

JAMAICA

No. 7—1999

I assent,

[L.S.]

H. F. COOKE,  
*Governor-General.*

26th day of March, 1999.

AN ACT to Amend the Irrigation Act.

[ March 26, 1999 ]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Irrigation (Amendment) Act, 1999, and shall be read and construed as one with the Irrigation Act (hereinafter referred to as the principal Act) and all amendments thereto.

Short title  
and con-  
struction.

Repeal and  
replace-  
ment of  
section 4  
of principal  
Act.

2. Section 4 of the principal Act is repealed and the following substituted therefor—

“Licensing  
of Irrigation  
Authority.

4.—(1) The Minister may, by order subject to affirmative resolution, license a company to be the Irrigation Authority for the purposes of this Act.

(2) The company licensed under subsection (1) shall be responsible for the implementation of the provisions of this Act in relation to all irrigation areas and restricted areas.

(3) A licence issued under this section may make provision for—

- (a) the imposition and collection by the Authority of—
  - (i) irrigation and drainage charges (including the collection of arrears accrued prior to the date of the licence);
  - (ii) charges in relation to the reclamation of land or the use of any watercourses;
- (b) the manner in which funds collected shall be utilized by the Authority.

(4) Where the Minister is satisfied that additional sums may be required to finance the functions of the Authority under this Act the Minister may, after consultation with the Minister responsible for finance, grant the additional sums to the Authority.

(5) Any sum granted under subsection (4) shall be paid out of the Consolidated Fund.

(6) An order under subsection (1) may vest in the Authority such functions under this Act as the Minister thinks fit for such period as may be specified in the order and, without prejudice to the generality of the foregoing, may contain provisions relating to the transfer to the Authority of—

- (a) assets and liabilities—
  - (i) of any Irrigation Authority appointed under this Act and in existence immediately before the date of commencement of the Irrigation (Amendment) Act, 1998;
  - (ii) of the Black River Drainage and Irrigation Board; and
  - (iii) vested in the Commissioner of Lands in relation to the irrigation works constructed under the Rio Cobre Canal Law;
- (b) the responsibility for the staff engaged in the work of any organization referred to in paragraph (a);
- (c) such consequential, supplemental or ancillary provisions as appear to the Minister to be necessary or expedient for the purpose of giving effect to the order.”.

3.—(1) The Black River (Upper Morass Reclamation) Act and the Rio Cobre Canal Law are hereby repealed. Repeal and transitional.

(2) Until other provisions are made under the principal Act as amended by this Act, any licence, order, permit or scheme granted or made pursuant to the enactments referred to in subsection (1) shall continue in effect.

Amendment  
of other  
provision  
of princ-  
Act.

4. The principal Act is amended in the manner specified in the Schedule hereto.

## SCHEDULE

(Section 4)

Provisions of  
Principal Act

Amendments

Section 2

1. In the definition of "ancillary right" delete the words "any Authority" and substitute therefor the words "the Authority".
2. Delete the definition of "Authority" and substitute therefor the following—  
 " "Authority" means any company licensed to be the Irrigation Authority pursuant to section 4;".
3. Insert next after the definition of "Authority" the following—  
 " "Black River area" means—
  - (a) that portion of the Black River including the banks thereof, from the sea to Lacovia Bridge;
  - (b) the Upper Morass area;
  - (c) the Y. S. River area; and
  - (d) the areas described in the Additional Areas (Parish of St. Elizabeth) Reclamation Order, 1953, published in the Jamaica Gazette Proclamations, Rules and Regulations on the 26th day of January, 1953;
  - (e) such other areas in the parish of St. Elizabeth as the Minister may, by order, specify for the purposes of this Act;
 "company" means a company incorporated under the Companies Act;".
4. In the definition of "interested party" delete the words "any authority" wherever they appear and substitute therefor in each case the words "the Authority".
5. Insert next after the definition of "interested party" the following—  
 " "reclamation" means the recovery of the use of land previously inundated with water;  
 "reclamation scheme" means a scheme for the drainage and reclamation of any land;".

SCHEDULE, contd.

Provisions of  
Principal Act

Amendments

- 6. In the definition of "irrigation works or work" insert immediately before the words "includes every" the words "or reclamation works".
  - 7. Insert next after the definition of "standard date" the following—
    - “ “Upper Morass area” means all that area in the upper reaches of the Black River comprised within the boundaries set out in Part II of the Schedule.”
  - 8. Delete the definition of "relevant irrigation area".
  - 9. In the definition of "watercourse" delete the words "the relevant" and substitute therefor the word "an".
  - 10. Insert next after the definition of "Water Resources Authority" the following—
    - “ “Y. S. River area” means that portion of the Y. S. River, including the banks thereof, from its Junction with the Black River to the bridge on the main road at Shaws Village;”
- Section 3      Add next after subsection (2) the following as subsection (3)—
- “ (3) Subject to subsections (1) and (2), the areas described in Part I of the Schedule shall be irrigation areas.”
- Section 5
- 1. Delete from the marginal note the words "Irrigation Authorities" and substitute therefor the word "Authority".
  - 2. Delete the words "every irrigation" and substitute therefor the word "the".
  - 3. Delete from paragraphs (a), (c) and (d) the words "the relevant" wherever they appear and substitute therefor, in each case, the word "an".
  - 4. Delete the fullstop at the end of paragraph (d) and substitute therefor a semi-colon and the word

SCHEDULE, *contd.*Provisions of  
Principal ActAmendments

“and” and add next thereafter the following as paragraph (e)—

“(e) to prepare and submit to the Minister for approval a reclamation scheme in relation to an irrigation area.”.

## Section 6

## 1. In subsection (1)—

(a) delete the words “every Irrigation” and substitute therefor the word “the”;

(b) delete paragraph (a) and substitute therefor the following—

“(a) execute such reclamation, irrigation or drainage works as may be necessary for reclaiming, irrigating or draining, an irrigation area and, for any such purposes, to alter or regulate the course of any watercourse;”.

## 2. In subsections (2), (3) (a) and (4), delete the words “the relevant” wherever they appear and substitute therefor in each case the word “an”.

## Section 7

## 1. In subsection (1) delete the words “the relevant” and substitute therefor the word “an”.

## 2. Delete the proviso to subsection (3) and substitute therefor the following—

“ Provided that the Authority may, if it thinks fit, permit the repayment of the expenses incurred in instalments over such period (not exceeding twelve months) as the Authority may determine.”.

## Section 8

## 1. In subsection (1)—

(a) delete the word “Every” and substitute therefor the word “The”;

(b) delete the words “the relevant” and substitute therefor the word “an”.

## 2. In subsection (2) delete from paragraph (a) the words “the relevant” wherever they appear and substitute therefor in each case the word “an”.

## 3. In subsection (3) delete from paragraph (i) the words “irrigation dues or rate” and substitute therefor the word “charges”.

SCHEDULE, *contd.*

Provisions of  
Principal Act

Amendments

4. In subsection (4) delete the words "the relevant" and substitute therefor the word "an".
- Section 9 Delete the word "every" and substitute therefor the word "the".
- Section 10 1. In paragraph (c) of subsection (1) delete the words "the relevant" and substitute therefor the word "an".  
2. In paragraphs (a) and (b) of subsection (3) delete the words "the relevant" wherever they appear and substitute therefor in each case the word "an".
- Section 19 1. Delete the word "every" and substitute therefor the word "the".  
2. Delete the words "the relevant" and substitute therefor the word "an".
- Section 20 Delete from subsection (1) the words "the relevant" and substitute therefor the word "an".
- Section 21 1. Delete the word "Every" and substitute therefor the word "The".  
2. Delete the words "irrigation dues or rates" and substitute therefor the word "charges".  
3. Delete the words "irrigation rate" and substitute therefor the word "charges".
- Section 22 Delete the words "the relevant" wherever they appear and substitute therefor in each case the word "an".
- Section 23 Delete the words "the relevant" and substitute therefor the word "an".
- Section 24 Delete the words "the relevant" and substitute therefor the word "an".
- Section 25 In subsection (1) delete from paragraphs (a), (b), (d) and (e) the words "any Authority" wherever they appear and substitute therefor in each case the words "the Authority".
- Section 27 Delete the words "any Authority" and substitute therefor the words "the Authority".
- Section 31 1. Delete the words "any Authority" wherever they appear and substitute therefor in each case the words "the Authority".

SCHEDULE, *contd.*

| <u>Provisions of<br/>Principal Act</u> | <u>Amendments</u>  |
|--|--|
|  | 2. Delete the words "such Authority" and substitute therefor the words "the Authority".  |
| Section 32                             | In subsection (2) delete paragraph (b).  |
| Section 37                             | Delete the word "relevant".  |
| Section 38                             | 1. Delete the words "tank, basin, dam, channel" and substitute therefor the word "works".<br>2. Delete the words "three months" and "fifty" and substitute therefor the words "three years" and "one hundred thousand", respectively.  |
| Section 39                             | Delete the words "three months" and "fifty" and substitute therefor the words "three years" and "one hundred thousand", respectively.  |
| Section 40                             | Delete the word "fifty" and substitute therefor the words "one hundred thousand".  |
| Section 41                             | Delete the word "fifty" and substitute therefor the words "ten thousand".  |
| Section 42                             | 1. Delete the words "the relevant" and substitute therefor the word "an".<br>2. Insert immediately after the words "irrigation works" wherever they appear the words "or reclamation works".<br>3. Delete the words "three months" and "fifty" and substitute therefor the words "three years" and "one hundred thousand", respectively. |
| Section 43                             | 1. Delete the words "any Authority" and substitute therefor the words "the Authority".<br>2. Delete the words "fifty" and "three" and substitute therefor the words "ten thousand" and "twelve", respectively.   |
| Section 44                             | Delete the words "fifty" and "three" and substitute therefor the words "ten thousand" and "twelve", respectively.  |
| Section 45                             | Delete the words "twenty" and "thirty days" and substitute therefor the words "one thousand" and "three months", respectively.   |

SCHEDULE, *contd.*

Provisions of  
Principal Act

Amendments

- Section 47 Delete and substitute the following—
- “Imposition of charges. 47.—(1) It shall be lawful for the Authority with the approval of the Minister, by notification in the *Gazette*, to impose, in respect of all lands and watercourses within an irrigation area, such charges in relation to irrigation, drainage, reclamation and use as may be specified in the notice.**
- (2) The charges imposed pursuant to subsection (1) shall be paid at such times as may be determined by the Authority and to such person as the Authority may authorize for the purpose.”.
- Section 48 Delete the section.
- Section 49
1. Delete the words “if the Minister considers it just or expedient to do so, he” and substitute therefor the words “if the Authority, with the approval of the Minister, considers it just or expedient so to do, it”.
  2. Delete the words “dues or rates” and substitute therefor the word “charges”.
- Section 50
1. Delete the words “dues or rates” and substitute therefor the word “charges”.
  2. Delete the word “five” and substitute therefor the word “ten”.
- Section 51
1. In subsection (1) and the marginal note—
    - (a) delete the words “dues or rates” and substitute therefor the word “charges”;
    - (b) delete the comma and all the words appearing after the words “have been imposed”.
  2. In subsection (2)—
    - (a) delete the words “dues or rates” and the word “rates” and substitute therefor in each case the word “charges”;
    - (b) delete the words “Collector of Taxes” and substitute therefor the word “Authority”.

SCHEDULE, *contd.*

| <u>Provisions of<br/>Principal Act</u> | <u>Amendments</u>   |
|--|---|
| Section 52                             | Delete the section.   |
| Section 53                             | Delete the section.   |
| Section 54                             | Delete the word "every" and substitute therefor the word "the".   |
| Section 55                             | Delete from subsections (1), (2) and (3) the word "Every" and substitute therefor in each case the word "The".  |
| Part VII                               | Delete the Part.  |
| Section 63                             | Delete the section.   |
| Section 66                             | Delete the section and substitute therefor the following as sections 66 and 67—<br><div style="margin-left: 40px;"> <p>"Vesting of assets and liabilities. 66.—(1) In this section and section 67—<br/> "former provisions" means the provisions of this Act as in force immediately before the commencement of the Irrigation (Amendment) Act, 1999;<br/> "prescribed Authority" means—<br/> (a) the following Irrigation Authorities established by orders made under section 56 of the former provisions that is to say—<br/> (i) the Saint Dorothy Plain Irrigation Authority;<br/> (ii) the Mid-Clarendon Irrigation Authority;<br/> (iii) the Hounslow Irrigation Authority;<br/> (iv) the Braco Irrigation Authority;<br/> and<br/> (v) the Yallahs Irrigation Authority;</p> </div> |

SCHEDULE, *contd.*Provisions of  
Principal Act

## Amendments

Insertion of  
Schedule.

Insert next after section 67 the following Schedule—

“ SCHEDULE (Section 3)

## PART I

*Irrigation Areas*

1. The Black River Area.
2. The area irrigated or capable of being irrigated by any irrigation works constructed under the authority of the Rio Cobre Canal Law (Cap. 343 of the 1953 Revised Edition of the Laws of Jamaica).

## PART II

*The Upper Morass Area*

All that land comprised within the area bounded by a line running as follows:—

Starting at a point on the Lacovia Bridge; thence south easterly along the main road to the village of Santa Cruz; thence north easterly along the parochial road from Santa Cruz to the junction with the main road from Grossmond Bridge to Wilton; thence southerly along the main road to Wilton for a distance of 30 chains; thence due east in a straight line for a distance of 80 chains; thence on a bearing North 58 E in a straight line for a distance of 174 chains; thence in a straight line on a bearing approximately North 29 West to the 5th mile post on the main road from Wilton to Lancaster Cross Roads; thence along the main road from Lancaster Cross Roads through Elim to Barton's Bridge; thence along the main road from Barton's Bridge back to Lacovia Bridge, the starting point.”