a description of the size and location of the landholding of each member;

(c) a register of the volume of water received or discharged by the association;

(d) a register of the volume of water received by members;

(e) a register of fees paid and owed by members;

(f) a register containing the minutes of the meetings of the General Assembly and management committee;

(g) a register containing transactions and contracts entered into by the association; .

- (h) an inventory of assets;
- (i) a register containing inspections, studies and surveys conducted on the irrigation and drainage system used by the association;
- (j) a record of maintenance activities;
- (k) a complete and accurate books of accounts and financial documents; and
- (l) any other records specified in the by-laws of that association.

Register of Irrigation Water Users' Associations

39. (1) The supervising authority shall establish and maintain a Register of Irrigation Water Users' Associations.

(2) The Register shall contain the following details of each association:

- (a) the name and address of the association;
 - (b) the date of registration of the association;
 - (c) the size and location of the service area of the association;
 - (d) the number of members of the association;
 - (e) the names, addresses and telephone numbers of the members of the Management Committee of the association; and
 - (f) the condition of government owned infrastructure transferred to the association.
- (3) A member of the association shall have the right of access to the Register at any time within office hours.

Dissolution and liquidation of associations

Dissolution of an association

40. The General Assembly of an association may, by a two thirds majority vote and upon approval of the supervising authority, dissolve that association on one of the following grounds:

- (a) that the purpose for which the association was formed no longer exists;
- (b) that the purpose for which the association was formed is no longer practically implementable; or
- (c) the existence of the association is no longer required

Liquidation of an association

41. (1) Where an association is dissolved in accordance with regulation 40, the supervising authority in consultation with the Management Committee shall assign a liquidator.

(2) A liquidator assigned in accordance with subregulation (1) shall

- (a) receive records and documents in respect of the properties of the association and protect them from damage;
- (b) keep custody of the assets and properties of the association;
- (c) call on creditors of the association;
- (d) distribute the assets and properties of the association in accordance with the decision of the General Assembly approved by the supervising body;

(e) carry out the necessary activities of the association for the proper liquidation of the affairs of the association; and

(f) represent the association in legal proceedings.

(3) These Regulations and the relevant by-laws of the association shall continue to apply to each association and its members until Liquidation proceedings have been concluded.

(4) The remuneration of the liquidator shall be paid from the accounts of the association.

Cancellation of an association from the Register

42. (1) The supervising authority shall, upon conclusion of the liquidation process, cancel the registration of the association from the Register of Irrigation Water Users' Association.

(2) An association is considered dissolved from the date the entry in respect of that association in the Register of Irrigation Water Users' Association is cancelled.

Federations

Formation of a federation

43. (1) A federation of Irrigation Water Users' Association may be formed for purposes of administering the whole or part of the main irrigation and drainage system and supplying irrigation water to users.

(2) The federation shall be formed by the decision of the supervising authority or majority of members of the associations using irrigation water from the main irrigation and drainage system.

(3) An association that receives water from a main irrigation and drainage system managed by a federation formed in accordance with subregulation (2) shall be a member of that federation.

(4) A federation shall not

(a) supply irrigation water to a person other than a member of an association, or

(b) undertake an activity within the service area of a member of an association except by the written permission of that association.

Name, powers and duties of federation

44. (1) Each federation shall have a unique name which shall consist of the name of the place that federation manages or some other distinctive name followed by the words "Federation of Irrigation Water Users' Associations".

(2) A federation shall

(a) manage, operate and maintain a main irrigation and drainage system and conduct construction works so as to upgrade the operations of that federation;

(b) issue by-laws in respect of irrigation water consumption and collection of fees from the member associations of the federation for the services provided to the member associations;

(c) procure, substitute, operate and maintain irrigation equipment on behalf of the members of that federation; and

(d) support the members of the federation in capacity-building activities.

(3) Subject to regulations 43 and this regulation, the provisions of these Regulations applicable to an association also apply to a federation formed in accordance with regulation 43.

(4) The members of a federation may agree in the by-laws of that federation that

(a) each association shall delegate a specified number of members of the Management Committee of that association to serve the federation; and

(b) the members delegated shall assume the functions of the General Assembly of the federation.

Irrigation and drainage systems

Transfer of modern irrigation and drainage systems

45. (1) Where an irrigation and drainage system of an association lies within the service area of another association, the supervising authority of that association may, in agreement with the association based on the principle of cost recovery, transfer to the other association the user right of the part of the irrigation and drainage system.

(2) A transfer under subregulation (1) shall only take place after both parties have conducted a joint inspection exercise.

(3) Despite subregulation (1), an association may apply to the appropriate supervising authority to transfer to that association, for an indefinite period, the user right of the part of the irrigation and drainage system where the irrigation and drainage system lies within the service area of the association.

(4) Where the service area of an association lies in the water supply point of a dam, weir, diversion structure, pump station or any other type of infrastructure to which water is abstracted from a river, stream, reservoir, pond or any other natural source, that infrastructure may be transferred to that association.

(5) The transfer agreement of an irrigation and drainage system shall contain the

(a) description of the condition of irrigation and drainage system to be transferred; and

(b) the rights, roles and responsibilities of the parties to the agreement in terms of the maintenance of the infrastructure.

(6) A supervising authority shall ensure the protection and maintenance of the part of an irrigation and drainage system that is under the control of that supervising authority and has not been transferred to any association.

User right certificate

46. (1) An association may apply to the supervising authority for a user right certificate in respect of a traditional irrigation system that lies within the service area of that association

(2) The supervising authority shall within thirty days from the receipt of the application

(a) take a decision on the application; and

(b) inform the applicant of the decision taken.

(3) Where the supervising authority approves the application, it shall issue a user right certificate to the applicant.

(4) A user right certificate issued in accordance with subregulation (3) shall

(a) contain a description of the traditional irrigation system; and

(b) establish the rights and duties of that association.

Information relating to transferred irrigation and drainage system

47. (1) An association shall provide to its supervising authority, current information relating to the maintenance and condition of a transferred irrigation and drainage system.

(2) A duly authorised officer of the supervising authority may enter into the service area of an association and inspect the condition of the irrigation and drainage system transferred to that association.

(3) The authorised officer of the supervising authority may, after the inspection, require the association to undertake specified works, where necessary,

(a) to prevent damage to the irrigation and drainage system in order to ensure the quality of irrigation water supplied; or

(b) to prevent damage to government or third party property due to the usage of the irrigation and drainage system.

(4) Where an association fails to comply with a directive given under subregulation (3), that association shall face the appropriate sanctions specified in the by-laws of the association.

Access over land

48. An association may acquire access over any land necessary to rehabilitate or develop an irrigation and drainage system for a member of the association upon

(a) approval by the supervising authority; and

(b) payment of rent to the land owner in accordance with the applicable law.

Provision of services to associations

Service providers

49. (1) A service provider responsible for the operation and maintenance of the main irrigation and drainage system of an association shall provide that association with irrigation water and other related services where the water supply point of the service area of the association is

(a) a gate;

(b) a turnout;

(c) a pumping station; or

(d) any other infrastructure on the main irrigation and drainage system that is not managed by a federation.

(2) The conditions to be satisfied by a public enterprise or a licensed private entity established in respect of the supply of irrigation water and any other related services to an association shall be specified by guidelines issued under these Regulations.

(3) A service provider shall provide irrigation water and any other related services referred to in subregulation (1) to an association on the basis of a service agreement reached with that association.

Service agreement

50. (1) The term of a service agreement shall not be less than five years except where the association concerned requests for a shorter term of service agreement.

(2) Where an association requests for a shorter term of service agreement under subregulation (1), the term of the service agreement shall not be less than three years.

(3) A service agreement shall be made in a standard format and shall include

(a) information on the water supply point;

(b) the season of the year in which irrigation water is to be supplied;

(c) the procedure for requesting water supply during the irrigation season;

(d) the maximum volume of water the association requires during each irrigation season in accordance with a monthly schedule, subject to any restriction on the service provider to supply the water by any appropriate body;

(e) measures to be taken to reduce water wastage, pollution and salinity;

(f) charges and payment conditions;

(g) liabilities and limitations on the use of water;

(h) penalties for non-compliance with the conditions of the contract; and

(i) any other condition necessary to promote the effective use of water or to implement any legal obligations of the service provider concerning the provision of water as stipulated in the relevant enactment. .

Variation of service agreements

51. (1) A service agreement may be varied or amended with the consent of both the association and service provider concerned.

(2) A service provider shall not suspend the supply of water or any other service under a service agreement to an association except where that association delays payment of any outstanding charges for more than sixty days.

(3) A service agreement concluded in accordance with these Regulations may be terminated

(a) where one of the parties persistently fails to comply with the terms of the agreement; or

(b) on the dissolution of the association.

Liability of service provider

52. (1) A service provider that fails to supply water to an association

(a) in the agreed quantity, or

(b) in accordance with the time schedule

is liable to pay to that association compensation equitable to the damage suffered by the association.

(2) A member of an association who has suffered a loss as a result of the inability of the service provider to provide irrigation water to that association is deemed to be a party to the contract for the purpose of calculating the amount of compensation to be claimed

"region" means any political or administrative region referred to in Article 4 (1) of the 1992 Constitution of the Republic of Ghana;

"Register" means the register of irrigation water users associations required to be maintained by the supervising authority pursuant to regulation 39;

"service area" means the defined land area within an irrigation and drainage system where an association operates;

"service provider" means any public or private enterprise, other than a federation, which conducts the management, operation and maintenance of the main irrigation and drainage system;

"supervising authority" means a body designated by Government as being responsible for organising and facilitating the registration of associations, providing training and other technical assistance to associations or undertaking other activities specified in these Regulations;

"unit" means a defined part of the service area of an association;

"unit representative" means a member elected to represent a unit at a meeting of the general assembly; and

"water supply point" means a point at which an association takes responsibility for the management of irrigation water from a dam or weir, a diversion structure, a gate or turn-out, a canal, a lateral, a hydrant, a well, a spring or a pumping station of a main irrigation and drainage system.

Revocation and consequential amendment

60. (1) Regulations 1 (3), 8, 9,10,11,12,13,14, IS, 16,17,18,19,20, 21,22,23,24,25 and 26 of the Irrigation Development Authority Regulations, 1987 (L.I. 1350) are revoked.

(2) A reference in the Irrigation Development Authority Regulations, 1987 (L.I. 1350)

(a) to "Farmers' Association" shall be read as a reference to the "Water Users' Association", and

(b) to "irrigation project" shall be read as a reference to "irrigation scheme";

provided for in these Regulations.

HON F. F. KWETEY (MP)

Minister responsible for Food and Agriculture

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