

In the Name of God, the Merciful, the Compassionate

THE GEZIRA SCHEME ACT of 2005

Pursuant to the provisions of the Constitution of the Republic of the Sudan of 1998, the National Council hereby has adopted, and the President has signed the following Act:

Chapter One Preliminary Provisions Citation of the Act and Effective Date

1. This Act shall be cited as “The Gezira Scheme Act of 2005” and shall come into effect upon signature.

Rescission

2. (1) The Gezira Scheme Act of 1984 is hereby repealed but all bylaws, orders and regulations issued thereunder shall remain valid and applicable until repealed or amended in accordance with the provisions of this Act.
(2) The Gezira Land Act of 1927 is hereby repealed but all bylaws, orders and regulations issued thereunder shall remain in valid and applicable until repealed or amended in accordance with the provisions of this Act.

Interpretation

2. In this Act, unless the context may otherwise require, the following words and phrases shall have the meanings hereby assigned to them:

Government: Refers to the Federal Government.

Competent Minister: Refers to the Federal Minister of Agriculture and Forestry

Scheme: Refers to the Gezira Scheme with its current command areas or any extension thereof.

Board: Refers to the Scheme’s Board of Directors established pursuant to Article (6) hereof.

General Manager: Refers to the Scheme’s General Manager who is appointed in accordance with Article (15) hereof.

Farmer: Refers to any individual with a hawasha (lot) in accordance with Article (16) hereof.

Employee: Refers to any individual hired within the Scheme’s job structure.

Fiscal Year: Refers to the period of twelve months commencing on July 1 of each year and ending on June 30 of the following year, or any date to be set by the Board of Directors for the beginning and end of the fiscal year.

Field Canals: Refer to irrigation canals called secondary canals, “Abou Ishreenat” and “Abou Sittat” and to water regulators and controllers.

Irrigation Canals: Refer to primary and secondary canals and to major canals and drainages, including regulators and pipes branching out to feed field canals.

Water users’ associations: Refers to farmers organizations undertaking actual tasks with regard to water management, operation and uses.

Chapter Two
Scheme's Identity, Headquarters and Sponsorship

4. (1) The Gezira Scheme, which is an economic and social entity with various activities and enjoys national support as part of the development effort, shall be established pursuant to this Act. It shall be an administratively, financially and technically independent juridical person with a permanent, perpetual character and a public seal. It shall have the right to litigate in its own name.
- (2) The State, as represented by the Ministry of Finance and National Economy, shall own the current assets of this Scheme, and may allow future participation of private sector investments, whether in current assets or through addition of new assets to the Scheme.
- (3) The Gezira Scheme shall be composed of:
- A. Farmers
 - B. The Government, as represented by its respective units providing basic services such as development, irrigation and public goods, including: research, plant protection, technology support, agricultural extension, technical studies, training as well as supervisory management and indicative planning.
 - C. Private sector with regard to provision of auxiliary commercial services.
- (4) The Scheme shall be headquartered in the City of Barakat. The Board of Directors may create branches and offices in or outside the Sudan whenever necessary.
- (5) The Scheme shall be under the aegis of the competent Minister.

Scheme's Objectives

5. The Scheme aims to utilize its sustainable and stable agricultural production resources and potentials to improve the economic and social standards of farmers and its own employees as well as the area it is located in, and to improve respective services provision. It also aims to contribute to the attainment of national objectives. Without prejudice to the foregoing, the Scheme shall aim to:
- a. Achieve optimal and rational utilization of the Scheme's resources and potentials to increase income level, boost agricultural output and maximize benefits and returns.
 - b. Achieve the Scheme's local and national objectives, such as food security, job creation, increased and diversified exports, and introduction of manufacturing industries.
 - c. Achieve citizen's well-being within the Scheme through economic development.
 - d. Preserve the environment within the boundaries of the Scheme.
 - e. Ensure farmers' right to freely manage their production and economic aspects within the technical parameters, and employ technology support to boost production and maximize their respective returns.
 - f. Ensure farmers' right to effectively participate, at all administrative levels, in planning and implementation of projects and programs that affect their production and livelihoods
 - g. Ensure farmers' right to manage irrigation operations at field canal level through water users' associations.
 - h. Promote farmers' effective collective action to ensure efficient provision of services and economic production while maximizing economies of scale.
 - i. Provide an opportunity to the private sector to play a leading role in provision of auxiliary commercial services in a competitive environment.
 - j. Introduce irrigated forestry and livestock in agricultural cycle.
 - k. Provide auxiliary services to the Scheme's activities by competent authorities.

Chapter Three
Board of Directors
Board Composition

6. (1) A Board of Directors shall be established by a Decree of the President of the Republic, upon a recommendation by the competent Minister, and shall be composed of a chairman and 14 members, as follows:
- a. A Board chairman appointed by the President.
 - b. The General Manager in ex officio capacity.
 - c. Farmers' Union representatives who shall form at least 40 % of the Board membership.
 - d. A representative from the Scheme's employees.
 - e. Representatives from the relevant Ministries.
- (2) The positions of Board chairman and General Manager shall not be held by one and the same person.

Conditions for Board Membership

7. A member of the Board of Directors must be:
- a. A Sudanese citizen who is mentally competent.
 - b. A person who has not been convicted of a crime of moral turpitude or a breach of honor.
 - c. A person who has not been declared bankrupt.
 - d. A literate person who meets all eligibility requirements

Declaring a Vacancy and Appointing a Replacement

8. (1) The Board position of any member shall become vacant for any of the following reasons:
- a. Loss of any of the conditions of membership stipulated in Article (7) of this Act.
 - b. Resignation.
 - c. Being relieved of duties or removed by the appointing authority.
 - d. Death of the incumbent.
 - e. Failure to attend three successive meetings without an acceptable justification.
- (2) In the event that a Board membership position has become vacant, a replacement shall be appointed following the same procedures applied in appointing the replaced member.

Board Functions and Powers

9. The Board shall be entrusted with formulating plans and general policies for achieving the Scheme's objectives. Without prejudice to the foregoing, the Board shall have the following functions and powers:
- a. Developing scientific parameters for research, economic and social studies required to ensure optimal utilization of the Scheme's resources to achieve the highest possible profit rates.
 - b. Developing equitable incentive policies in order to carry out the State's strategic policies with regard to agricultural produces.
 - c. Managing and developing basic services of research, plant protection, technology support, agricultural extension, seeds multiplication, training and inner roads.
 - d. Establishing a burden-sharing [social safety] system allowing compensations for earnest farmers in the event of exposure to pests and natural catastrophes.
 - e. Establishing technical parameters for cropping patterns and agricultural cycles.
 - f. Approving plans and programs submitted by the General Manager.

- g. Determining its charges categories of services performed in coordination and agreement with competent authorities, and respective charges to be levied on farmers by water users' associations.
- h. Approving employment of workers whom the Board may deem necessary to carry out its functions in accordance with the job structure it approved, and issuing regulations governing their employment.
- i. Approving the annual draft budget for running the Scheme, as well as the development budget to be discussed with the Minister of Finance and National Economy to determine the required development support.
- j. Ensuring optimal use of the Scheme's assets and of moveable and immoveable property owned by the government, and investing the same economically.
- k. Maintaining the Scheme's lands and taking measures necessary to preserve the soil.
- l. Providing information to help farmers market their produces.
- m. Entering into contracts and agreements necessary to carry out the Scheme's objectives.
- n. Carrying out other actions as may be deemed necessary or supportive by the Board to realize the Scheme's objectives.
- o. Forming permanent or temporary committees to assist the Board of directors.
- p. Delegating any of its functions or powers to the General Manager or any of its committees.
- q. Issuing the necessary by-laws to regulate its activities.

Meetings of the Board

- 10- (1) The Board shall hold at least six meetings during a fiscal year. The Board Chairman may call an extraordinary meeting when necessary or at the written request of half of the Board members.
- (2) The quorum for Board meetings shall be met with the simple majority of the members.
- (3) Board resolutions shall be adopted by majority of votes of the members present, and the Board chairman shall have the casting vote in the event of a tie.
- (4) The Board chairman may ask any Board member to chair the meeting in his absence.
- (5) The Board may invite any person to attend any of the Board or committee meetings but the invitee shall not have the right to vote.
- (6) All Board procedures and discussions shall be confidential and no member shall disclose any information about them before they are made public in the manner to be decided by the Board.

Disclosure of Interest

11. Any member of the Board or affiliated committees who has a vested direct or indirect interest in any matter, proposal or topic submitted to the Board or any of its committees for discussion must disclose this interest to the Board or committee. He shall not participate in any discussion or resolution adopted by the Board or committee in this respect.

Remuneration of Board and Committees

12. The Board shall determine the remuneration package of the Board chairman, members and affiliated committees in accordance with financial regulations.

General Secretariat

13. The Board shall have a general secretariat, headed by a Secretary appointed by the Board. The Board shall specify his terms of reference and duties.

General Manager

14. (1) The Board shall enter into a contract with a highly competent and experienced person to be the Scheme's General Manager.
- (2) Said contract shall specify a renewable four-year-term as well as terms of employment and remuneration of the General Manager.

Powers and Duties of the General Manager

15. The General Manager shall be the most senior executive officer charged with implementation of the Board's policies, plans and programs. Without prejudice to the above, the General Manager shall oversee and have powers in respect of the following:

- a. Provision of agricultural extension services to enable farmers to apply appropriate technology to increase production and productivity.
- b. Taking measures necessary to provide protective services for crops against pests and diseases.
- c. Taking measures necessary to provide seeds multiplication services.
- d. Carrying out the Scheme's sustainable economic development with regard to its services.
- e. Preparing the annual budget and submitting the same to the Board in a timely fashion before the commencement of the fiscal year.
- f. Preparing the Annual Report, listing what has been accomplished in the previous year and including performance indicators for the following year. The Report shall be submitted to the Board of directors at least one month before commencement of the new fiscal year.
- g. Monitoring the progress of work in the Scheme's facilities and submitting periodic reports to the Board in a timely fashion.
- h. Submitting to the Board recommendations for the appointment and promotion of the Scheme's employees in accordance with the regulations issued by the Board.
- i. Disciplining of employees and transferring them in accordance with regulations issued by the Board.
- j. Ruling on grievances submitted by employees in accordance with applicable by-laws.
- k. The General Manager may delegate any of his powers to any of his assistants.

Chapter Four

Ownership of Hawashas, Irrigation and Drainage

Ownership of Hawashas

16. (1) All hawashas allocated to the farmers in the Scheme prior to the issuance of this Act shall be considered as though they had been allocated pursuant to the provisions of this Act.
- (2) The government shall take the following necessary measures:
- a. Farmers, holding land in freehold, to whom hawashas are allocated under such ownership, shall be allowed to have such hawashas registered in their names as freehold in the Directorate of Land Registration.

- b. Farmers who have not been allocated any hawashas during distribution and who have surplus land according to para (a), their land title shall be transferred to the Scheme and they shall be fairly compensated thereof.
- c. The rest of the farmers who do not have freehold hawashas in the Scheme shall have the hawashas they currently possess registered in their names as leasehold for a period of ninety nine years.

(3) The new owners of the Hawashas shall pay charges to be determined by the Board in return for the freehold title registration.

(4) The Board shall have the right to issue regulations governing optimal utilization of hawashas in accordance with public agricultural policies, as well as other regulations necessary for implementation of technical controls for owners.

(5) Utilization of the Hawashas shall be governed by the following conditions:

- a. Using Hawashas strictly for agricultural purposes.
- b. No fragmentation of landholding.
- c. Sale or transfer of ownership shall be governed by the right of acquisition by pre-emption.

Disposing of Hawashas

17. (1) Subject to para. (5) C of Article 16, a farmer may dispose of his hawasha by sale, mortgage or assignment in accordance with directions set by the Board.

(2) The Board shall have the right to determine the minimum size for ownership of hawasha.

Irrigation and Drainage

18. (1) The Ministry of Irrigation and Water Resources shall be responsible for operation and management of the primary irrigation and drainage canals and pumps in the Scheme, and for providing sufficient water for water users' associations at the mouth of the respective field canals, and the Ministry of Finance and National Economy shall be responsible for financing maintenance, rehabilitation and operations of water canals in return for water charges to ensure provision of such services.

(2) Water users' associations shall maintain, operate and manage field canals and internal drainage.

(3) All irrigation operations for any part within the Scheme command area shall have to be approved by the Board.

Water Users' Associations

19. (a) Water users' associations shall be established under supervision of the Board at the Scheme level. They shall be legal entities representing the farmers' self-management system. They shall also undertake actual responsibilities in managing water uses through entering into a contract with the Ministry of Irrigation and Water Resources in the area of supply of water and technical consultation.

(b) The Ministry of Irrigation and Water Resources shall establish a separate department for Gezira Scheme irrigation.

Chapter Five

Financial Provisions
Vesting of Assets and Rights

20. (1) To the Scheme shall be vested with:
- a. All assets and rights that had been transferred to Gezira Scheme pursuant to Gezira Scheme Act 1984.
 - b. All debts and liabilities due from Gezira Scheme pursuant to Gezira Scheme Act 1984.
- (2) a. The assets, rights, debts and liabilities that have been transferred to the Scheme shall be assessed pursuant to Item (1) above, and the net assessed value shall be entered in the records of the Scheme.
- b. The Board may take any measures necessary for privatization of the cost centers.

Capital of the Scheme

21. The capital of the Scheme shall consist of the following:
- a. Accruals to the Scheme pursuant to the provisions of Article (20) of this Act.
 - b. Allocations earmarked by the State for the Scheme.
 - c. Funds and charges earned by the Scheme as a result of its activities or in return for services provided and privileges and exemptions granted to it.
 - d. Grants and technical assistance accepted by the Board of Directors.
 - e. Any other legitimate resources approved by the Board of directors.

Utilization of Scheme Resources

22. The Scheme financial resources shall be used to achieve its objectives. Without prejudice to the above, these financial resources shall be used as follows:
- a. Managing the Scheme and executing its activities, plans and programs.
 - b. Paying the Scheme's financial obligations.
 - c. Defraying the Scheme's expenses, including depreciation and replacement.
 - d. Paying employees' salaries, wages, bonuses, benefits and allowances and retirement benefits as well as remunerations to Board chairman and members.

Budget of the Scheme

23. (1) The Scheme shall have a separate operating budget prepared according to sound accounting principles issued by the Board of directors.
- (2) The General Manager shall prepare the development and rehabilitation budget and forward the same to the Board of directors for discussion and approval. He shall then submit the same to the Ministry of Finance to attain respective support for the budget's various components, including irrigation, research and technology support under the mandate given to the Board of Directors.
- (3) The Board of Directors shall approve the draft annual budget.
 - (4) Surplus budget shall be used to develop and improve the Scheme.

Opening Bank Accounts and Maintaining Asset Records

24. a. The Board shall select the banks where the Scheme's bank accounts shall be opened in local and foreign currencies.

- b. The General Manager shall determine the persons authorized to handle those accounts.
- c. The Scheme shall maintain a regular record of fixed assets, which shall be audited annually.

Depreciation and Replacement Account

25. (1) The Scheme shall maintain a separate account for depreciation and replacement. It shall only be used for the purposes specified therein.
- (2) The Board may write off the value of obsolete assets by subtracting the items so designated from the depreciation and replacement account.

Accounts and Audit

26. (1) The Scheme shall maintain proper and accurate accounts in accordance with proper accounting principles.
- (2) The Auditor General or any auditor(s) approved by the Auditor General shall audit the Scheme's accounts at the end of each fiscal year.

Balance Sheet and Statements

27. The General Manager shall submit to the Board within three months from the close of the fiscal year a final account statement and the auditor's report on the Scheme's accounts.

Chapter Six **Transitional Provisions**

28. (1) The Scheme's workers shall continue to carry out their mission until the job structure is approved and the terms of their services and employment are determined.
- (2) The cost centers at the Scheme shall continue to operate until they are privatized.
- (3) Farmers shall continue to hold Hawashas in the Scheme when this Act is adopted until the provisions specified in Article (16) hereof are implemented.
- (4) Responsibility for field canals shall be passed, after rehabilitation, to the water users' associations.

Chapter Seven **Final Provisions** **Primacy of the Provisions of this Act**

29. In case of contradictions with any other law, the provisions of this Act shall prevail to the extent that such contradiction is removed.

Authority to Issue Regulations

30. The Board of directors may issue necessary bi-laws and regulations to implement the provisions of this Act.

IN WITNESS WHEREOF, the National Council has hereby passed "GEZIRA SCHEME ACT of 2005" in its meeting No. (18) of its 9th session dated 16 Jumada Al-Awal 1426 H. corresponding to June 22, 2005.

Ahmed Ibrahim El-Tahir
Speaker of the National Council

This Act was assented to by the President of the Republic on 6 July 2005.