

THE IRRIGATION ACT**REGULATIONS**
*(under section 62)***THE IRRIGATION (LICENCES TO CARRY OUT IRRIGATION FUNCTIONS)
REGULATIONS, 2005**

*(Made by the Commission with the approval of the Minister on the
10th day of November, 2005)*

L.N. 151D/2005

1. These Regulations may be cited as the Irrigation (Licences to carry out Irrigation Functions) Regulations, 2005.
2. In these Regulations, "licence" means a licence under section 57 of the Act.
3. An application for a licence shall contain the following particulars—
 - (a) the name of the applicant corporation;
 - (b) the date of incorporation of the applicant corporation;
 - (c) a description of the organizational structure of the applicant corporation;
 - (d) the name and qualifications of every officer of the applicant corporation;
 - (e) the name of every director and of every member of the applicant corporation;
 - (f) the irrigation area in respect of which the application is made; and
 - (g) an undertaking by the applicant corporation to comply with the law and with such requirements relating to environmental standards and maintenance as may be prescribed pursuant to section 57 (2) (d) of the Act, in carrying out its functions pursuant to the licence.
4. A fee of fifty thousand dollars shall be paid upon the submission to the Authority of every application for a licence.
5. Subject to regulation 7, a licence shall be valid for a period of five years from the date on which the licence is granted, or such shorter period as may be specified in the licence, and may be renewed in accordance with regulation 6.
6. The Authority shall, upon the written application of the licensee submitted before the date of expiration of the licence, renew the licence if the Authority is satisfied that—

- (a) the licensee has not contravened any term or condition of the licence or any provision of the Act or of regulations made under the Act;
- (b) the conditions specified in section 57 (2) of the Act for the grant of a licence continue to exist in relation to the licensee.

7.—(1) The Authority may act in accordance with sub-paragraph (2) where the Authority has grounds to believe that—

- (a) a licensee has contravened any term or condition of the licence or any provision of the Act or of regulations made under the Act;
- (b) a licensee has knowingly made a false statement or a material misrepresentation in an application for a licence;
- (c) the conditions specified in section 57 (2) of the Act for the grant of a licence no longer exist in relation to a licensee; or
- (d) a licensee has provided services not authorized by the licence.

(2) The Authority shall—

- (a) give to the licensee a notice in writing—
 - (i) specifying the particulars of the relevant matter referred to in paragraph (1);
 - (ii) directing the licensee to take, within the time stipulated in the notice, such specified steps (if any) as the Authority thinks necessary to remedy the matter; and
 - (iii) informing the licensee of his entitlement to be heard under sub-paragraph (b); and
 - (b) afford the licensee an opportunity to be heard in relation to the matter, if the licensee so requests in writing delivered to the Authority within fifteen days after notice is given under sub-paragraph (a).
- (3) After complying with sub-paragraph (2), the Authority may—
- (a) suspend the licence for a period not exceeding six months, if the Authority is satisfied that—
 - (i) the licensee has failed to comply with any direction made under sub-paragraph (2) (a); and
 - (ii) the contravention in respect of which the notice was issued still exists in relation to the licensee; or
 - (b) suspend the licence for a period exceeding six months or revoke the licence if the Authority is satisfied—

- (i) as to the matters referred to in sub-paragraph (a) (i) and (ii) and that a notice under sub-paragraph (2) has been issued to the licensee on any one or more previous occasion; or

- (ii) that the matter is incapable of being remedied.

(4) Before acting under sub-paragraph (3), the Authority shall inform the licensee of its intention to act under that sub-paragraph and afford the licensee thirty days within which to show cause why the Authority should not so act.

(5) Where the Authority suspends or revokes a licence under sub-paragraph (3), the Authority shall—

- (a) inform the licensee in writing of its decision; and
- (b) publish a notice of the suspension or revocation, as the case may be, in the *Gazette*.

(6) The Authority shall send to the Minister a copy of every notice given under this regulation.

(7) Where any information or notice required under paragraph (5) relates to the suspension of a licence, the information or notice, as the case may be, shall specify the period of the suspension.

(8) Directions under paragraph (2) (a) (ii) may include a direction to cease the doing of any act that contravenes any term or condition of a licence or any provision of the Act or of regulations made under the Act.

8.—(1) The Authority may, where it considers it expedient to do so, hold or cause to be held an investigation—

- (a) to determine whether any licence granted under Part VII of the Act should be suspended, revoked, renewed or re-instated;
- (b) in respect of the breach of any provision of the Act, regulations made under the Act or the terms or conditions of any licence; or
- (c) as respects any matter related to or connected with its powers under Part VII of the Act, so as to determine whether any of such functions should be exercised.

(2) With respect to any investigation under paragraph (1), the following provisions shall have effect—

- (a) the persons holding the investigation (hereinafter referred to as the Tribunal) shall do so in such manner and under such conditions as the Tribunal thinks most effectual for ascertaining the facts of the matter under investigation;

- (b) the Tribunal shall have for the purposes of the investigation all the powers of a Resident Magistrate to summon witnesses, call for the production of books and documents and to examine witnesses and the parties concerned on oath;
- (c) any person summoned to attend or to produce books or documents under this regulation, who refuses or neglects to do so, or refuses to answer any question put to him by or with the concurrence of the Tribunal, commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months:

Provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such investigation be entitled to the same privileges to which he would be entitled if giving evidence before a court;

- (d) any witness attending at the request of, or upon summons by, the Tribunal shall, subject to any order made by the Tribunal, be entitled to allowances for expenses as if summoned to attend a Resident Magistrate's Court.

9.—(1) An applicant for a licence may appeal in writing to the Minister against any refusal of the Authority to grant a licence, within thirty days of being informed of the refusal.

(2) A licensee may appeal in writing to the Minister against—

- (a) any decision of the Authority to suspend or revoke the licence; or
- (b) any term or condition of the licence, within thirty days of being informed thereof.

(3) After considering an appeal under paragraph (1) or (2) and hearing any representations made by the Authority, the Minister may—

- (a) in the case of an appeal under paragraph (1)—
 - (i) confirm the decision of the Authority; or
 - (ii) direct the Authority to issue the licence, for such period and subject to such terms and conditions as the Minister thinks fit;
- (b) in the case of an appeal under paragraph (2)—
 - (i) confirm the decision of the Authority; or
 - (ii) cancel the decision and re-instate the licence subject to such terms and conditions (if any) as the Minister thinks fit.