

THE WATER RESOURCES ACT

ARRANGEMENT OF SECTIONS

PART I. *Preliminary*

1. Short title.
2. Interpretation.

PART II. *Administration of Water Resources*
Water Resources Authority

3. Establishment of Authority.
4. Functions of Authority.
5. Ministerial directions.
6. Funds and resources of the Authority.
7. Application of revenues.
8. Borrowing powers.
9. Power of Minister to guarantee loans to Authority.
10. Power to invest moneys.
11. Accounts and audit.
12. Annual report.
13. Exemptions from taxes and duties.

Water Resources Advisory Committee

14. Establishment of Advisory Committee.
15. Functions of Committee.

National Water Resources Master Plan

16. Master Plan.

PART III. *Abstraction and Use of Water*

17. Application of this Act to abstraction and use of water.

WATER RESOURCES

18. Crown waters.
19. Licence required for abstraction, use of water.
20. Who may apply.
21. Simultaneous application for licence to discharge effluents.
22. Regulations relating to licences under this Part.
23. Implied term in every licence.
24. Approval of works by Authority not guarantee.
25. Planning permission still necessary.

Easement

26. Easement may be claimed.
 27. Constitution of easement.
 28. Registration, etc. of easement.
- Special Powers Relating to the Abstraction and Use of Water***
29. Interconnected, surface and underground water.
 30. Minister may declare emergency area.
 31. Powers of Authority in emergency area.
 32. Sources of supply reserved for public purposes.
 33. Licences for use of reserved sources of supply.

PART IV. *Control and Protection of Underground Water*
Control of Well-Drilling

34. Consent of Authority to search for underground water.
 35. Duty on well-driller to be licensed, etc.
 36. Well-drilling and mining operations.
 37. Waste of underground water from wells unlawful.
- Special Power of Authority in relation to Aquifers***
38. Authority may determine safe yield of aquifers.

PART V. *Control of Water Quality*
Water Quality Control Plans

39. Water Quality Control Areas.
40. Water Quality Control Plan.

PART VI. Supplementary Powers of Authority

41. Enforcement of regulatory controls.
42. Supplementary provisions as to enforcement.

PART VII. General

43. Appeal.
44. Penalties.
45. Suspension of licence additional penalty.
46. Fees and charges.
47. Offences by corporations.
48. Agencies to consult Authority prior to giving decisions.
49. Regulations.
50. Modification of laws.
51. Act applies to Crown.

PART VIII. Savings and Transitional Provisions

52. Entitlement to licence in certain circumstances.
53. Provisions relating to special agreements.
54. Vesting of property previously held by the Underground Water Authority.
55. Saving of rights of existing staff of Underground Water Authority.
56. Construction of references to Underground Water Control Act.

SCHEDULES.

THE WATER RESOURCES ACT

Act
36 of 1995.

[1st April, 1996.]

PART I. *Preliminary*

1. This Act may be cited as the Water Resources Act. Short title.

2. In this Act—

Interpreta-
tion.

“Advisory Committee” means the Water Resources Advisory Committee established under section 14;

“appointed day” means the 1st April, 1996.

“Authority” means the Water Resources Authority established under section 3;

“construction” in relation to works, includes reconstruction and alteration thereof;

“domestic use” in relation to the abstraction of water means the use of such water for—

(a) drinking, washing, cooking and sanitary purposes in connection with a residence; or

(b) farming, gardening, the watering of stock or penkeeping in connection with a household where the entire area of land does not exceed 0.5 hectare;

“functions” includes powers and duties;

“impoundment works” means any dam, basin or other works whereby water may be impounded for abstraction and use;

“local authority” means—

WATER RESOURCES

- (a) in relation to the parishes of Kingston and St. Andrew, the Council of the Kingston and St. Andrew Corporation as constituted under the Kingston and St. Andrew Corporation Act; and
- (b) in relation to any other parish, the Parish Council of such parish;

“Master Plan” means the National Water Resources Master Plan referred to in section 16 (6);

“underground water” means any water under the surface of the ground whatever may be the geological structure in which it is standing or moving;

“water resources”, “water” and “waters” mean, respectively—

(a) water which is contained in—

- (i) any spring, river, stream or other watercourse, whether natural or artificial, including any estuary thereof; and
- (ii) any lake or pond, whether natural or artificial, sustained by underground water or by a spring, river, or stream;

(b) underground water;

“Water Quality Control Area” means an area declared as such by the Minister in the circumstances specified in section 39;

“Water Quality Control Plan” means a Plan prepared pursuant to section 40 in relation to a Water Quality Control Area;

“well” includes any borehole, adit, tunnel or other excavation constructed or used for the abstraction of underground water;

“works” includes impoundment works and wells.

PART II. *Administration of Water Resources*
Water Resources Authority

3.—(1) There is hereby established for the purposes of this Act a body to be called the Water Resources Authority which shall be a body corporate to which the provisions of section 28 of the Interpretation Act shall apply.

Establishment of Authority.

(2) The provisions of the First Schedule shall have effect in relation to the constitution and operations of the Authority and otherwise in relation thereto.

First Schedule.

4.—(1) It shall be the duty of the Authority to regulate, allocate, conserve and otherwise manage the water resources of Jamaica.

Functions of Authority.

(2) Subject to the provisions of this Act, the Authority may, for the purposes of performing any of its functions under this Act, do anything and enter into any transaction which, in the opinion of the Authority, is necessary to ensure the proper performance of its functions.

(3) In particular, and without prejudice to the generality of the provisions of subsections (1) and (2), the Authority may—

- (a) obtain, compile, store and disseminate data concerning the water resources of Jamaica;
- (b) exercise planning functions as provided in this Act in relation to the Master Plan and Water Quality Control Plans;
- (c) allocate water resources in conformity with the provisions of this Act;
- (d) control the quality of water resources in accordance with the provisions of this Act;
- (e) provide to any department or agency of Government, at its request, technical assistance in respect

WATER RESOURCES

of any projects, programmes or activities which relate to the development, conservation and use of water resources;

- (f) perform such other functions relating to the management, conservation and use of water resources as may be assigned to it by or under this Act or any other enactment.

Ministerial
directions.

5. The Minister may, after consultation with the chairman of the Authority, give to the Authority such directions of a general character as to the policy to be followed by the Authority in the performance of its functions as appear to the Minister to be necessary in the interests of Jamaica and the Authority shall give effect to any such directions.

Funds and
resources
of the
Authority.

6. The funds and resources of the Authority shall consist of—

- (a) such sums as may be provided annually for the purpose in the Estimates of Revenue and Expenditure of Jamaica;
- (b) sums borrowed by the Authority pursuant to section 8 for the purpose of meeting any of its obligations or discharging any of its functions;
- (c) all other sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its functions.

Application
of revenues.

7. The revenues of the Authority shall be applied for the purposes authorized by this or any other law in relation to the functions of the Authority.

8. The Authority may, within such limits as the Minister responsible for finance may fix from time to time, borrow money for the purpose of enabling it to perform its functions under this Act.

Borrowing powers.

9.—(1) With the approval of the House of Representatives, the Minister responsible for finance may guarantee, in such manner and on such conditions as he may think fit, the repayment of the principal and the payment of interest on any authorized borrowings of the Authority.

Power of Minister to guarantee loans to Authority.

(2) Notwithstanding anything to the contrary, where any loan is, pursuant to subsection (1), guaranteed by the Minister responsible for finance, the repayment of the principal moneys and interest represented by the loan so guaranteed shall, during the continuance of such guarantee, be a first charge upon such revenue and assets of the Authority as shall be specified by that Minister.

(3) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or in the payment of interest guaranteed under the provisions of this section, he shall direct the repayment or, as the case may be, the payment, out of the Consolidated Fund and assets of Jamaica, of the amount in respect of which there has been such default.

(4) The Authority shall make to the Accountant-General, at such times and in such manner as the Minister responsible for finance may direct, payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as that Minister may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

Power to
invest
moneys.

10. All moneys of the Authority not immediately required to be expended in the meeting of any obligations or the discharge of any functions of the Authority may be invested in such securities as may be approved either generally or specifically by the Minister and the Authority may, with the approval of the Minister, sell all or any of such securities.

Accounts
and audit.

11.—(1) The Authority shall keep proper accounts and other records in relation to the business of the Authority and shall prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which shall conform to the best commercial standards.

(2) The accounts of the Authority shall be audited within six months after the close of each financial year or within such other period as the Minister may direct by an auditor or auditors appointed annually by the Authority and approved by the Minister.

(3) So soon as the accounts of the Authority have been audited, the Authority shall send the statement of its accounts referred to in subsection (1) to the Minister, together with a copy of any report made by the auditors on that statement or on the accounts of the Authority.

(4) The auditors' fees and any expenses of the audit shall be paid by the Authority.

(5) The Auditor-General shall be entitled, at all reasonable times, to examine the accounts and other records in relation to the business of the Authority.

Annual
report.

12.—(1) The Authority shall, as soon as practicable after the end of each financial year, cause to be made and shall transmit to the Minister, a report dealing generally with the activities of the Authority during the preceding financial

year, and containing such information relating to the proceedings and policy of the Authority as can be made public without detriment to the interests of the Authority.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon to be tabled in the House of Representatives and in the Senate.

13.—(1) The income of the Authority shall be exempt from income tax. Exemption from taxes and duties.

(2) The Authority shall be exempt from any portion of stamp duty payable by the Authority in respect of instruments executed by or on behalf of the Authority.

(3) Any transfer by the Authority of any property belonging to it or of any right or interest created in, over or otherwise with respect to any such property shall be exempt from transfer tax.

(4) No customs duty or other similar impost shall be payable upon any article imported into Jamaica, or taken out of bond in Jamaica, by the Authority and shown to the satisfaction of the Commissioner of Customs to be required for the use of the Authority in the performance of its functions under this Act.

Water Resources Advisory Committee

14.—(1) There is hereby established a body to be known as the Water Resources Advisory Committee. Establishment of Advisory Committee.

(2) The provisions of the Second Schedule shall have effect in relation to the Advisory Committee and otherwise in relation thereto. Second Schedule.

Functions
of Com-
mittee.

15.—(1) Subject to subsection (2), the Advisory Committee shall advise the Minister—

- (a) on matters of general policy relating to the management, development, conservation and use of the water resources of Jamaica;
- (b) on the Master Plan and Water Quality Control Plans, including any amendments which may be proposed from time to time in relation to any of those Plans; and
- (c) on such other matters related to the water resources of Jamaica as the Minister may refer to it.

(2) Unless otherwise specified in this Act, the Minister is not bound to seek or to act in accordance with the advice of the Advisory Committee.

National Water Resources Master Plan

Master
Plan.

16.—(1) Subject to the provisions of this section, the Authority shall prepare and submit to the Minister for approval a draft National Water Resources Master Plan for Jamaica.

(2) The Minister shall not approve the draft Master Plan or any revision thereof pursuant to subsection (7) unless the Advisory Committee has advised him in respect thereof; but if the Advisory Committee does not give its advice within ninety days of the date of a request therefor or within such longer period as the Minister may in any case allow, the Minister may act without such advice.

(3) For the purpose of preparing the draft Master Plan, the Authority may—

- (a) collect from any source data and information relating to the use and quality of water resources, and to water resources generally;
- (b) consult with, and obtain data and information relating to water resources from, such person or

organization as the Authority thinks appropriate or from any agency or department of Government or local authority;

- (c) undertake such studies and investigations and carry on such other activities as may be necessary or relevant to the preparation of the Master Plan.

(4) In preparing the draft Master Plan the Authority shall take such steps as are practicable to co-ordinate the Master Plan with the plans of any department or agency of Government for national or regional economic and physical development and shall have regard to any plans relating to the development of water resources by any person or organization other than a department or agency of Government.

(5) The Authority shall ensure that the draft Master Plan—

- (a) identifies objectives for the development, conservation and use of the water resources of Jamaica, taking into account all relevant considerations including the desirability of economic efficiency, the protection of the health, safety and welfare of persons, the protection or encouragement of economic activity and the protection of the environment and the enhancement of environmental values;
- (b) identifies, describes and inventories in relation to Jamaica—
 - (i) the occurrence, quantity, availability and quality of water;
 - (ii) the current uses of water; and
 - (iii) the activities which are dependent on, affected by, or related to water and its uses;
- (c) identifies and describes in relation to Jamaica, the projected needs for water and recommends the projects, programmes and other steps which, in view

of such needs, should be undertaken in respect of the development of water resources and the control, abstraction and storage of water and the supply, distribution, drainage and disposal thereof;

- (d) having regard to the current and projected needs for water identified pursuant to paragraph (c) and the projects, programmes and other steps recommended under that paragraph, indicates the objectives in relation to water quality whether in respect of Jamaica generally or in respect of regions thereof, and the programmes designed to achieve those objectives;
- (e) indicates and evaluates the ways in which all projects and programmes proposed in the draft Master Plan in respect of the current and projected use of water will achieve the objectives identified pursuant to paragraph (a).

(6) If he is satisfied with the draft Master Plan, the Minister—

- (a) shall, subject to affirmative resolution, by notice published in the *Gazette* declare it to be the approved Master Plan and shall specify in such notice the date on which the Master Plan shall take effect;
- (b) shall cause the approved Plan to be published in the *Gazette*;
- (c) shall cause such Plan to be made available to all departments and agencies of Government and to local authorities and any other body which the Minister thinks may be affected by the Master Plan in view of the nature of the activities in which that body is engaged; and
- (d) shall cause a notice to be published in at least one issue of a daily newspaper circulating in Jamaica stating that the approved Plan is available to the

general public for inspection at the office of the Authority on payment of the prescribed fee.

(7) The Authority shall cause to be prepared and shall submit to the Minister for approval an annual revision of the whole or any part of the Master Plan which is for the time being in effect pursuant to this section; and for the purposes of such revision, the Authority and the Minister shall have the like functions as are exercisable under this section in relation to the draft Master Plan.

(8) The Minister shall, not later than six months after the completion of an annual revision of the whole or any part of the approved Master Plan, cause a copy of that revision to be laid on the Table of the House of Representatives and on the Table of the Senate.

(9) A failure on the part of any person to observe any provision of the Master Plan which is for the time being in operation shall not of itself render him liable to any proceedings; but in any proceedings before the Authority any provision of the Master Plan which appears to the Authority and any failure on the part of any person to observe that provision, shall be taken into account by the Authority in determining that question.

PART III. *Abstraction and Use of Water*

17.—(1) Notwithstanding anything to the contrary in any existing enactment, the abstraction and use of water in Jamaica and the construction of any works for such abstraction and use shall be governed by the provisions of this Act, and accordingly, nothing in any existing enactment shall be construed as derogating from any provision made by or pursuant to this Act.

Application
of this Act
to abstraction
and use
of water.

(2) In subsection (1) “existing enactment” means an enactment which is in force on the appointed day.

Crown
waters.

18. All water resources that were vested in the Crown immediately before the appointed day shall remain so vested on and after the appointed day.

Licence
required for
abstraction,
use of
water.

19.—(1) Subject to subsection (2), no person shall—

- (a) abstract and use water; or
- (b) construct or alter or cause to be constructed or altered any works for the abstraction and use of water,

except under and in accordance with a licence for the purpose granted to him by the Authority under this Act.

(2) A person may abstract and use water without a licence—

- (a) if he has a right of access to the source of water; and
- (b) if the water is required only for domestic use.

Who may
apply.

20. A person requiring a licence pursuant to section 19 shall make an application in writing to the Authority in such form and manner as may be prescribed.

Simulta-
neous appli-
cation for
licence to
discharge
effluents.

21.—(1) Where a licence is required pursuant to section 19 and the use of the water to which that licence relates will or is likely to result in the discharge of effluents, then, an application shall also be made to the relevant authority for a licence to discharge effluents and a copy of that application shall accompany the application for a licence required pursuant to section 19.

(2) In subsection (1) “relevant authority” means the Natural Resources Conservation Authority or such other body as the Minister may prescribe by notice published in the *Gazette*.

22. The provisions of regulations made under this Act shall have effect in relation to the grant, suspension and revocation of licences under this Part and otherwise in relation to such licences.

Regulations relating to licences under this Part.

23. It shall be an implied term of every licence granted under this Act to abstract and use water that the Authority may by notice in writing addressed to the holder of the licence impose, in accordance with section 31, such restrictions as it thinks necessary if the area relevant to the operation of the licence is, pursuant to section 30, declared to be an emergency area.

Implied term in every licence.

24. Where in relation to the grant of a licence to abstract and use water, any condition is imposed by the Authority as to the construction of works, the fact that the Authority is satisfied that the works have been properly constructed shall not operate—

Approval of works by Authority not guaranteed.

- (a) to imply a guarantee by the Government or the Authority that the works have been properly designed or constructed; or
- (b) to support or justify any claim against the Government or the Authority or any officer of the Government or the Authority in connection with such works.

25. The grant under this Act of a licence to abstract and use water does not dispense with the necessity of obtaining planning permission where such permission is required under the Town and Country Planning Act or any other enactment in force at the time of the grant, unless otherwise stated in that Act or in such other enactment, as the case may be.

Planning permission still necessary.

Easement

Easement
may be
claimed.

26. A person who—

- (a) under this Act is an applicant for or is the holder of a licence to abstract and use water; and
- (b) requires an easement,

shall satisfy the Authority that the owner of the land over which the easement is required has agreed to the grant of such easement.

Constitution
of easement.

27.—(1) An easement referred to in section 26 may be constituted by written agreement between the holder of the licence and the owner of the land over which the easement is required and shall contain a provision that the easement is not revocable by the person granting it without the approval of the Authority.

(2) In this section “owner” in relation to land includes an occupier having such authority over the land as would empower him to grant an easement.

Registra-
tion, etc. of
easement.

28.—(1) The creation or discharge of an easement shall be registered by the Registrar of Titles or recorded by the Deputy Keeper of the Records in accordance with regulations made under this Act.

(2) Until it is registered or recorded pursuant to subsection (1), an easement is binding only on the persons who were the original parties to the agreement.

Special Powers Relating to the Abstraction and Use of Water

Inter-
connected,
surface and
under-
ground
water.

29.—(1) The Authority may deal with surface water and underground water as one source of supply if, in its opinion, the surface water and underground water are so inter-connected as to constitute one source of supply.

(2) In any area declared to be an emergency area pursuant to section 30 the Authority may, if it is of the

opinion that it is in the best interest of the management of the water resources of Jamaica, deal with all licences under this Act to abstract and use water from an inter-connected source of supply on the basis of equality of standing before the Authority.

30.—(1) On the recommendation of the Authority the Minister, after consultation with the Advisory Committee, may by order declare an area to be an emergency area if he is satisfied that, on account of drought or any other condition or emergency in that area, the supply of water from any source is or is likely to become insufficient as respects its quantity or unsuitable as respects its quality (or both) to satisfy the requirements of all licences granted under this Act to abstract and use water.

Minister
may declare
emergency
area.

(2) An order made under subsection (1) shall be published in the *Gazette* and at least once in each of two successive weeks in a daily newspaper circulating in Jamaica and may be revoked by the Minister if, having regard to the recommendation of the Authority and after consultation with the Advisory Committee, he is of the opinion that the circumstances which justified the making of the order no longer exist.

31.—(1) The Authority may, in any area declared to be an emergency area pursuant to section 30, by notice in writing addressed to the licensees who are entitled under this Act to abstract and use water, impose such restrictions as it thinks necessary in the circumstances, so, however, that in imposing such restrictions the Authority shall have regard to—

Powers of
Authority in
emergency
area.

- (a) the need to satisfy the requirements of public water supplies as a matter of priority; and

(b) subject to subsection (2), the principle that where full abstraction and use of water which may be abstracted under a licence has been maintained, any restriction imposed in respect of such licence shall be in proportion to the restriction imposed on all other licences in the area so declared.

(2) If, in any case, the Authority is satisfied that there has been misuse or wasteful use of water abstracted under a licence granted under this Act, it shall not be bound by the provisions of sub-paragraph (b) of subsection (1).

(3) An appeal shall lie under section 43 (1) from a decision made by the Authority under subsection (1) of this section.

(4) Where an appeal is made pursuant to subsection (3), it shall not have the effect of suspending or otherwise affecting the operation of a notice served under subsection (1).

Sources of supply reserved for public purposes.

32.—(1) On the recommendation of the Authority the Minister, after consultation with the Advisory Committee, may by order (hereinafter referred to as “reservation order”) reserve the whole or part of a source of supply (hereinafter referred to as “reserved water”) for a public purpose and may indicate in such order the person or authority entitled to use the reserved water.

(2) The Minister, acting on recommendation and after consultation as aforesaid, may, if he is satisfied that the circumstances under which a reservation order was made in pursuance of subsection (1) no longer justify maintaining such order, revoke the order.

(3) An order made in pursuance of subsection (1) and any order made revoking a previous order shall be published in the *Gazette*, and at least once in each of two successive weeks in a daily newspaper circulating in Jamaica.

33.—(1) If the person or authority entitled to use the reserved water applies to the Authority for a licence to abstract and use that water, the Authority may by notice in writing addressed to the holder revoke or vary the licence of any person who, before such application was made, was entitled pursuant to a licence under this Act to abstract and use that water.

Licences for use of reserved sources of supply.

(2) Where a licence which is to be revoked or varied in pursuance of this section was granted before the date of publication of a reservation order made in pursuance of section 32 (1), compensation shall be payable to the holder of such licence and regulations made under this Act relating to the compensation payable on revocation or variation of a licence to accommodate another user shall, *mutatis mutandis*, apply in respect of the revocation or variation of a licence in pursuance of this section.

(3) Where a licence which is to be revoked or varied in pursuance of this section was granted after the date of publication of a reservation order made in pursuance of section 32 (1) no compensation shall be payable in respect of any loss or damage suffered by the holder of a licence which has been revoked or varied in pursuance of this section.

PART IV. *Control and Protection of Underground Water* *Control of Well-Drilling*

34.—(1) Subject to subsection (2), no person shall sink, construct, enlarge or otherwise alter a well for the purpose of searching for underground water or for any other purpose unless, in accordance with this section, he has obtained the Authority's consent to do so.

Consent of Authority to search for underground water.

(2) Subsection (1) shall not apply in relation to the holder of a licence granted under Part III, the terms of which authorize him to sink, construct, enlarge or otherwise alter a well.

(3) The provisions of regulations made under this Act shall have effect in relation to the grant, suspension and revocation of the Authority's consent pursuant to subsection (1) and otherwise in relation to such consent.

(4) The provisions of regulations made under this Act requiring a person to keep a journal and to furnish the Authority with information in connection with any well which that person is authorized to sink shall have effect in relation to a person who has obtained the Authority's consent under this section; but where any person contracts to sink a well on land belonging to or occupied by any other person, and the execution of the work is under the control of the contractor, the contractor and no other person shall be deemed to be the person sinking the well for the purposes of such provisions as aforesaid.

Duty on
well-driller
to be
licensed, etc.

35.—(1) No person shall practise as a well-driller except under and in accordance with a licence granted by the Authority in accordance with regulations made under this Act governing the licensing of persons as well-drillers.

(2) It shall be the duty of any person who is the holder of a well-driller's licence and who contracts to sink, construct, enlarge or otherwise alter a well on behalf of any person to satisfy himself prior to commencing any work that the other person—

- (a) holds a valid licence under this Act to abstract and use water;
- (b) has obtained written consent from the Authority in pursuance of section 34 (1); or
- (c) is, by virtue of the provisions of section 19 (2), entitled to abstract and use water without a licence.

(3) For the purposes of subsection (1) a person shall be regarded as practising as a well-driller if he sinks, constructs, enlarges or otherwise alters a well for hire or reward

whether or not such sinking, construction, enlargement or alteration occurs on one occasion only.

36.—(1) Any person who proposes to construct any new boring, or to enlarge or otherwise alter any existing boring, for the purpose of searching for or extracting minerals or other substances under a relevant statute shall take such measures as may be required by the Authority for conserving underground water, being measures which, in the opinion of the Authority, will not interfere with the winning of minerals or other substances and shall submit to the Authority, at its request, such data or other information as the Authority may require in connection with such construction or enlargement, as the case may be.

Well-drilling
and mining
operations.

(2) Information required pursuant to subsection (1) shall be forwarded to the Authority within thirty days of the date of a request therefor or such longer period as the Authority may allow.

(3) In this section, “relevant statute” means—

- (a) the Mining Act;
- (b) the Petroleum Act; or
- (c) any other Act which regulates the winning of substances.

37.—(1) Subject to subsection (2), no person shall cause or allow any underground water to run to waste from any well or other work except for the purpose of testing the extent or quality of the supply or cleaning, sterilizing, examining or repairing the well or other work.

Waste of
underground
water from
wells un-
lawful.

(2) Where underground water interferes or threatens to interfere with the execution or operation of any underground works, it shall not be unlawful under this subsection to cause or allow the water to run to waste so far as may be

necessary to enable the works to be executed or operated, if no other method of disposing of the water is reasonably practicable.

Special Power of Authority in relation to Aquifers

Authority may determine safe yield of aquifers.

38. The Authority shall have power—

- (a) to determine the safe yield of any aquifer for the purpose of guiding determinations concerning the abstraction and use of water from the aquifer;
- (b) to impose special requirements and restrictions with respect to artesian wells, for the purpose of preventing waste or contamination of water, or loss of artesian pressure; and
- (c) to carry out programmes for the recharge of aquifers,

and for the purpose of paragraph (a) “safe yield” means the amount of water which may be abstracted from an aquifer at a rate which would not reduce the supply to such an extent as would render such abstraction harmful to the aquifer itself or to the quality of the water and would not affect the economic feasibility of other abstractions.

PART V. Control of Water Quality
Water Quality Control Plans

Water Quality Control Areas.

39. If the Minister, on the recommendation of the Authority and after consultation with the Advisory Committee, is satisfied that a plan of co-ordinated measures for the protection of the quality of water resources in any area is necessary in the public interest, he may make an order defining the area in question, and declaring the area to be a Water Quality Control Area.

40.—(1) In respect of each area declared a Water Quality Control Area, the Authority shall prepare and submit to the Minister for approval a draft Water Quality Control Plan.

Water
Quality
Control
Plan.

(2) The Minister shall not approve a draft Water Quality Control Plan or any revision thereof submitted pursuant to subsection (1) unless the Advisory Committee has advised him in respect thereof, but if the Advisory Committee does not give its advice within ninety days of the date of a request therefor or within such longer period as the Minister may in any case allow, the Minister may act without such advice.

(3) For the purpose of preparing a draft Water Quality Control Plan in pursuance of subsection (1), the Authority shall—

- (a) conduct such studies and investigations and consult with such persons, as it thinks appropriate, and any body or authority exercising functions in relation to water quality;
- (b) cause to be published in the *Gazette* and at least once in each of two successive weeks in a daily newspaper circulating in Jamaica, a notice indicating the proposals and specifying the time and place at which, and subject to subsection (4), the period during which, representations may be made in respect of such proposals; and
- (c) hold such hearings or local inquiries as it considers appropriate.

(4) The period specified in a notice pursuant to paragraph (b) of subsection (3) shall not be less than thirty days commencing on the date on which the notice was first published in such daily newspaper as aforesaid.

(5) In respect of any Water Quality Control Area, a draft Water Quality Control Plan shall, taking into account the provisions of the Master Plan that are in effect—

- (a) inventory and identify present and anticipated uses of waters in the area;
- (b) inventory and identify present and anticipated discharges of waste into any waters in the area, on the ground or into the ground;
- (c) inventory controlled land uses;
- (d) identify environmental and scenic values to be protected;
- (e) fix such ambient water quality standards as will satisfy the needs identified in pursuance of paragraphs (a) and (d);
- (f) establish critical locations where the standards fixed in pursuance of paragraph (e) are required to be met.

(6) In addition to the matters listed in subsection (5), a draft Water Quality Control Plan shall make provision for—

- (a) the achievement of the ambient water quality standards fixed in pursuance of paragraph (e) of subsection (5) including, if appropriate and desirable, a timetable for the scheduled achievement of those standards, if the waters in respect of which ambient water quality standards are in effect fail to meet those standards at such critical locations as are established in pursuance of paragraph (f) of subsection (5); and
- (b) the maintenance of such ambient water quality standards as have been fixed in pursuance of paragraph (e) of subsection (5), if the waters in respect to which those standards have been fixed meet the standards at such critical locations as are

established in pursuance of paragraph (f) of subsection (5).

(7) If he is satisfied with a draft Water Quality Control Plan, the Minister—

- (a) shall, subject to negative resolution, by notice published in the *Gazette* declare it to be an approved Water Quality Control Plan and shall specify in such notice the date on which the Water Quality Control Plan shall take effect;
- (b) shall cause the approved Plan to be published in the *Gazette*;
- (c) shall cause such Plan to be made available to all departments and agencies of Government responsible for administering controlled land uses, to any local authority for the area affected by the Plan, having responsibility for administering controlled land use in that area, and to any other body which the Minister thinks may be affected by the Plan in view of the nature of the activities in which that body is engaged; and
- (d) shall cause a notice to be published in at least one issue of a daily newspaper circulating in Jamaica stating that the approved Plan is available to the general public for inspection at the office of the Authority on payment of the prescribed fee.

(8) The Authority shall cause to be prepared and shall submit to the Minister for approval an annual revision of any Water Quality Control Plan or of any part thereof and for the purposes of such revision, the Authority and the Minister shall have the like functions as are exercisable under this section in relation to the preparation of the draft Water Quality Control Plan.

(9) The Minister shall not later than six months after the completion of an annual revision of the whole or any

part of the approved Water Quality Control Plan, cause a copy of that revision to be laid on the Table of the House of Representatives and on the Table of the Senate.

(10) A failure on the part of any person to observe any provision of a Water Quality Control Plan which is for the time being in operation, shall not of itself render him liable to any proceedings; but in any proceedings before the Authority, any provision of a Water Quality Control Plan which appears to the Authority to be relevant to any question arising in the proceedings, and any failure by any person to observe that provision, shall be taken into account by the Authority in determining that question.

(11) In this section “controlled land use” means any use of land and the natural resources therein which is regulated under any of the following statutes, that is to say—

- (a) the Forest Act;
- (b) the Watersheds Protection Act;
- (c) the Mining Act;
- (d) the Petroleum Act;
- (e) the Quarries Control Act;
- (f) the Rural Agricultural Development Act;
- (g) the Town and Country Planning Act; and
- (h) any other enactment in force for the time being, which regulates the development, conservation and use of land and the natural resources therein.

PART VI. *Supplementary Powers of Authority*

Enforcement
of regulatory
controls.

41.—(1) If it appears to the Authority that—

- (a) any water has been or is being abstracted and used, or any works instrumental thereto have been or are being constructed, or altered, without a valid licence under this Act; or

- (b) any borings have been or are being carried out for the purpose of searching for underground water, without a written consent under this Act; or
- (c) any conditions subject to which a licence or consent to carry out any of the activities referred to in paragraph (a) or (b) (hereinafter referred to as “water-related activities”) have not been or are not being complied with,

the Authority may, pursuant to this section, serve on a person described in subsection (2) a notice (hereinafter referred to as an “enforcement notice”).

(2) The person referred to in subsection (1) is a person—

- (a) who appears to have carried out or to be carrying out an activity in respect of which a licence or consent is required under this Act, without a valid licence or consent; or
- (b) who appears to have failed to comply with any of the conditions subject to which the licence or consent had been granted,

whichever is appropriate in any particular case.

(3) The Authority shall specify in a notice served under subsection (1)—

- (a) the water-related activity which is alleged to have been carried out without a valid licence or consent as aforesaid or, as the case may be, the matter in respect of which it is alleged that any such conditions as aforesaid have not been complied with; and
- (b) the period within which an appeal against its decision may be made pursuant to subsection (6),

and subject to subsection (4), may require such steps as may be specified in the notice to be taken within such period as

may be so specified for restoring the land and the waters to their condition before the water-related activity took place, or for securing compliance with the conditions, as the case may be, and in particular may, for the purpose aforesaid, require the demolition or alteration of any works, the discontinuance of any use of the waters or the carrying out on land of any operations.

(4) The Authority may, in the notice, order the immediate cessation of the offending action if it is of the opinion that the circumstances giving rise to the notice are such as to warrant an order to that effect.

(5) If any person on whom an enforcement notice is served under this section is aggrieved by the notice, he may at any time within the period specified in the notice appeal against the notice to the Resident Magistrate's Court for the parish in which the water-related activity to which the notice relates takes or took place; and on any such appeal the Court in a summary manner—

- (a) if satisfied that permission was granted under this Act for the water-related activity to which the notice relates, or that no such permission was required in respect thereof or that the conditions subject to which such permission was granted have been complied with, shall quash the notice to which the appeal relates;
- (b) if not so satisfied, but satisfied that the requirements of the notice exceed what is necessary for restoring the land and the waters to their condition before the water-related activity took place, or for securing compliance with the conditions, as the case may be, shall vary the notice accordingly;
- (c) in any other case, shall dismiss the appeal:

Provided that where the enforcement notice is varied or the appeal is dismissed the Court may, if it thinks

fit, direct that the enforcement notice shall not take effect until such date (not being later than twenty-eight days from the determination of the appeal) as the Court may think fit.

(6) Where an appeal is made against an enforcement notice in which the cessation of the offending activity is ordered, the notice shall remain in effect pending the final determination or withdrawal of the appeal.

(7) Any person aggrieved by a decision of a Court under subsection (6) may appeal against that decision to the Court of Appeal.

42.—(1) Where an enforcement notice takes effect and within the period specified therein or within such extended period as the Authority may allow any steps required by the notice to be taken have not been taken, the Authority may enter on the land on which the water-related activity to which the notice relates is or was carried on and take those steps.

Supplement-
ary provision
as to
enforcement.

(2) Any amount reasonably incurred by the Authority pursuant to subsection (1) may, without limit of amount, be recovered as a simple contract debt in the Resident Magistrate's Court of the parish in which the steps aforesaid were taken, from the person who—

- (a) being the holder of a licence or consent under this Act, has failed to comply with a condition of the licence or consent affecting water-related activities; or
- (b) has carried out a water-related activity in respect of which a licence or consent is required under this Act, without a valid licence or consent.

(3) A person who, having been entitled to appeal to the Court under section 41 (7), fails to make such an appeal shall not be entitled in proceedings under subsection (2) to

dispute the validity of the action taken by the Authority upon any ground which could have been raised in such appeal.

(4) Any person who uses water or causes or permits water to be used or carries out or causes or permits to be carried out any operations in contravention of an enforcement notice, commits an offence under this Act.

PART VII. *General*

Appeal.

43.—(1) Subject to the provisions of this section, any aggrieved person, as defined in subsection (4), may appeal to the Minister, within such time and in such manner as may be prescribed, against a decision of the Authority in relation to a licence or consent granted under this Act.

(2) Before determining the appeal the Minister shall afford the aggrieved person an opportunity to be heard and to be represented by an attorney-at-law or any other person.

(3) The Minister may—

- (a) dismiss the appeal and confirm the decision;
- (b) allow the appeal and set aside the decision;
- (c) vary the decision;
- (d) allow the appeal and direct that the matter, the subject of the appeal, be determined afresh by the Authority.

(4) For the purposes of this section an aggrieved person is a person—

- (a) who objects to a decision of the Authority pursuant to this Act with respect to his application for a licence or consent or to any term or condition subject to which the licence or consent, as the case may be, is granted;
- (b) who, not being a person described in paragraph (a), had pursuant to a provision of this Act made

representations to the Authority in respect of an application by some other person for the grant of a licence or consent, and objects to the Authority's decision in respect to such application on the grounds that it is prejudicial to a right or interest held by him;

(c) who—

- (i) is the holder of a licence under this Act; or
- (ii) has obtained the Authority's consent in relation to some activity; or
- (iii) is a person who is entitled pursuant to section 19 (2) to act without a licence, and objects to a decision of the Authority relating to or affecting such licence, consent, or relating to or affecting such entitlement.

44.—(1) Any person who contravenes the provisions of **Penalties.** section 19, 34 or 35 (1) or any regulations made under this Act in relation to any such provision shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars and in default of payment thereof to imprisonment, with or without hard labour, for a term not exceeding two years, and where such offence is continued after conviction, such person shall be guilty of a continuing offence and in respect of each day during which such offence continues shall be liable to a fine not exceeding ten thousand dollars.

(2) Any person who contravenes the provisions of section 35 (2), 36 or 37 or any regulations made under this Act in relation to such provisions, or who is guilty of an offence under section 42, shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding twenty thousand dollars and in default of

payment thereof to imprisonment with or without hard labour for a term not exceeding one year, and where such offence is continued after conviction, such person shall be guilty of a continuing offence and in respect of each day during which such offence continues shall be liable to a fine not exceeding ten thousand dollars.

Suspension
of licence
additional
penalty.

45. In addition to the penalties specified in section 44, the Authority may suspend or revoke a licence under this Act to abstract and use water or to practise as a well-driller if the holder of such licence wastes underground water in violation of section 37.

Fees and
charges.

46.—(1) The fees payable to the Authority in relation to the grant of a licence or consent or the rendering of any service by the Authority shall be such as may be prescribed.

(2) In addition to such fees as are referred to in subsection (1), such charges as may be prescribed may be imposed in relation to licences to abstract and use water.

(3) The Minister on the recommendation of the Authority may by order published in the *Gazette* exempt any class or classes of persons from the payment, in whole or in part, of any fees or charges imposed pursuant to this Act.

(4) Any fees or charges payable to the Authority pursuant to this section shall be recoverable by the Authority as a simple contract debt in a Resident Magistrate's Court.

(5) Without prejudice to the recovery of any fees or charges as provided in subsection (4), where any fees or charges payable under this Act in respect of a licence have not been paid within thirty days of the date of a notice in writing demanding them, the Authority may by notice in

writing served on the holder of the licence, suspend the operation of the licence until such fees or charges have been paid.

47. Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect or default on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who is purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

Offences by corporations.

48.—(1) The Minister responsible for town and country planning shall, prior to confirming a provisional development order under the Town and Country Planning Act, consult with the Authority, whenever the development order involves the provision of water supplies for any purpose or may affect surface or underground waters, or both.

Agencies to consult Authority prior to giving decisions.

(2) Until the Authority has been consulted thereon, any matter which involves the supply of water or which affects or may affect surface or underground waters or both, shall not be approved or finally determined by any person, body or agency having authority in that behalf.

49.—(1) The Minister may make regulations generally for the better carrying out of the objects and purposes of this Act and, without prejudice to the generality of the foregoing, may make regulations in relation to—

Regulations.

(a) the form and manner of making an application for any licence or consent required under this Act, the maps, documents or information which shall accompany such application and the matters to be

taken into account by the Authority in considering such application;

- (b) the provisions relating to any licence or consent which may be granted under this Act, including the form thereof, particulars which shall be specified therein and the terms and conditions subject to which such licence or consent may be granted;
- (c) the grant, suspension, variation, renewal and revocation of a licence or consent granted under this Act;
- (d) the establishment and maintenance of a register or registers in respect of licences granted under this Act;
- (e) the registration and recording of easements constituted under section 27;
- (f) provisions for the control of well-drilling;
- (g) the control of water quality;
- (h) the time within which and the manner in which an appeal to the Minister may be made under this Act against a decision of the Authority;
- (i) the fees and charges payable in respect of any licence or consent granted under this Act or the rendering of any service or the doing of anything required to be rendered or done under this Act and the manner of payment thereof;
- (j) compensation where such compensation is payable under this Act;
- (k) any other matter required by this Act to be prescribed.

(2) Any regulations made pursuant to subsection (1) shall be subject to negative resolution and may amend or replace the Fourth Schedule.

(3) Until other provision is made pursuant to this section, the Regulations set out in the Third Schedule shall have effect. Third Schedule.

50.—(1) The Minister may, by order, with effect from any date specified in the order, not being earlier than the appointed day, alter any enactment if he considers such alteration to be necessary or expedient on account of anything contained in this Act. Modification of laws.

(2) An order made pursuant to subsection (1) shall be subject to affirmative resolution.

(3) In this section—
 “alter” includes adapt or repeal;
 “enactment” includes any instrument having the force of law, but does not include this Act.

51. This Act binds the Crown. Act applies to Crown.

PART VIII. *Savings and Transitional Provisions*

52.—(1) Subject to subsection (3) where a person is, by virtue of any statutory provision in force immediately before the appointed day, entitled to abstract and use water, he shall, subject to such provisions as may be prescribed, be entitled to the grant under this Act of a licence to abstract and use water if he applies to the Authority under this section before the expiration of six months commencing with the day immediately following the appointed day. Entitlement to licence in certain circumstances.

(2) Subject to subsection (3) and to such provisions as may be prescribed, any person who satisfies the Authority that throughout a period, not being less than five years immediately preceding the appointed day, he openly, peaceably and without the permission of any person or authority abstracted and used water from a source of supply shall, on the basis of the abstraction and use in such manner

and for such period as aforesaid, be granted a licence by the Authority to abstract and use water from that source of supply if, pursuant to this subsection, he applies to the Authority therefor before the expiration of six months commencing with the day immediately following the appointed day.

(3) Nothing in subsection (1) or (2) shall be construed as—

- (a) permitting the Authority to issue a licence the terms of which are inconsistent with the Master Plan; or
- (b) exempting the licence from any other provisions of the Act applicable thereto.

Provisions relating to special agreements.

53.—(1) The Authority, if satisfied that it is in the best interest of the management of the water resources of Jamaica, may serve a notice on any person who is a party to a special agreement requiring that person, within such time as may be specified in the notice, to enter into negotiations with the Authority with a view to reaching agreement as to the adjustments which need to be made to the special agreement to render it consistent with the Master Plan and, generally, with the provisions of this Act.

(2) In this section “special agreement” means an agreement existing between a person holding a mining lease under the Mining Act and the Government under which that person is entitled to abstract and use water, to lay water pipes, to make water courses, ponds, dams or reservoirs, to divert water or to do any other act in relation to water which, pursuant to this Act, requires the licence, consent or permission of the Authority.

Vesting of property previously held by the Underground Water Authority.

54. All real and personal property belonging to the Underground Water Authority including all moneys standing to the credit of, or receivable by, the Underground Water Authority pursuant to the Underground Water Control Act, now repealed, shall, on and after the appointed

day, without any conveyance, assignment or other transfer, belong to and be vested in the Water Resources Authority, subject to the provisions of this Act and to any enactment regulating the management, maintenance, control, supervision and dealing with such property or moneys.

55.—(1) Unless and until other arrangements are made with the approval of the Minister, and subject to subsection (2), all officers and employees holding office or serving under the Underground Water Authority on the appointed day shall, on and after that day, hold under the Water Resources Authority the like respective offices or employment on the same terms and by the same tenure as they held such offices or employments under the Underground Water Authority before the appointed day.

Saving of rights to existing staff of Underground Water Authority.

(2) Unless and until other provisions are made pursuant to this Act, the Authority may, with the approval of the Minister, grant to any officer or employee who is holding office or is serving under the Underground Water Authority on the appointed day and who has served under that Authority in an established capacity as a permanent officer or employee, a pension, superannuation allowance or gratuity on the same terms and subject to the same conditions on which such pension, superannuation allowance or gratuity would have been granted to such officer or employee under the Underground Water Control Act, now repealed, and, where he has service with the Water Resources Authority under this Act, that service shall be treated as if it were service under the Underground Water Authority.

56. In any enactment or regulations made thereunder or in any instrument in writing issued pursuant to a statutory power and having effect on or after the appointed day—

Construction of references to Underground Water Control Act.

(a) any reference to the Underground Water Authority

- shall be construed as a reference to the Water Resources Authority;
- (b) any reference to members of the Underground Water Authority shall be construed as a reference to the members of the Water Resources Authority;
- (c) any reference to the powers, duties, liabilities or property of the Underground Water Authority shall be construed as a reference to the powers, duties, liabilities or property of the Water Resources Authority.

FIRST SCHEDULE

(Section 3 (2))

*Constitution and Procedure of Water Resources Authority*Appoint-
ment of
members.

1. The Authority shall consist of not less than seven persons or more than nine to be appointed by the Minister.

Temporary
appoint-
ments.

2. The Minister may appoint any person to act temporarily in the place of any member of the Authority in the case of the absence or inability to act of such member.

Chairman.

3. (1) The Minister shall appoint one of the members of the Authority to be the chairman thereof.

(2) In the case of the absence or inability to act at any meeting of the chairman, the remaining members of the Authority shall elect one of their number to act as chairman at that meeting.

Tenure of
office.

4. (1) The appointment of every member of the Authority shall be evidenced by an instrument in writing, and such instrument shall state the period of office of the member which shall not exceed three years.

(2) Every member of the Authority shall be eligible for re-appointment.

Resignation.

5. (1) Any member of the Authority, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Authority.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

Publication
of member-
ship.

6. The names of all members of the Authority as first constituted and every change in the membership thereof shall be published in the *Gazette*.

7. (1) The seal of the Authority shall be authenticated by the signatures of the chairman or one member of the Authority authorized to act in that behalf, and the secretary of the Authority. Authentica-
tion of seal
and docu-
ments.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Authority may be signified under the hand of the chairman or any member authorized to act in that behalf or the secretary of the Authority.

8. (1) The Authority shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Authority shall determine. Procedure
and meet-
ings.

(2) The chairman may at any time call a special meeting of the Authority and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the Authority.

(3) The chairman or, in the case of the absence or inability to act of the chairman, the person elected to act as chairman in accordance with the provisions of sub-paragraph (2) of paragraph 3 shall preside at the meetings of the Authority, and when so presiding the chairman or the person elected as aforesaid to act as chairman, as the case may be, shall have an original and a casting vote.

(4) The quorum of the Authority shall be four members of the Authority including the chairman or the person elected to act as chairman as aforesaid.

(5) Subject to the provisions of this Schedule, the Authority may regulate its own proceedings.

(6) The validity of any proceedings of the Authority shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

9. There shall be paid to the chairman and other members of the Authority such remuneration, if any (whether by way of salaries, honorarium, travelling or other allowances) as the Minister may determine. Remunera-
tion of
members.

10. (1) The Authority may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, a chief executive officer, a secretary and such other officers, agents and employees as it deems necessary for the proper carrying out of the provisions of this Act: Appoint-
ment of
officers and
servants.

Provided that—

- (a) no salary in excess of the prescribed rate per annum shall be assigned to any post without the prior approval of the Minister; and
- (b) no appointment shall be made to any post to which a salary in excess of the prescribed rate is assigned without the prior approval of the Minister.

WATER RESOURCES

(2) In subsection (1) the prescribed rate means a rate of one hundred and fifty thousand dollars per annum or such higher rate as the Minister may, by order, prescribe.

(3) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any officer in the service of the Government to any office with the Authority and any officer so appointed shall, while so employed, in relation to any pension, gratuity or other allowance, and in relation to other rights as a public officer, be treated as continuing in the service of the Government.

(4) It shall be lawful for the Authority, with the approval of the Minister to enter into arrangements respecting schemes whether by way of insurance policies or otherwise and to make rules in respect of medical benefits, pensions, gratuities and other retiring or disability benefits or death benefits relating to employees of the Authority and such arrangements or rules may include provisions for the grant of benefits to the dependents and the legal personal representatives of such employees.

Protection
of members
of Authority.

11. (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Authority in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

(2) Where any member of the Authority is exempt from liability by reason only of the provisions of this paragraph, the Authority shall be liable to the extent that it would be if that member were an employee or agent of the Authority.

SECOND SCHEDULE

(Section 14 (2))

*Constitution and Procedure of Water
Resources Advisory Committee*

Membership
of Com-
mittee.

1. (1) The Committee shall consist of *ex officio* members and of appointed members.

(2) The following shall be *ex officio* members of the Committee, that is to say—

- (a) the Director-General of the Planning Institute of Jamaica;
- (b) the chief executive officer, Natural Resources Conservation Authority;
- (c) the chief executive officer of the National Water Commission;
- (d) the chief executive officer of the National Irrigation Commission;
- (e) the chief executive officer of the Water Resources Authority;
- (f) the Government Town Planner.

(3) The appointed members shall be such members or persons as the Minister may appoint, not exceeding five, to be members of

the Committee of whom—

- (a) one shall be a person appearing to the Minister to be a representative of an organization or society representing agricultural interests;
- (b) one shall be a person appearing to the Minister to be a representative of an organization representing consumers;
- (c) one shall be a person appearing to the Minister to be a representative of an organization representing the private sector; and
- (d) one shall be a person appearing to the Minister to be a representative of the bauxite mining industry.

(4) Any *ex officio* member may designate a nominee, in the case of absence or inability to act of such member.

2. The Minister may appoint any person to act temporarily in the place of any appointed member of the Committee in the case of the absence or inability to act of such member.

Temporary appointments.

3. (1) The Minister shall appoint one of the members of the Committee to be the chairman thereof.

Chairman.

(2) In the case of the absence or inability to act at any meeting of the chairman, members of the Committee present at such meeting shall elect one of their number to act as chairman at that meeting.

4. (1) The appointment of every appointed member of the Committee shall be evidenced by an instrument in writing, and such instrument shall state the period of office of the member which shall not exceed three years.

Tenure of office.

(2) Every appointed member of the Committee shall be eligible for reappointment.

5. Any appointed member of the Committee may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Committee.

Resignation.

6. The names of all appointed members of the Committee as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Publication of membership.

7. (1) The Committee shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Committee shall determine.

Procedure and meetings.

(2) The chairman may at any time call a special meeting of the Committee and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the Committee.

(3) The chairman or, in the case of the absence or inability to act of the chairman, the person elected to act as chairman in accordance with the provisions of sub-paragraph (2) of paragraph 3 shall preside at the meetings of the Committee, and when so presiding the chairman or the person elected as aforesaid to act as chairman, as the case may be, shall have an original and a casting vote.

(4) The quorum of the Committee shall be five members of the Committee including the chairman or the person elected to act as chairman as aforesaid.

(5) Subject to the provisions of this Schedule, the Committee may regulate its own proceedings.

(6) The validity of any proceedings of the Committee shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

(7) The chief executive officer of the Water Resources Authority shall serve as secretary to the meetings of the Committee.

Remuneration of appointed members.

8. There shall be paid to the appointed members of the Committee such remuneration if any, whether by way of salaries, honorarium, travelling or other allowances as the Minister may determine.

THIRD SCHEDULE (Section 49 (3))

THE WATER RESOURCES REGULATIONS, 1995

PART I. *Preliminary*

Short title. 1. These Regulations may be cited as the Water Resources Regulations, 1995.

Interpretation. 2. In these Regulations "relevant fee" means such fee as may be prescribed as being payable in relation to an application pursuant to the Act for a licence or consent.

PART II. *Licences to Abstract and Use Water*

Application for abstraction licence. Schedule. Form A. 3. (1) An application for a licence required pursuant to section 19 of the Act shall be made to the Authority in the form set out as Form A in the Schedule.

(2) An application made under paragraph (1) shall be in duplicate and shall be accompanied by such maps, documents or information as the Authority may require and by the relevant fee.

(3) On receipt of an application for a licence to abstract and use water the Authority shall act in accordance with the provisions of regulation 24.

Matters to be considered by Authority.

4. In considering an application for a licence to abstract and use water the Authority shall have regard to—

(a) the provisions of the Master Plan, including any amendments made thereto;

- (b) any recommendations or representation made pursuant to regulation 24 (2) and (3), respectively;
- (c) the consideration that the satisfaction of the demands of public water supply is a matter of priority;
- (d) the requirements of the applicant as specified in the application and whether or not he has such financial and technical resources as may be necessary for the enjoyment of the licence;
- (e) the requirements of other persons who have subsisting licences to abstract and use water;
- (f) the safeguarding of public health and the environment;
- (g) the requirements of in-stream uses of the water; and
- (h) the requirements of land drainage.

5. (1) On consideration of an application the Authority may grant or refuse to grant a licence. Authority may grant or refuse licence.

(2) If the Authority grants a licence it shall, in addition to notifying the applicant of its decision, inform in writing any person who pursuant to regulation 24 (3) has made representations, and that person may require the Authority to furnish to him in writing the reasons for its decision.

(3) If the Authority refuses to grant a licence, it shall state in writing the reasons for its decision and inform the applicant of his right under the Act to appeal against the decision.

(4) A licence granted under this regulation—

- (a) shall be in the form set out as Form B in the Schedule; and Schedule Form B.
- (b) shall be for such period as the Authority thinks fit.

(5) In addition to the implied term specified in section 23 of the Act, a licence may contain such terms and conditions as the Authority thinks appropriate, including—

- (a) the term that the amount of water authorized to be abstracted under the licence may vary according to the availability of excess water; or
- (b) the condition that certain works should be constructed within a specified time by the person to whom the licence is granted.

(6) A licence to which paragraph (1) refers may contain different provisions relating to—

- (a) the abstraction of water during different periods;
- (b) the abstraction of water from the same source of supply but at different points or by different means;
- (c) the abstraction of water for use for different purposes.

(7) Nothing in paragraph (6) shall be construed to preclude a grant by the Authority, if it thinks appropriate in any case, of two or more licences to the same person to be held concurrently in respect of the same source of supply, if the licences authorize the abstraction of water at different points of the source or by different means.

Provisions
as to certain
conditions
in licence.

6. (1) Where a licence is granted under regulation 5 subject to the condition that specified works should be constructed within a specified period, the Authority may, on the expiration of that period, extend the period for the construction of the works if the person to whom the licence was granted so requests.

(2) On the expiration of the specified period referred to in paragraph (1) or of such extended period as may be granted under that paragraph or on completion of the works, if that is earlier, the Authority shall cause the works to be inspected for the purpose of satisfying itself that the works have been properly constructed.

Licence not
transfer-
able.

7. Without prejudice to regulation 16, a licence granted under regulation 5 is not transferable.

Renewal of
licence.

8. (1) A licence granted under regulation 5 may, on its expiration, be renewed by the Authority if—

- (a) the person to whom it was granted applies to the Authority for renewal of the licence not later than six months before the date on which the licence expires; and
- (b) the Authority is satisfied that there has been no material change in the circumstances which existed at the time the licence was first granted that would justify dealing with the application in the manner specified in paragraph (2).

(2) Where the Authority—

- (a) after the time specified in paragraph (1) (a), receives an application for renewal of a licence; or
- (b) determines that a material change of circumstances has occurred since the licence was first granted,

it shall deal with the application as if it were a fresh application made under regulation 3 and accordingly, all the provisions of this Part relating to the application for a licence shall apply.

Revocation,
etc. of
licence on
application
of licensee.

9. (1) On the application of a person to whom a licence was granted under regulation 5, the Authority may,

- (a) revoke or suspend the licence, subject to such terms and conditions as the Authority may impose for the purpose of protecting waters, the environment or public health; or
- (b) subject to paragraph (2), vary the licence.

(2) In considering an application for the variation of a licence, the Authority shall have regard to the matters specified in paragraphs (a) to (h) of regulation 4, unless the variation applied for is restricted to reducing the quantity of water authorized to be extracted under a licence.

Revocation,
suspension
of licence
for breach
of Act.

10. (1) Subject to paragraph (2), the Authority may, by notice addressed to the person to whom a licence was granted under regulation 5, revoke the licence or suspend it for such period as the Authority thinks appropriate if it is satisfied—

- (a) that a breach of any provision of the Act or of these Regulations or of any term or condition subject to which the licence was granted has been committed; or
- (b) that there has been waste or misuse of the water which may be abstracted under the licence.

(2) Except as provided in paragraph (3), the Authority shall, before revoking or suspending a licence, serve on the person to whom the licence was granted a notice in writing—

- (a) specifying the breach or default on which the Authority relies and requiring him to remedy it (if it is capable of remedy) within such time as may be specified in the notice; and
- (b) informing him that he may apply to the Authority to be heard on the matter within such time as may be specified in the notice.

(3) The Authority shall not be obliged to serve a notice pursuant to paragraph (2) in relation to any breach or default if an enforcement notice pursuant to section 41 of the Act is in effect in relation to such breach or default.

11. (1) Where a licence has been granted under regulation 5 conditional on the availability of excess water, then such licence shall have effect only so long as excess water is available for abstraction and use in accordance with that licence; and accordingly, where it becomes apparent to the Authority that such excess water will become unavailable for abstraction and use under any licence granted as aforesaid, the Authority shall notify the holder of the licence in writing of the date (not being less than thirty days from the date of service of the notice) on which the revocation of the licence shall take effect.

Revocation
of licence
granted for
use of
excess water.

(2) In paragraph (1) "excess water" means such of the flow of a river, stream or watercourse which, after satisfying the requirements of persons who are entitled under the Act to abstract and use the water of that river, stream or watercourse, would ordinarily run to waste.

12. (1) Where the Authority is of the opinion that the person to whom a licence was granted under regulation 5 has not made full use of the licence during the preceding eighteen months, it may by notice sent by registered mail to that person call upon him to show cause in writing within sixty days of the date of service of the notice why the licence should not be revoked or varied in the manner specified in the notice and informing him of his right to be heard in the matter within the period specified in paragraph (3).

Revocation,
variation
of licence
for non-use.

(2) The Authority shall—

- (a) consider any statement submitted pursuant to paragraph (1);
- (b) if so required, give the person who made the statement an opportunity to be heard whether in person or by his legal representative; and
- (c) thereafter declare whether the licence is revoked, varied in such respects as may be specified, or whether it should be unchanged.

(3) If within sixty days of the date of service of the notice referred to in paragraph (1) the person to whom the notice was sent does not submit to the Authority a statement in writing of the reasons why the licence should not be revoked or suspended, the Authority may declare the licence revoked or varied, as the Authority thinks fit, and shall send to such person by registered mail a notice of that declaration.

Revocation, variation, suspension of licence to accommodate other user.

13. (1) If the Authority is satisfied that a licence granted under regulation 5 should be revoked, suspended or varied so as to accommodate the needs of another user of the water to which that licence relates, it may revoke or vary the licence by notice in writing addressed to the holder, and thereupon the licence shall be revoked or shall have effect only as so varied, as the case may be.

(2) A person whose licence has been revoked, suspended or varied pursuant to paragraph (1) is entitled to receive compensation from the user whose needs for the water have been accommodated and, in the absence of agreement between them, the amount of compensation shall be determined—

- (a) if the amount claimed does not exceed \$10,000 by a Resident Magistrate's Court; or
- (b) in any other case, by a Judge in Chambers.

Substitution of supply or source of water.

14. (1) Subject to any powers exercisable under the Act in relation to an emergency area, if the Authority is of the opinion that it is in the best interests of the management, conservation, development and use of the water resources it may, in relation to any licence granted under regulation 5, substitute a supply or source of surface water for a supply or source of underground water, and *vice versa*.

(2) If the substitution is made for the purposes of accommodating the needs of another user of water, the Authority in exercising its powers under paragraph (1) may stipulate that compensation be paid by that person to any person whose licence has been varied on account of the substitution and if there is no agreement as to the amount of compensation, the matter shall be determined in the manner specified in regulation 13.

Variation of licence for certain other purposes.

15. If the Authority considers it necessary in the public interest, it may vary a licence to abstract and use water in respect of the points or methods of abstraction, or both, for the purpose of—

- (a) protecting the source of water to which the licence relates from depletion or pollution;
- (b) ensuring the efficient allocation and use of water; or
- (c) protecting the rights of third parties,

and no liability shall attach to the Authority by reason of such variation nor shall the liability of the holder of the licence to pay any charge or fee be affected.

16. (1) Where any person succeeds to the interests of a holder of a licence granted under this Part (hereinafter referred to as "the original licensee") in circumstances, whether on the death of the original licensee, or otherwise, such that the continued operation of those interests involves the question of a grant of a licence under this Part in like terms as that held by the original licensee, then, subject to paragraph (2), that person may apply to the Authority for such a licence.

Effect of succession to interests of licensee.

(2) An application under paragraph (1) shall be made to the Authority within thirty days of the applicant's acquisition of the interest or such longer period, not exceeding ninety days as the Authority may in any case allow, and the Authority may, without going through the process required by regulation 3 (3) and regulation 4, grant the applicant a licence, if it thinks fit, on the terms applicable to the original licensee.

(3) Where a person to whom paragraph (1) refers fails to notify the Authority within the time allowed under paragraph (2) or the Authority does not grant him a licence pursuant to that paragraph, such person shall not continue to abstract and use water except under and in accordance with a licence granted under regulation 5.

17. (1) The owner of land over which an easement was constituted by agreement may not terminate the easement unless—

- (a) he serves a notice upon the person to whom the easement was granted requiring him within thirty days of the notice, to show cause to the Authority why the easement should not be terminated and such person fails to show any or sufficient cause; and
- (b) not later than the date of service of the notice referred to in paragraph (a) he notifies the Authority of his intention to terminate the easement and submits to the Authority a copy of such notice.

(2) An easement constituted under section 27 of the Act shall, if not earlier terminated, expire with the expiration of the licence in relation to which it was granted.

PART III. *Protection of Underground Water*

18. (1) An application for the consent of the Authority required under section 34 of the Act to sink, enlarge or otherwise alter a well—

- (a) shall be made to the Authority in the form set out as Form C in the Schedule; and
- (b) shall be accompanied by such maps, documents or information as the Authority may require and by the relevant fee.

Consent for well-drilling. Schedule. Form C.

(2) The Authority may grant its consent subject to such conditions as it thinks fit or withhold its consent and where the consent is granted, it shall be in the form set out at Form D in the Schedule.

Form D.

(3) If the Authority withholds its consent, it shall state in writing the reasons for its decision and inform the applicant of his right under the Act to appeal against that decision.

(4) A consent granted pursuant to paragraph (2) may be suspended or revoked—

- (a) at the request in writing of the person to whom the consent was given; or
- (b) by the Authority by notice in writing addressed to that person, for breach of any requirements of the Act or these Regulations relating to the consent or for the breach of any of the conditions subject to which the consent was granted.

(5) Before suspending or revoking its consent under sub-paragraph (b) of paragraph (4) the Authority shall serve on the person to whom the consent was granted a notice in writing—

- (a) specifying the breach on which the Authority relies and requiring him to remedy it (if it is capable of remedy) within such time as may be specified in the notice; and
- (b) informing him that he may apply to the Authority to be heard on the matter within such time as may be specified in the notice.

Well-driller's licence. Schedule. Form E.

19. (1) An application for a well-driller's licence required under section 35 of the Act may be made to the Authority in the form set out as Form E in the Schedule and shall be accompanied by such documents or information as the Authority may require and by the relevant fee.

(2) The Authority may, subject to such terms and conditions as it thinks fit, grant a well-driller's licence or refuse to grant it but shall grant such a licence if it is satisfied that the applicant has the requisite professional qualification.

Form F.

(3) A licence granted under paragraph (2) shall be in the form set out as Form F in the Schedule.

(4) If the Authority refuses to grant a well-driller's licence, it shall state in writing the reasons for its decision and inform the applicant of his right under the Act to appeal against the decision.

Revocation of well-driller's licence.

20. (1) A well-driller's licence may be suspended or revoked—

- (a) at the request of the holder of the licence; or
- (b) by the Authority by notice in writing addressed to that person on account of a breach of any provisions of the Act or of these Regulations relating to the sinking of wells or of any of the terms and conditions subject to which the licence was granted.

(2) Before suspending or revoking the licence of a well-driller under sub-paragraph (b) of paragraph (1), the Authority shall serve on him a notice in writing—

- (a) specifying the breach on which the Authority relies and requiring him to remedy it (if it is capable of remedy) within such time as may be specified in the notice; and
- (b) informing him that he may apply to the Authority to be heard on the matter within such time as may be specified in the notice.

21. The provisions of regulation 8 shall apply, *mutatis mutandis*, in respect of the renewal of a well-driller's licence as they apply in respect of the renewal of a licence to abstract and use water.

Renewal of well-driller's licence.

PART IV. *Miscellaneous Powers of Authority*

22. (1) The Authority may, by notice in writing, require any person who—

Power to require installation of measuring devices, information.

- (a) is the holder of a licence issued under regulation 5 to abstract and use water; or
- (b) is entitled to abstract and use water without a licence in pursuance of the provisions of section 19 (2) of the Act,

to install and maintain such measuring devices, to keep such records, and to furnish in such form and manner and within such time as may be specified in the notice, such periodical or other returns or information as may be specified in the notice.

(2) Any person on whom a notice is served under paragraph (1) and who considers that the directions contained in the notice are unreasonable or unduly onerous may make representations to the Minister with respect to them; and the Minister after consultation with the Authority may, if it thinks fit, direct the Authority to revoke or modify them.

(3) Any person who fails to comply with a notice under this regulation shall be liable to the penalties specified in section 44 (2) of the Act.

23. (1) Any person duly authorized in writing by the Authority may at any reasonable time enter upon any land for the purpose of—

Powers of entry, inspection, taking of samples.

- (a) monitoring compliance with the provisions of the Act or these Regulations, or with any of the terms or conditions subject to which a licence, easement or consent has been granted;
- (b) inspecting and investigating conditions relating to the occurrence and quality of surface and underground waters, including, in particular—
 - (i) installing, maintaining and reading equipment and apparatus for the recording of hydrological and hydrogeological data; and
 - (ii) searching for the purpose of ascertaining the occurrence and quality of underground water;
- (c) reading or testing any meter or other measuring device installed for the purpose of ascertaining the amount or rate of water abstracted in pursuance of a licence granted under these Regulations;
- (d) taking measures to ascertain the quantity of water abstracted or capable of being abstracted by means of any works; and
- (e) examining records which are required to be kept under the Act or these Regulations.

(2) A person authorized under this regulation to enter upon any land shall, if so required, produce evidence of his authority before so entering.

(3) Any person who wilfully obstructs a person acting in the exercise of his powers under this regulation shall be liable to the penalties specified in section 44 (2) of the Act.

(4) If a person discloses any information obtained by him in the exercise of powers conferred on him by this regulation as to any manufacturing process or trade secret he shall, unless the disclosure is made in the course of performing his duty, be liable to the penalties specified in section 44 (2) of the Act.

(5) The Authority shall, on demand being made by the owner or any other person having an interest over any land, live or dead stock, crops, trees, buildings or works that are damaged by the Authority in the exercise of any functions under the Act or these Regulations, pay to the owner or other person fair and reasonable compensation in respect of such damage.

PART VI. *General*

Procedure on receipt of application for licence.

24. (1) On receipt of an application for a licence to abstract and use water the Authority shall cause a notice of the application—

- (a) to be published in the *Gazette* and once in each of two successive weeks in a daily newspaper circulating in Jamaica; and
- (b) to be served on any person or body who, in the opinion of the Authority, may be affected by the proposed abstraction and use of water.

(2) The Authority shall also submit an application referred to in paragraph (1) to any agency or department of Government exercising functions in relation to water and such agency or department may, within the specified period, make such recommendations as it thinks fit respecting the application.

(3) A notice under paragraph (1) shall—

- (a) indicate the place at which the application and all documents submitted with it may be inspected by the public, free of charge, at all reasonable hours during the specified period; and
- (b) state that any person may, within the specified period, make representations to the Authority with respect to the application.

(4) In this regulation “specified period” means a period of thirty days or such further period as the Authority may allow from the date on which a notice of the application was, pursuant to paragraph (1) (a), first published in such daily newspaper or, from the date of submission of the application to such department or agency, as the case may be.

25. (1) The Authority shall keep, in such manner as it thinks fit, a register or registers in which shall be kept a record of—

- (a) every licence granted to abstract and use water;
- (b) any consent granted for well-drilling; and
- (c) every well-driller's licence,

and all actions taken under the Act or these Regulations in respect of any such licence or consent shall be entered in the appropriate register.

(2) Every register to which paragraph (1) refers shall be open for inspection by the public at the offices of the Authority at all reasonable hours, free of charge, and the Authority shall arrange for copies of any entry in any such register as aforesaid to be provided to any person on his request if he pays such fee as may be prescribed.

26. An easement constituted under the Act by agreement shall—

- (a) where the land over or in favour of which the easement was created is under the operation of the Registration of Titles Act, be registered by the Registrar of Titles; and
- (b) where such land as aforesaid is not under the operation of the Registration of Titles Act, be recorded by the Deputy Keeper of the Records,

on production of the agreement or, as the case may be, order relating to the easement or a copy of such agreement and a diagram prepared by the Director of Surveys or any commissioned land surveyor showing the position of the easement.

27. (1) Any person who, pursuant to a licence granted under this Act to abstract and use water, is authorized to sink a well and to abstract underground water or who, in pursuance of the provisions of section 19 (2), intends to sink a well and to abstract underground water shall, upon the commencement of such work, keep a journal of the progress of the work which shall include measurements of the strata passed through and of the levels at which water is struck and subsequently rests and shall, when so required by the Authority, keep specimens of the material excavated from the well, and shall allow any person authorized in writing by the Authority for the purpose at all reasonable times—

- (a) to have free access to any such well;
- (b) to inspect the well and the material excavated therefrom;
- (c) to take specimens of such material and of water abstracted from the well; and
- (d) to inspect and take copies of or extracts from the journal required to be kept under this subsection.

(2) The person sinking any such well shall, within thirty days after completion or abandonment of the work, send a complete copy of the journal kept under subsection (1) to the Authority and shall also send to the Authority particulars of any test made of the flow of water before such completion or abandonment, specifying the rate of flow throughout the test and the duration of the test and also, where

Register.

Registration or recording of easement.

Information as to underground water.

practicable, specifying the water levels during the test and thereafter until the water has returned to its natural level.

(3) Where any such well is sunk in connection with an existing pumping station, the particulars of any test to be supplied to the Authority shall also include the rate of pumping at the existing works during the test.

(4) Where the person sinking a well on any land is not the occupier of the land, the obligation to allow a person authorized by the Authority to exercise the rights specified in sub-paragraphs (a) to (d) of paragraph (1) shall be the obligation of the occupier as well as the person sinking the well.

(5) The Authority may waive any or all the requirements prescribed in paragraphs (1) to (3) in respect of the sinking of any well for purposes of abstracting underground water—

- (a) if such well does not reach a depth of fifty feet; or
- (b) where the Authority is satisfied that in all the circumstances, compliance with any requirements of those paragraphs is impracticable or undue expense would be thereby incurred.

**Provisions
relating to
appeal.**

28. (1) Every appeal to the Minister pursuant to section 43 of the Act against a decision of the Authority—

- (a) shall be commenced by a notice of appeal which shall be addressed to and served upon the Permanent Secretary; and
- (b) shall be served within fourteen days of the date of notification of the decision in respect of which the appeal is made.

(2) The notice of appeal may be in the form of a letter and shall set forth clearly the grounds of the appeal, and the date upon which the subject matter of the appeal arose, and there shall be attached to such notice copies of any correspondence or other documents or statements verified by statutory declaration of facts relating to the subject matter of the appeal.

(3) The appellant shall send a copy of the notice of appeal to the Authority and shall also serve a copy thereof, together with copies of any documents attached thereto, upon the respondent within the same time as a notice of appeal is required under paragraph (1) to be served, and an affidavit verifying such service shall be delivered to the Permanent Secretary.

(4) Within seven days of the receipt of such affidavit, the Permanent Secretary may request the Authority to furnish a statement in writing setting out the reasons for the decisions complained of, and the Authority shall comply therewith as soon as practicable after the request is made.

(5) The Minister may order that any books, papers or other documents, relating to the subject matter of the appeal which are in the possession of either party shall be produced by the party in possession thereof.

PART VII. *Transitional Provisions*

29. In this Part “prescribed enactment” means—
- (a) section 19 (1) of the Irrigation Act;
 - (b) section 3, 6 or 7 of the Kingston and St. Andrew Water Supply Act;
 - (c) section 19 (1) (e), 35 (e) or 50 of the Mining Act;
 - (d) section 23 of the Petroleum Act.

Interpreta-
tion of
Part VII.

30. (1) A licence of right referred to in section 54 (1) of the Act shall be in the same form as that set out for a licence granted pursuant to regulation 5 and shall also be subject to the implied term specified in section 23 of the Act.

Licences
of right.

(2) In determining the quantity of water that it should authorize to be abstracted and used under a licence of right, the Authority—

- (a) shall consider whether or not the applicant is entitled to abstract and use water in the exercise of any right existing immediately before the appointed day under or pursuant to a prescribed enactment; and
- (b) shall have regard to the requirements of the applicant as indicated by—
 - (i) works, machinery or apparatus which were constructed or installed before the appointed day or which were in the course of being constructed or installed before that day; or
 - (ii) such other evidence as the Authority thinks reasonable and appropriate.

(3) In making provision as to the purpose for which water may be abstracted under the licence of right, the Authority—

- (a) shall take into account the purpose for which the water was abstracted and used in exercise of the right existing immediately before the appointed day under or pursuant to a prescribed enactment; and
- (b) shall have regard to the requirements of the applicant as determined by such evidence as the Authority thinks reasonable and appropriate.

31. (1) A licence to abstract and use water granted pursuant to section 54 (2) of the Act shall be in the same form as that set out for a licence granted pursuant to regulation 5 and shall also be subject to the implied term specified in section 23 of the Act.

Licence
based on
long use.

(2) In determining the quantity of water that it should authorize to be abstracted and used under such licence the Authority—

- (a) shall take into account the quantities of water used during the period referred to in section 54 (2) of the Act;
- (b) shall have regard to the requirements of the applicant as mentioned in sub-paragraph (b) of paragraph (2) of regulation 30.

WATER RESOURCES

(3) In making provision as to the purpose for which water may be abstracted under a licence to which this section refers, the Authority—

- (a) shall have regard to the purpose for which the water was abstracted and used during the period referred to in section 54 (2) of the Act; and
- (b) shall take into account the requirements of the applicant as determined by such evidence as the Authority thinks reasonable and appropriate.

Application of certain provisions.

32. The provisions of these Regulations relating to the revocation, suspension and variation of a licence granted under Part II to abstract and use water and to all the procedures to be followed by an applicant and the Authority with respect to an application therefor shall apply *mutatis mutandis* to a licence granted pursuant to this Part.

Reasons for varying use of water to be in writing.

33. The Authority shall state in writing the reasons for any decision made pursuant to this Part which has the effect of varying the use of water in respect of which a licence to which this Part refers may be granted.

SCHEDULE (Regulations 3 (1), 5 (4), 18 (1), (2), 19 (1), (3), 30 (1))

FORM A (Regulation 3 (1))

(To be completed in duplicate)

Application No.....

THE WATER RESOURCES ACT

APPLICATION FOR A LICENCE TO ABSTRACT AND USE WATER

1. Name of Applicant.....
2. Address of Applicant.....
3. Location of proposed work or of existing work in respect of which alteration or extension is proposed.....
4. Name of Contractor.....
5. Address of Contractor.....
6. Source of water for which licence is desired.....
7. Purpose for which water is to be used.....

- 8. If water is required for irrigation, state—
 - (a) area and crop type to be irrigated.....
 -
 - (b) system of irrigation.....
 -
- 9. Means of disposal of excess or waste water.....
-
-
- 10. Technical details :
 - (i) Estimated depth of borehole or well.....metres
 - (ii) Diameter or borehole or well.....centimetres
 - (iii) In the case of artesian supplies, the method proposed for controlling the flow from the borehole and for preventing leakage around the borehole lining.....
 -
 - (iv) Geological strata from which water is to be drawn, e.g. limestone, gravel, etc.....
 - (v) State the method of abstracting water.....
 -
 - (vi) Maximum daily quantity of water to be abstracted in cubic metres.....
 - (vii) Type of apparatus proposed for measuring and recording the rate of abstraction.....
 - (viii) Other relevant technical information.....
 -
- 11. State whether any request for a supply of water has been made to the National Water Commission or National Irrigation Commission Ltd. and, if so, with what result.....
-
-
- 12. Any further information which the Authority may take into account in considering the application.....
-
-

Terms and Conditions of Licence

1. Water may be abstracted pursuant to this licence only from.....
(source)

.....located at.....

such abstraction to be at a rate not exceeding.....cubic
metres per day.

2. Water abstracted pursuant to this licence may be used for the
following purposes only:

.....
.....
.....

3. Water may be abstracted pursuant to this licence in the following
manner only:

.....
.....

4. Within thirty (30) days of the installation of the pump by which
water is to be abstracted the licensee shall install on the supply line
leading from such pump, a full flow meter (of a type approved by
the Authority) for the purpose of measuring the water abstracted.

5. The licensee shall make a monthly return to the Authority of the
amount of water abstracted.

6. The licence becomes null and void if within twelve months from
the date of the issue thereof, no water is abstracted or used from
the approved source pursuant to such licence.

7. The licence shall be valid for a period of.....from
the date of the issue thereof, subject to the provisions of the Act
and Regulations made thereunder relating to its revocation, suspen-
sion and variation.

WATER RESOURCES

Additional Terms and Conditions (if any)

Dated this day of , 19

Seal

.....
Secretary,
Water Resources Authority.

(To be completed in duplicate)

Application No.....

THE WATER RESOURCES ACT

APPLICATION FOR CONSENT OF AUTHORITY TO WELL-DRILLING

- 1. Name of Applicant.....
- 2. Address of Applicant.....
.....
- 3. Location of proposed work or of existing work.....
.....
- 4. Indicate the nature of your interest in the land on which well-drilling is to take place (i.e. whether you are owner, lessee, tenant, etc.)
- 5. Name of Drilling Contractor.....
- 6. Address of Drilling Contractor.....
- 7. Purpose of drilling.....
.....
- 8. Technical details :
 - (i) Estimated depth of borehole or well.....metres
 - (ii) Diameter of borehole or well.....centimetres
 - (iii) Method of drilling.....
 - (iv) Method of construction.....
 - (v) In the case of artesian supplies, the method proposed for controlling the flow from the borehole and for preventing leakage around the borehole lining.....
.....
 - (vi) Other technical information.....
.....
.....
- 9. Any further matters which the Authority should take into account in considering the application.....
.....
.....

[The inclusion of this page is authorized by L.N. 96/1998]

FORM D (Regulation 18 (2))

Consent No.....

THE WATER RESOURCES ACT

CONSENT OF THE WATER RESOURCES AUTHORITY TO WELL-DRILLING

.....of
Name

.....
Address

is hereby given consent to:

- sink ()
 - enlarge ()
 - otherwise alter ()
- } Tick as appropriate.

a well on land located at.....

.....

subject to the provisions of the Water Resources Act and Regulations made thereunder and to such terms and conditions as are specified herein.

Terms and Conditions

1. This consent shall be valid for a period of..... from the date hereof, subject to the provisions of the Act and the regulations relating to its revocation, suspension and variation.
2. The following works only are hereby authorized to be done:—

.....
.....

Additional Terms and Conditions (if any).

Dated this day of , 19 .

Seal

.....
Secretary,
Water Resources Authority.

WATER RESOURCES

FORM E

(Regulation 19 (1))

(To be completed in duplicate)

Application No.....

THE WATER RESOURCES ACT

APPLICATION FOR WELL-DRILLER'S LICENCE

- 1. Name of Applicant.....
- 2. Address of Applicant.....
.....
- 3. Date of Birth.....
- 4. Educational background.....
.....
.....
- 5. Indicate specific training relevant to well-drilling.....
.....
.....
- 6. Indicate specific experience in well-drilling.....
.....
.....
.....
- 7. Are you self-employed?.....
- 8. If not self-employed:
 - Name of Employer.....
 - Address of Employer.....
 - How long employed by present Employer?.....
- 9. State names and addresses of two references.....
.....
.....
.....
.....

WATER RESOURCES

FORM F (Regulation 19 (3))

Licence No.....

THE WATER RESOURCES ACT

WELL-DRILLER'S LICENCE

.....of.....
(Name of Licensee) (Address of Licensee)

is hereby granted a licence to practise as a well-driller, subject to the provisions of the Water Resources Act and Regulations made thereunder and to such terms and conditions as may be specified herein.

The licence shall be valid for a period of..... from the date hereof, subject to the provisions of the Act and Regulations relating to its revocation and suspension.

Terms and Conditions of Licence (if any)

Dated this day of , 19 .

Seal

.....
Secretary,
Water Resources Authority.