

# **The Irrigation and Drainage Act, 1990**

## **Arrangement of Sections**

### **Chapter I**

#### **Section :-**

1. Title.
2. Interpretation.
3. Roods.
4. Water facilities.
5. Sanctuaries of Canals, drains and facilities.

### **Chapter II**

#### **Provisions Pertaining to Licensing**

##### **Branch I**

##### **Licensing and procedure thereof**

6. Application for Licensing Presented.
7. Licensing Mandatory.
8. Notification.
9. Suspension of the Licence, change of terms and revocation thereof.
10. Licences of Private schemes.

##### **Branch II**

##### **Licence of New Lands**

11. Licence of irrigation of new lands.
12. Irrigation of new lands from public Canals.

### **Branch III**

#### **Rights and obligations of the Licensee**

13. Rights of Licensee and obligations thereof.

### **Chapter III**

#### **Provisions relating to Irrigation and drainage**

14. Functions and Powers of the Ministry.
15. Some business prohibited.
16. Passage of machines tractors and trucks upon rainfall.
17. Power of the Minister.

### **Chapter IV**

#### **Grievance Complaint, Appeal and Compensation**

18. Grievance and Competent.
19. Appeal.
20. Compensation Committees.

### **Chapter V**

#### **Contravention and Procedure of Consideration thereof**

21. Contraventions.
22. Suspension of work and removal thereof.
23. Penalties.

### **Chapter VI**

#### **General Provisions**

24. Report of Missing of artificial facilities and Loss thereof.
25. Power to make regulations, rules and order.

In the name of Allah, the Gracious, the Merciful

**The Irrigation and Drainage Act, 1990**

**(28/5/1990)**

**Chapter I**

**Preliminary Provisions**

**Title**

1. “This Act may be cited as the, “Irrigation and Drainage Act, 1990”.

**Interpretation**

2. In this Act, unless the context otherwise requires, :-

“Artificial works”, mean any of the facilities manufactured of any of the materials, for the purpose of usage thereof in any of the irrigation works;

“Canals”, mean the channels into which water flows, and serve the purposes of irrigation and drainage, and they include the following types :-

(a) Public, are those owned by the State, and designed and built by the Ministry or otherwise;

(b) Private, are those, which are privately owned;

(c) Major, are those into which water flows from the main source of water and feed the branch canals;

(d) Branch, are those into which water flows from the major canals and feed the larger and smaller canals;

- (e) Larger, are those into which water flows from the major or branch canals and feed smaller canals;
- (f) Smaller, are those into which water flows from the canals;
- (g) Canals having twenty double units (Double Abu-Ishreen), are those into which water flows from smaller canals, and feed fields' canals;
- (h) Fields' canals, are those into which water flows from smaller canals, and those having twenty double units (Double Abu-Ishreen), to irrigate the fields.

**“bridges”,**

mean soil embavements on both sides of canals, or drains to conserve the water course.

**“Sanctuary”,**

means the limited area around any of the canals, drains and facilities, inside which any facilities or cultivation of any crops are banned;

**“Licensee”,**

means the person , whom the Ministry grants the necessary licence to carry on any of the works , relating to irrigation and drainage;

**“Drains”,**

mean water courses prepared for drainage, and include any of the following types :-

- (a) Public, are those owned by the State;
- (b) Private, are those privately owned ;
- (c) Protective, are those, which are prepared to drain the water of floods and rains in protection of agricultural schemes;

(d) Fields Drains, are those, which are prepared to drain water which is surplus of the need of fields whether the surplus water is of irrigation, floods or rains;

(e) Gathering , are those, which are prepared to drain gathered water from fields drains;

(f) Pressure decrease drains, are those, which are prepared to decrease the drainage of major canals.

“Water facilities”, mean water regulators and Saharat, provided for in section 4;

“Ministry”, means the Ministry of Irrigation and Water Resources;

“Minister”, means the Minister responsible for irrigation and water resources.

### Roads

3. Roads may be paved inside agricultural schemes, whether they pass over canals, or parallel thereto for the purposes of irrigation and passage of human beings, animals and vehicles of all their types; provided that the said roads shall be one of the two following branches :-

(a) Public roads, are those main or branch roads, on which all conveyance vehicles are allowed to pass thereon inside the schemes and around them.

(b) Private roads, are those allocated for the passage of employees of the schemes, and loads allowed to be conveyed thereon are specified.

### Water facilities

4. Water facilities shall be of the following types of facilities :-

- (a) Water regulators, are those facilities used to control irrigation water, measure, distribute gather and lower the speed thereof, which are installed in any of the types of canals and drains;
- (b) Saharat, are those artificial courses in which water drains pass under the beds of canals, drains or rivers.

### Sanctuaries of canals, drains and facilities

5. The sanctuary around canals and drains shall be as follows :-

(a) With respect to canals :-

- (i) Major and branch canals, fifty metres, calculated out of the axis of each;
- (ii) larger and smaller, thirty metres, calculated out of the axis of each.

(b) With respect to drains :-

- (i) Protective, forty metres, calculated out of the axis of each;
- (ii) gathering, twenty five metres, calculated out of the axis of each.

## Chapter II

### Provisions Pertaining to Licensing

#### Branch I

#### Licensing and Procedure thereof

#### Application for Licensing presented

- 6.(1) Every person, who desires to carry on any of the business having connection with irrigation or drainage, provided for in section 7(1) shall apply to the Ministry for licensing him therefor.
- (2) The application, provided for in sub-section (1) shall satisfy all such conditions, relating to licensing, as may be specified by the regulations, made under the provisions of this Act.

- (3) The Ministry shall grant the applicant the necessary licence, after satisfying all the conditions, provided for in sub-section (2).**

### **Licensing mandatory**

**7.(1) No person shall carry on any of the business, hereinafter set out unless he obtains the necessary licence from the Ministry, namely the business is to :-**

**(a) install any of :-**

- (i) pumps, or the device moved by any of the immobile or mobile machines, operated by any of the automotive methods, to pump water from canals, or drains to irrigate lands;**
- (ii) the facilities in any of the public property having connection with irrigation or drainage.**

**(b) replace any of the mobile machines or pumps used in any of the business already licensed , or change the same where that leads to change in water drainage;**

**(c) draw water from public canals for the exploitation thereof for any of the irrigation purposes;**

**(d) irrigate the lands located in the outskirts of public schemes from public canals, or public drains;**

**(e) cultivate any of the lands downed by the state located inside or between bridges of the public canals and public drains or the use thereof for any of the other purposes;**

**(f) carry on any of the private business inside the boundaries of any of the public property having connection will irrigation, drainage, or adjustment thereof.**

**(2) The regulations made under the provisions of this Act shall specify the terms of renewal of licensing and rejection thereof and the procedure, to be followed upon renewal of licence .**

- (3) The licensee shall, in case of rejecting the renewal of licence, relating to any of the public property remove all the works performed thereby, in such way that he shall retribute such property to their first condition at such date as may be specified by the Ministry thereto and in the case of non-abidance thereby the Ministry shall perform the work at the expense of the aforesaid.

### **Notification**

8. The licensee shall notify the Ministry in writing upon specification of the place from which the water is drawn for irrigation whether that is from the River Nile or any of its tributaries, or any of the other rivers, or the public canals or upon change of the place previously referred to, and he shall present all the documents relating to the design , for the purpose of verifying compliance thereby with the terms on the basis of which the licence is granted.

### **Suspension of the licence**

#### **Change of terms and revocation thereof**

9. The ministry may take any of the procedure hereinafter set out with respect to licence, namely the procedure are to :-
- (a) suspend and prevent benefiting by or from any of the licensed business or remove the same, where there has occurred any contravention of any of the terms of licensing , and the licensee has not suspended or removed the same at the date specified thereby;
  - (b) change the area irrigated thereby where the purpose of operating the same is irrigation of the land;
  - (c) revoke it, where the Government carries on any of the business, whereby the licensed work therefor is dispensed with and it may, in this case, issue a decision of removing it, provided that the licensee shall be fairly compensated for the costs spent in order to accomplish such work.

## Licences of private schemes

10. Licences of private schemes , which draw water from canals of public schemes shall be valid for a period of ten years, starting from the date of grant of licence , and may be reviewed to a similar period or periods.

## Branch II

### Licence of New Lands

#### Licence of irrigation of new lands

- 11.(1) Every person, who desires to exploit any of the new lands which are not licensed for irrigation before, and the necessary water resources for irrigation thereof are available in the State plan, shall apply to the Ministry for licensing him therefor, provided that the said application shall include the following data :-
- (a) area of the land intended to be irrigated;
  - (b) classification of the type of soil;
  - (c) the suitable place to draw water to irrigate the same;
  - (d) the open cultivation rotation.
- (2) The Ministry shall revise the data provided for in sub-section (1), and it may, after verifying the satisfaction thereof specify the method of irrigation, and the quantity of water that it may be drawn, and then notify the applicant for licence thereof in writing, who in turn shall present a written undertaking to the Ministry, whereby binds himself by the method of irrigation and the quantity of water that may be drawn.
- (3) The Ministry shall grant the applicant for licence the licence necessary for exploitation of the new land, provided that it shall include the following data :-
- (a) the place from which water is drawn;
  - (b) the quantity of water annually allowed to be drawn;
  - (c) the method of irrigation;
  - (d) the cultivation rotation.

- (4) The regulations shall specify the terms of licence for irrigation of new lands and the costs of supplying water and distribution thereof between new lands and the charges of the same.

### **Irrigation of new lands from public canals**

12. The General Administration of irrigation Affairs shall issue the licences, relating to irrigation of new lands from public canals inside public schemes.

### **Branch III**

#### **Rights and Obligations of the Licensee**

#### **Rights of licensee and obligations thereof**

13. The licensee shall have the right to enjoy the favours of licence during his period, and he shall be bound by the obligations provided for in this Act, and without prejudice to the generality of the foregoing , he shall :-
- (a) have the right that the Ministry shall propose for him the best ways of benefiting by the licence where it decides closing any of the private canals or drains , abolishing the work of any of them in realization of the public interest for the lack of benefit thereof; or the existence of another method of irrigation or drainage or because it causes any public injury;
  - (b) be bound by the following :-
    - (i) maintain and preserve all the works in a good condition , and conduct such repairs or adjustments, as the Ministry may deem necessary therefor at such date, as may be specified thereby, and as to such specifications, as it may specify;
    - (ii) purify the canals and drains from weeds and remove the same from them, as to such manner, as may security non-Waite of water of irrigation;

- (iii) remove water Hycenth from canals and drains inside the private schemes, provided that the Ministry may, upon his refusal to be bound thereby , by itself or through whoever it may hire for this, perform such removed at his own expense;
- (iv) be restricted by the terms of licence;
- (v) present, to the Ministry before being licensed to irrigate the lands irrigated from the public canals inside the public schemes, an application including therein the data provided for in section II(1).
- (vi) the method of irrigation and the quantity of water permitted and the cultivation rotation.

### **Chapter III**

#### **Provisions Relating to irrigation and Drainage**

##### **Functions and powers**

##### **of the Ministry**

14. The Ministry shall have the following functions and powers, namely to :-<sup>(1)</sup>
- (a) be notified, intending the choice of suitable place for drawing water therein, from the public canals or adjustment thereof, to supervise the said choice or the adjustment intended to be made in such way that no one of the said measures may be done except in the presence of the competent irrigation engineer;
  - (b) be not bound by compensation of persons for any act of losses as may occur as a result of water pumping from any of the public and private canals, by reason of meager Nile supply, or any of its tributaries or any of the other rivers, or wells or any of the other technical reasons;

---

<sup>(1)</sup> Act No. 40, 1974.

- (c) perform by itself or through whoever it may authorize therefor any of the business hereinafter set out with respect to lands owned publicly or those privately owned , or any of the corporate persons, who are located inside the boundaries of the sanctuary of any of the public canals and drains, namely the business are :-**
- (i) those necessary pertaining to protection of bridges, public facilities, maintenance and repair thereof and take the necessary soil from the said lands, with intent to achieve public interest, that it shall fairly compensate the aggrieved persons;**
  - (ii) throwing the deposits and weeds taken from public canals and drains after purification thereof on the said lands; provided that the aggrieved persons shall be fairly compensated.**
- (d) by itself or through whoever it may employ of the employees in the public or private sector, purify the public canals and public drains from:-**
- (i) deposits of clay; provided that this shall be made by the competent irrigation engineer , and under the supervision thereof, and be done under the supervision of the agricultural administrations at the schemes, with respect to fields canals;**
  - (ii) weeds by all the possible methods; provided that this shall be done under supervision of the General Administration of Irrigations Services at the Ministry, and with respect to canals and fields under supervision of the Agricultural Administrations at the agricultural schemes;**

- (e) by itself or whoever it may authorize in this respect , supervise the public property having general connection with irrigation and drainage; in such way that no body shall install any of the facilities having connection with irrigation and drainage in such property or license the installation thereof, any of the persons except after obtaining the approval therefrom;**
- (f) retribute the condition to its first state upon commission of any contravention of the provisions of this Act, on refusal by the offender of the same provided that the work shall be done at his own expense;**
- (g) present thereto the design of private bridges intended to be built over any of the public canals and drains, before the building; provided that such bridges shall be, after being built, public property, which the Ministry supervises;**
- (h) suspend any of the machines used for drawing water or the regulators pertaining to drawing water from public canals and drains in case of necessity where any of them is used in contravention of the provisions of this Act;**
- (i) change of :-**

  - (i) the place from which water is drawn from the River Nile or any of its tributaries or the other rivers or the public canals to the suitable place, where necessity calls for conducting the change; provided that the Ministry shall propose the best ways for the farmers who are aggrieved by such change to avoid unnecessary expenses or fairly compensate them as the case may be;**
  - (ii) the various water regulators or replace the same or abolish working thereby, where it deems that achievement of public interest requires the same.**

- (J) cut water from all areas cultivated with unprescribed crops or not agreed upon with it;**
- (k) prohibit under an order made by it in this respect , the passage of any of the machines, tractors or trucks, and land vehicles on the bridges of any of the public canals, drains and artificial facilities where the irrigation engineer deems that any of them may cause any damage to these facilities, or any part of the same;**
- (i) agree in advance to drain the various industries water in any of the public drains or carry on any of the industrial business on any of the public canals and public drains;**
- (m) periodically inspect the private scheme to verify the execution of condition set out in the licence granted by the Ministry.**

### **Some business prohibited**

- 15. No person shall perform in any of the business hereinafter set out to :-**
- (a) drain any of the types of water in the public canals, except after obtaining permission for this, from the Ministry, as to such method as may be specified thereby;**
  - (b) utilize the drainage water for purposes of irrigation, except after obtaining permission for this, from the Ministry , as to such terms, as may be specified thereby;**
  - (c) waste water of irrigation by draining in any of the public, or private drains, or uncultivated lands, or unlicensed to be irrigated ;**
  - (d) obstruct the flow of water from any of the public canals , or drains, or carry on any of the business which by nature may cause misbalances;**
  - (e) cut bridges of public canals, or drains for the purposes of irrigation, drainage or any of the other purposes;**
  - (f) dig on bridges of public canals or drains or in the bed of any of them, or on the sloping of bridges or the surfaces thereof;**

- (g) take dusts, stones or otherwise of materials or the machines from any of the bridges of the public canals and drains and the artificial works or carry on any of the other business inside any of the public property having connection with irrigation or drainage;**
- (h) throw claes , dusts or any of the materials, or machines in any of the public canals or drains, or on bridges of any of them;**
- (i) place beams , machines or private vehicles in any of the bridges of public canals and drains or in any of them or in any of the bridges of archways;**
- (j) open any of the archways and the water regulators whatever the type thereof installed in any of the public canals and drains or close such archways, or regulators;**
- (k) damage any of the artificial works;**
- (l) dig in any of the lands owned by the State or privately owned , or by any of the corporate personalities, where such lands are located inside the sanctuary of any of the public canals and drains, or as may endanger safety of bridges , or affect the current in such way as may insure such bridges, or any of the other lands and facilities.**

### **Passage of machines tractors and trucks upon rainfall**

- 16. No machine, tractors and trucks shall pass on the bridges of public canals and drains, upon the fall or rains except after lapse of three hours starting from the hour of cessation of falling of rains.**

### **Power of the Minister**

- 17. The Minister may, for the purposes of implementation of the provisions of this Act, exercise any of the powers , hereinafter set out, namely to :-**
- (a) make an order to amend the design of any canal , licensed or facility;**

- (b) direct under an order made for this respect to take any of the following measures , to :-
- (i) change the place of drawing water where drawing causes any public damage; provided that the licensee shall be granted the sufficient time to conduct the change as to such specification , as may be specified by the Ministry;
  - (ii) reduce the area of the irrigated lands in the private schemes where water of the River Nile or any of its tributaries is meager, or upon the occurrence of any other circumstances , as the public interest may destine the reduction of the area of such lands;
  - (iii) call any of the able persons to observe the bridges of the public canals and close any cut , as may occur therein by reason of heavy rains and floods;
  - (iv) renew the steps, data and terms that have be satisfied for granting the licences to install any of the pumps or the devices moved by any of the immobile, or mobile machines which are operated by any of the mechanical methods to draw water from canals for irrigation of the lands or drains to drain water from them.

#### Chapter IV

#### Grievance Complaint, Appeal and Compensation

##### Grievance and competent

18. Every person, who is aggrieved by any of the acts or measure relating to irrigation or drainage, made by the Ministry may submit his grievance or complaint, as the case may be to the Under Secretary of the Ministry, to take the suitable decision.

## Appeal

- 19.(1) Every person, who is aggrieved by the decision of the Under-Secretary of the Ministry issued in accordance with the provisions of section 18 may appeal to the Minister against the said decision.
- (2) The decision issued by the Minister shall be final; provided that the same shall not prevent any aggrieved person from contesting the decision before the competent court.

## Compensation committees

- 20.(1) The Under-Secretary of the Ministry may, under an order issued by him constitute committees for the purpose of compensation of persons affected by injury from any of the acts or measures relating to irrigation, or drainage taken by the Ministry; provided that the said committees shall include in their membership persons from those possessed of competence and experience.
- (2) The order issued under the provisions of sub-section (1) shall specify the rules with which the committee concerns shall be guided, for the purpose of assessing the compensation.
- (3) The recommendation of every committee, to be constituted in accordance with the provisions of sub-section (1) shall be implemented by payment of the compensation assessed by the person concerned after the approval of the Minister of Finance and National Economy .<sup>(2)</sup>

---

<sup>(2)</sup> Act No. 40.1974 .

**Chapter V**  
**Contravention and Procedure of**  
**Consideration Thereof**  
**Contraventions**

21. Every person, who commits any contravention of the provisions of any of the following sections shall be deemed to have committed a contravention, and be punished for commission thereof with the penalties provided for in section 23, without prejudice to any severer penalty he may subject thereto in accordance with the provisions of any other law, and the sections are namely :-
- (a) 7(1);
  - (b) 8 ;
  - (c) 11(1);
  - (d) 13(b) (i), (iii), (iv), (v), and (vi);
  - (e) 14(g) and (k);
  - (f) 14(l)by draining the industry water concerned without obtaining the approval in advance on the Ministry part;
  - (g) 15;
  - (h) 16;
  - (i) 17(b) (i), (ii), and (iv).

**Suspension of work**  
**And removal thereof**

22. The competent court shall, upon request of the Ministry, order, at any of the stages of the suit , the suspension or removal of any work in contravention to the provisions of section 17(1) immediately.

## **Penalties**

23. There shall be punished with the sanction hereinafter set out every person, who commits any of the contraventions provided for in :- <sup>(3)</sup>
- (a) the two paragraphs (a) and (i) of section 21, with fine specified by the court, and suspension of the work subject of contravention or removal thereof;
  - (b) paragraphs (b), (c), (d), (e), (f), (g) and (h) of section 21, with fine specified by the court.

## **Chapter VI**

### **General Provisions**

#### **Report of missing of artificial facilities**

##### **And loss thereof**

24. The competent localities shall report to the Ministry in case of missing, or loss of any of the artificial facilities, having connection with irrigation and drainage, present in the remote areas in the public schemes located inside the boundaries of the said localities. <sup>(4)</sup>

#### **Power to make regulations, rules and orders**

25. The Minister may make such regulations, rules and orders, as may be necessary for implementation of the provision of this Act.

---

<sup>(3)</sup> Act No. 2, 1992.

<sup>(4)</sup> Act No. 40, 1974.