

L.N.535/1962,  
L.N.625/1963.

## **THE TRUST LAND (IRRIGATION AREAS) RULES**

1. These Rules may be cited as the Trust Land (Irrigation Areas) Rules, and shall apply to such areas of Trust land as the Minister may, by notice in the Gazette, declare to be irrigation areas.

2. In these Rules, except where the context otherwise requires—

"African court" means the African court having jurisdiction in the area;

"area" means any area declared to be an irrigation area under rule 1 of these Rules;

"authorized dependant" means, in relation to a licensee, his father and mother, wives and such of his children as are unmarried and under the age of eighteen years;

"committee" means an irrigation committee appointed under rule 3 of these Rules;

"holding" means that part of an area specified in a licence;

"licence" means a licence granted under rule 4 of these Rules;

"licensee" means any person to whom a licence has been granted, and includes any person who succeeds a licensee under rule 7 of these Rules;

"manager" means such person as may from time to time be appointed by the Minister to be in charge of. an irrigation area.

3. (1) The Minister may appoint a committee for any area, such committee to be known as an irrigation committee, to be responsible for advising the manager on the general administration of the area in accordance with Government policy.

(2) Such committee may either be the District Agricultural Committee of the district in which the area is situate or may be composed of such members as the Minister may appoint.

4. Any person who resides in, carries on business in, or occupies any part of the area or grazes any stock thereon shall, unless he is the holder of a valid licence granted to him under these Rules by the manager with the approval of the committee or is the authorized dependant of such licensee, be guilty of an offence.

5. (1) Every licence shall be in the form in the First Schedule to these Rules, and shall be prepared in duplicate; the original shall be given to the licensee and the duplicate shall be retained by the manager.

(2) The manager shall maintain a register in which he shall enter the name of every licensee, the number of his holding and the names of his authorized dependants.

(3) The manager shall also maintain a separate register in which he shall enter the name of any successor nominated by the licensee under rule 7 of these Rules, together with the number of the holding in respect of which the successor has been nominated.

6. Before issuing a licence, the manager shall—

(a) cause these Rules to be read and explained to the licensee in a language which he understands;

(b) give the licensee a copy of these Rules; and

(c) obtain from the licensee, in the form in the Second Schedule to these Rules, a receipt for the Rules, an acknowledgement that he understands them and an undertaking to observe them.

7. (1) A licensee may, at any time after the date of being granted a licence, nominate, in writing to the manager, another person to succeed him as licensee in the event of his death; and a licensee may at any time, in writing to the manager, revoke or alter any such nomination which may have been made by him:

Provided that no person nominated as successor may succeed until he has attained the apparent age of eighteen years; if he has not reached that age, his guardian under customary law may, within one month of the licensee's death, and with the approval of the manager, appoint a person to act on his behalf until the successor is of age.

(2) No person nominated as a successor may succeed without the approval of the committee.

(3) The authorized dependant of a deceased licensee may, within thirty days of his death, appeal to the African court against the nomination, under paragraph (1) of this rule, of a successor.

(4) The authorized dependant may—

(a) where a licensee dies without having nominated a successor in accordance with paragraph (1) of this rule; or

(b) where, under paragraph (3) of this rule, an appeal to the African court against the nomination of a successor has been successful, within one month of the death of the licensee or one month after the determination of the appeal, as the case may be, nominate, in writing to the manager, a successor who must be approved by the African court.

(5) In the event of—

(a) no person being appointed within the time prescribed in the proviso to paragraph (1) of this rule; or

(b) no person being nominated within the time prescribed in paragraph (4) of this rule; or

(c) any person nominated or appointed under this rule failing to accept such nomination or appointment or failing to assume the responsibilities inherent in such nomination or appointment within a period of three months from the death of the licensee; or

(d) no successor being acceptable to the committee, the holding shall be deemed to have been vacated, the licence in respect of such holding shall terminate, and a fresh licence may be granted in accordance with rules 5 and 6 of these Rules.

(6) In the event of a holding being deemed to have been vacated in terms of paragraph (5) of this rule—

(a) the manager may make provision for the cultivation of any such holding and where appropriate recover the costs from the incoming licensee; and

(b) in accordance with rule 23 of these Rules reasonable compensation may be paid to the authorized dependant

of a licensee in respect of any improvement to the holding effected by the licensee.

8. (1) Every licence shall be granted subject to the following conditions—

(a) a licensee shall devote his full personal time and attention to the cultivation and improvement of his holding and shall not, without the permission, in writing, of the manager, allow any other person to occupy his holding or to cultivate it on his behalf;

(b) a licensee shall maintain the boundaries of his holding in a manner satisfactory to the manager;

(c) a licensee shall maintain at all times his holding and all field, feeder and drainage channels to the satisfaction of the manager;

(d) a licensee shall maintain to the satisfaction of the manager all irrigation channels and works on or serving his holding;

(e) a licensee shall cultivate his holding to the satisfaction of, and in accordance with the crop rotation laid down by, the manager, and shall comply with all instructions given by the manager relating to the cultivation and irrigation of his holding;

(f) a licensee shall comply with all instructions given by the manager with regard to good husbandry, the branding, dipping, inoculating, herding, grazing or watering of stock, the production and use of manure and compost, the preservation of the fertility of the soil, the prevention of soil erosion, the planting, felling, stumping and clearing of trees and vegetation and the production of silage and hay;

(g) a licensee shall not hire, cause to be hired, or employ stock or machinery for cultural operations, other than stock and machinery owned by the manager, without prior approval, in writing, from the manager;

(h) a licensee shall not absent himself from the area for longer than one month without prior approval, in writing, of the manager.

(2) Any licensee who fails to comply with the conditions specified in paragraph (1) of this rule shall be guilty of an offence.

(3) Any licensee who refuses, or without reasonable excuse fails, to comply with any of the conditions of this rule shall, in addition to any penalty that may be imposed under paragraph (2) of this rule, be liable to have his licence terminated, subject to confirmation by the committee, by the manager.

9. (1) A licensee shall pay to the manager, on demand, such rates in respect of water and other services in respect of his holding as shall be calculated in accordance with rates prescribed by the Minister from time to time.

(2) The whole or part of any rates prescribed under paragraph (1) of this rule may be varied or remitted by the Minister, either generally or in any particular case, in his absolute discretion.

10. (1) The manager may allocate to a licensee a house to be occupied by him within the area, or may permit a licensee to erect his own house.

(2) In either event it shall be the duty of the licensee to maintain his house and precincts to the satisfaction of the manager, and if the manager is dissatisfied with the condition of the house or precincts he may give written notice to the licensee of the repairs which he considers necessary and specify a reasonable time within which they must be completed.

(3) If the licensee fails to complete such repairs within the time specified and to the satisfaction of the manager, the manager may cause such repairs to be carried out and may recover the cost thereof from the licensee.

(4) The licensee may not occupy any house other than that allocated to him without prior permission, in writing, from the manager.

(5) A licensee shall not construct buildings or other works of any kind on his holding or elsewhere in the area without the prior consent, in writing, of the manager. In the event of his having erected a structure or building without such consent, the manager may direct, in writing, that the structure be removed and the land returned to its original state. If the licensee fails to comply with this direction within one month, the manager may enter the building or structure for the purpose of demolition. Any expenses incurred by the manager for the removal of the building or structure may be recovered from the licensee.

11. (1) If a licensee is sentenced to imprisonment for a term of six months or more, his licence may be terminated forthwith.

(2) If a licence is terminated under paragraph (1) of this rule, a successor may be nominated or appointed in accordance with rule 7 of these Rules.

12. The manager shall have power to order the destruction of any crops planted in contravention of his instructions or of the provisions of these Rules and to recover the expenses incurred from the licensee. No compensation shall be payable in respect of crops so destroyed.

13. If, in the opinion of the manager, it would be beneficial to a licensee's crops or to all the licensees in the area to cultivate by machinery, or to apply fertilizers, or manure, or to treat any crops or stocks in any way to protect them against disease, pests, or damage of any kind, then the manager may do so and recover the costs thereof from the licensee or licensees.

14. As soon as each crop has been harvested the licensee shall deliver it, other than such portion as he may wish to retain for his own consumption and that of his authorized dependants living with him, to the manager at a collecting station to be appointed by the manager, or shall otherwise dispose of it in accordance with the instructions of the manager.

15. (1) The manager may, when necessary, collect, process and market the crops delivered to him under rule 14 of these Rules and may arrange for the sale of such crops, in which event he shall give the licensees details of the sales of all such crops as soon as possible.

(2) The manager shall not be obliged to keep or sell the crops of individual licensees separately.

16. (1) A licensee shall not keep on his holding any stock other than those specified in his licence and shall declare to the manager annually the natural increase in such stock and shall comply with any instructions issued by the manager as to their disposal.

(2) A licensee who fails to comply with the provisions of paragraph (1) of this rule, or with any instructions issued by the manager thereunder, shall be guilty of an offence, and where any additional undeclared stock is found in the possession of a licensee within the area, the manager may order a licensee to remove such additional stock from the area forthwith.

(3) If a licensee fails to remove his additional stock in accordance with an order to that effect given by the manager under paragraph (2) of this rule, the manager may confiscate and sell such additional stock, paying the proceeds

thereof, less any expenses incurred by such confiscation and sale, to the licensee.

17. (1) If, in the opinion of the manager, a licensee has been negligent in the use of his land, the use of irrigation water or the cultivation of his crops, the manager may direct him to take such steps as the manager may specify to remedy the effects of such negligence, and, in the event of a licensee failing to comply with any such directions, the manager may take such measures as he considers necessary to safeguard the crop and to preserve the holding and irrigation water, and may recover the costs of any such measures from the licensee.

(2) If a licensee is absent owing to illness or any other reason, the manager may take such measures as he considers necessary to safeguard the crop and to preserve the holding and irrigation water, and may recover the costs of any such measures from the licensee.

18. A licensee shall not permit any of his stock to be upon any part of the area which is closed to stock or to cause damage to any crops or water installations or communications or other property, and shall be liable to pay the cost of the repair of any damage so caused.

19. (1) Any licensee who wilfully or negligently causes damage or causes to be damaged any road, bridge, or culvert within the area shall be guilty of an offence.

(2) The manager may, where such damage has been caused by a licensee, repair any such damage and shall recover the cost of the repairs to such damage from the licensee.

20. The manager may deduct from the proceeds of the sale, under rules 15 and 16 of these Rules, of any crops or stock belonging to a licensee—

(a) the costs or expenses incurred by the manager—

(i) in the making of provisions for the cultivation of any holding under rule 7 (6) (a) of these Rules;

(ii) in the removal of any building or structure or repairs carried out to any house under rule 10 of these Rules;

(iii) in the destruction of any crops under rule 12 of these Rules;

(iv) in providing manure, fertilizers, insecticides or any agricultural operations under rule 13 of these Rules;

- (v) in the collecting, processing and marketing of crops under rule 15 of these Rules;
  - (vi) in remedying the negligence or safeguarding crops or preserving the holding under rule 17 of these Rules;
  - (vii) in repairing any damage caused by stock under rule 18 of these Rules;
  - (viii) in repairing damage under rule 19 (2) of these Rules; and
- (b) any amounts due for rates payable under rule 9 of these Rules, any outstanding amount of any advance made to such licensee for the purpose of the cultivation, irrigation or other improvement of his holding, and such charges as may be agreed to by the Minister on the recommendation of the committee.

21. Any person who causes any motor vehicle to be driven within the area over any road other than a public road within the meaning of the Public Roads and Roads of Access Act unless he is in possession of a permit issued by the manager, and unless he complies with all conditions made on such permit by the manager, shall be guilty of an offence.

22. (1) Where the manager is satisfied that a licensee has failed to comply with any of the provisions of these Rules or with any instructions given thereunder or under any other law for the time being in force, he may serve a notice in writing on the licensee requiring him to comply with the said provisions, instructions or rules within such time as is specified in the notice.

(2) If the licensee fails within such time to comply with the requirements of such notice, the manager may, by notice in writing, call upon the licensee to show good cause, by a date specified in the notice, why his licence should not be terminated.

(3) If the licensee fails to show good cause as aforesaid to the satisfaction of the manager, the manager may, with the approval of the committee, give notice in writing to the licensee requiring him to remove himself, his dependants and his stock from the area within a period specified in such notice.

(4) A licensee who is given notice under paragraph (3) of this rule may, within twenty-eight days of such notice, appeal in writing to the Minister whose decision shall be final.

(5) If there is no appeal, the licence shall be deemed to have terminated on the date specified in the notice.



(6) If there is an unsuccessful appeal, the licence shall terminate on such date as the Minister may specify.

(7) Any person whose licence has been terminated under this rule and who fails to comply with the terms of the notice given him shall be guilty of an offence.

23. Where any licence is terminated in accordance with any of the provisions of these Rules, a board consisting of the manager and one representative of both the outgoing and the incoming licensees, shall assess the amount, if any, due to the outgoing licensee or his dependants in respect of capital and labour expended by him in improving the holding, and the manager shall make arrangements for the payment of such amount by the incoming licensee within such time as the manager considers reasonable.

24. The manager shall have power, in the event of any emergency, to order all licensees to undertake emergency repair work in any part of the area, and any licensee who refuses to obey any such order by the manager shall be guilty of an offence.

25. Subject to the provisions of rules 7, 8, 11 and 22 of these Rules, every licence shall be valid for a period of one year and from year to year thereafter, but may be terminated at any time—

(a) by the licensee giving to the manager six months notice in writing of his intention to surrender his licence;

(b) by the manager, on the instruction of the Minister, giving to the licensee 12 months notice in writing of his intention to terminate the licence.

26. Any person who—

(a) unlawfully interferes with the flow of irrigation water in canals or the opening or closing of control gates within the area;

(b) makes unlawful use of irrigation water by taking irrigation water out of turn or otherwise;

(c) refuses to permit the authorized passage of irrigation water across his holding;

(d) wilfully damages or obstructs canals or control works; or

(e) refuses to accept or drain off irrigation water when required to do so, shall be guilty of an offence.

27. (1) Any person who is guilty of an offence under these Rules shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding two months, or to both such fine and such imprisonment.

(2) Where any person is convicted of an offence under rule 4 or rule 22 (7) of these Rules, the court may, in addition to any penalty which it may impose, authorize any administrative officer or police officer to cause such person, together with his dependants and property, if any, to be removed from the area.

## FIRST SCHEDULE

(r.5)

### THE TRUST LAND (IRRIGATION AREAS) RULES

Licence No. .... son of ....., of the ..... district of the ..... Province, is hereby authorized to occupy holding No. .... of the ..... irrigation area for the period from the ..... day of ..... 19.... to the ..... day of ..... 19.... and from year to year thereafter unless sooner terminated in accordance with the provisions of the above Rules, and to keep thereon not more than the following number of stock—

..... bovines  
..... sheep  
..... goats  
..... mules  
..... donkeys  
.. [other stock]

subject to the conditions prescribed by the above Rules.

Dated this ..... day of ....., 19....  
.....

*Manager*

In accordance with rule 6 of the above Rules, I have caused the Rules to be read and explained to the above-named licensee in the ..... language, which he understands.

.....  
*Manager*

## **SECOND SCHEDULE**

**(r. 6)**

I, ..... son of .....

of the ..... district of the.....  
Province, hereby acknowledge receipt of a copy of the Trust Land  
(Irrigation Areas) Rules. I have had these Rules explained to me  
and I fully understand them and I undertake to observe them and to  
pay all sums of money payable by me.

.....  
Signature or thumb-print of licensee

.....  
Witness

.....  
Date

### **Areas declared to be irrigation areas under rule 1 of die above Rules**

The following areas are declared under .rule 1 of the Trust Land  
(Irrigation Areas) Rules to be irrigation areas—

(a) the area known as the Perkerra Irrigation Area in the Baringo District, the boundaries whereof are set out in the  
Schedule to a setting apart Notice published as Gazette Notice No. 4643 of 1959;

(6) the area known as the Mwea / Tebere Irrigation Area in the Embu District, the boundaries whereof are set out in the Schedules to setting apart Notices published as Gazette Notices Nos. 3090, 3093, 3095, 3096, 3097, 3098, 3099, 3100, 3101, 3102 and 3103 of 1960.