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THE NATIONAL IRRIGATION ACT, 2013

ARRANGEMENT OF SECTIONS

Section *Title*

PART I
PRELIMINARY PROVISIONS

1. Short title and commencement.
2. Interpretation.

PART II
ADMINISTRATION

3. Establishment of National Irrigation Commission.
4. Investment in the Irrigation development.
5. Functions and powers of the Commission.
6. Committees of the Commission.
7. Seal of the Commission.
8. Appointment of the Director General.
9. Appointment of other Directors.
10. Staff of the Commission.
11. Regional Irrigation offices.
12. Regional Secretariat.
13. District Irrigation Department.
14. Appointment of Irrigation Inspectors.
15. Powers of Irrigation Inspector.
16. Restriction of unqualified Irrigation Inspector.

PART III
DECLARATION OF IRRIGATION AREA AND LAND CLASSIFICATION

17. Declaration of irrigation area.
18. Land acquisition for irrigation development.
19. Classification of Irrigation land.

PART IV
CONSTRUCTION OF IRRIGATION WORKS

20. Undertaking of irrigation works.
21. Application for construction of irrigation works.
22. Construction and commissioning of irrigation works by Commission.
23. Consequences of construction of irrigation works.
24. Compensation for damage suffered due to construction of irrigation works.
25. Entrustment of irrigation works.
26. Construction of minor irrigation works.

PART V
CATEGORIZATION AND APPROVAL OF IRRIGATION
SCHEMES AND IRRIGATORS

27. Categorisation of irrigation schemes.
28. Categorisation and approval of irrigators.

PART VI
MANAGEMENT OF IRRIGATION SCHEMES

29. Management of irrigation schemes.
30. Establishment of irrigators' organizations.
31. Objects of the Irrigators' Organizations.
32. Functions of the Irrigators' Organizations.
33. Sources of funds for the Irrigators' Organizations.
34. Procedure for taking up works.
35. Allocation of irrigation plots.
36. Disputes settlement on irrigation schemes.
37. Withdraw and surrender of irrigation plots.
38. Power to prescribe good agricultural practices and irrigation methods in the irrigation area.
39. Power to take over irrigation works.
40. Irrigation service fees.
41. Operation and maintenance of irrigation schemes.
42. Clearance of banks.
43. Commission to order provision of proper banks.
44. Procedure on failure to contribute for the cost or labour for work to be done by joint labour.
45. Distribution of water from Irrigation works.
46. Prohibited acts.
47. Obligation of land owners in respect of works affecting safety of the irrigation works.
48. Control of navigation and unplanned canal crossings.
49. Inter-basin water transfer for irrigation.
50. Monitoring and evaluation or performance of irrigation schemes.

PART VII
ENVIRONMENTAL AND HEALTH PROTECTION

51. Compliance with environmental requirement.
52. Commission to coordinate and promote irrigation research

PART VIII
FINANCIAL PROVISIONS

53. Establishment of the Irrigation Development Fund
54. Use of the Fund
55. Advances to the Fund.
56. Management of the Fund.
57. Accounts and Audit of the Irrigation Development Fund.

58. Funds of the Commission.
59. Annual budget of the Commission.
60. Accounting and audit.
61. Powers to borrow and invest.
62. Financial year.

**PART IX
OFFENCES AND PENALTIES**

63. Offences and penalties.
64. Offence by body corporate or firm.
65. Civil liability not affected.

**PART X
GENERAL PROVISIONS**

66. Duty of secrecy.
67. Service of notices.
68. Keeping records.
69. Stakeholders' meeting.
70. Commission to call for information.
71. Powers of the Minister to require information.
72. Commission to establish and maintain collaboration.
73. Indemnity and liability.
74. Recovery of cost of repairing damage where an offender is unascertainable.
75. Mode of recovery of money.
76. Powers to make Regulations.
77. Transitional provisions.

SCHEDULE

NOTICE

This Bill to be submitted to the National Assembly is published for general information to the general public together with a statement of its objects and reasons.

Dar es Salaam,
5th June, 2013

OMBENI Y. SEFUE
Secretary to the Cabinet

A BILL

for

An Act to provide for the establishment of the National Irrigation Commission; to provide for the development, operation and maintenance of irrigation and drainage systems; to provide for effective implementation the National Irrigation Policy, the National Irrigation Development Strategy and to provide for other related matters.

Enacted by the Parliament of the United Republic of Tanzania.

PART I PRELIMINARY PROVISIONS

Short title and
Commencement

1. This Act may be cited as the National Irrigation Act, 2013 and shall come into operation on such date as the Minister may by notice in the *Gazette* appoint.

Interpretation

2. In this Act unless the context otherwise requires-

“authorized officer” means an officer acting for and on behalf of the Commission, Local Government Authority or the Management Committee of Irrigators’ Organisation for the purposes of implementation of this Act;

“canal” means an open channel carrying water including situations passing through tunnel enroute;

“channel” means any ditch, channel, aqueduct, trench, conduit, tunnel, sluice, or fluming;

“Commission” means the National Irrigation Commission a established under section 3;

“conduit” means a pipe or line of pipes of any material or a series

- of culverts joined together for conveyance of water for irrigation or drainage purposes;
- “Director General” means the Chief Executive Officer of the Commission appointed under section 8;
- “distribution system” includes-
- (a) all main canals or conduits, branch canals or conduits, distribution canals or conduits or minor canals constructed, maintained and operated for the supply and distribution of water for irrigation;
 - (b) all works, structures and appliances connected with the distribution of water for irrigation; and
 - (c) all field channels, farm channels and other related channels and structures under a sluice or turn out;
- “drainage” means the practice of causing water to be removed from the surface or subsoil of land by natural or artificial means for betterment of agriculture or other purposes;
- “drainage system” means a series of structures and other allied infrastructure including the main, secondary, tertiary and field drainage canals or conduits necessary for the removal of excess water and salts from an irrigation scheme in order to allow effective agricultural operations and to prevent water logging;
- “drainage water” means water which is removed from land by means of drainage works or by natural drainage means;
- “drainage works” includes the construction and maintenance of drainage canals and channels including sub-oil drain pipes, culverts, banks, water gates, sluices and other similar works for drainage purposes;
- “Fund” means Irrigation Development Fund as established under section 53 of this Act;
- “field channel” means irrigation system channel used to convey irrigation water from tertiary canal into the fields;
- “headworks” means the engineering works constructed at the point of abstraction of irrigation water such as structures on a river stream, pumping system or works at a dam or water reservoir;
- “Integrated Water Resources Management” means an approach in water resources management and development which holistically considers all users of the resource upstream and downstream of the system including the ecology;
- “irrigable” as applied to land means land of such situation and quality as to be capable of being irrigated from the works or proposed works of an undertaking;
- “irrigation” means the application of a specific amount of water at

a particular location in order to meet the requirements of a crop growing at that location in amounts that are appropriate to the crop's stage of growth, it can also involve the application of water in amounts necessary to bring soil to the desired moisture level prior to crop planting;

“irrigation activities” means operation and maintenance of the irrigation system in an irrigation scheme for the purpose of crop production;

“irrigation area” means an area irrigated or capable of being irrigated either by gravitational flow or by lift irrigation or by any other method so declared by the Minister under the provisions of section 17 of this Act;

“irrigation efficiency” means a ratio between the amount of water effectively used for crop growth to the amount diverted from the source;

Cap.366

“irrigation Inspector” means an officer appointed under section 14 of this Act to work as inspector;

“irrigation potential” means a total area which is technically feasible, economically and financially profitable, socially viable and environmentally acceptable that is irrigated or capable of being irrigated on the basis of water availability, land availability and suitability;

“irrigation project” means an undertaking to rehabilitate, upgrade, improve or develop an irrigation and drainage system within a specified time frame;

“irrigation scheme” means an area where crops are grown under irrigation through any method including flood recession; gravity or pump fed canal systems supplying either surface or groundwater; water harvesting and pressurized systems such as drip and sprinkler;

“irrigation season” means that period of time determined by the Irrigators' Management Committee during which irrigation water shall be made available to an irrigation area”;

“irrigation service” means all activities aimed at enhancing sustainability of an irrigation scheme including but not limited to studies, planning, research, designing, construction, operation and maintenance of irrigation scheme and capacity building programme;

“irrigation service fees” means fees payable and collected in terms of section 40 of this Act for the purposes of meeting costs of development, operational and maintenance of irrigation works;

“irrigation system” means a series of structures and other allied

infrastructure including the headworks, water conveyance and distribution systems, farm infrastructure, machinery and equipment, necessary to provide the supply of water for irrigation to a parcel of land;

“irrigation water” means water which is put on to or retained on land in an irrigation area by means of irrigation works and includes water reaching such land as rainfall;

“irrigation works or irrigation and drainage infrastructure” means physical infrastructure developed or installed in an irrigation system for the purpose of facilitating availability of irrigation water from a water source for crop production covering abstraction structures, conveyance structures, distribution structures, drainage structures and on-farm service roads and include-

(a) all canals, field channels, dam and tanks, tube wells and filter point wells which are intended or which may be used for the supply, collection, storage or retention of water for agricultural purposes;

(b) all works, embankments, structures, supply and escape channels connected with such canals, channels, dams or tanks and spouts installed to supply water;

(c) all water courses which are supplied with water from such canals, channels, dam, tanks or spouts;

(d) all drainage works associated with irrigation systems, that is to say, canals, channels, escape channels from a canal or channel, dam or tanks, weirs, embankments, sluices, groynes, field channels, and other works for the protection or benefit of agricultural lands or for the reclamation of such other lands;

(e) all works intended for preventing or regulating the entry of salt water into agricultural lands;

(f) all works in an irrigation scheme occupied by irrigators for the purpose of facilitating irrigated agriculture such as canals, channels, reservoirs or tanks and all buildings, machinery, fences, gates and other erections on such lands; and any other work which the Commission may, by notification, declared to be an irrigation work;

“irrigator” means an individual, company, or organization which undertakes irrigation operation in a particular scheme;

“irrigators’ organization” means group of farmers formed and registered under this Act or any other written law and approved by the Commission pursuant to section 30 of this Act to accommodate the joint interests and activities of all the farmers on an irrigation scheme primarily for ensuring

increased crop production and productivity through optimal management of irrigation water and the operation and maintenance of their scheme;

“land or plot holder” means the owner, or any other person in lawful possession of land in the irrigable area of any irrigation scheme recorded as such in the records of the Commission and includes a lease or tenant and cultivator or other person in actual possession, management or control of any irrigable land;

“large scale irrigation scheme” means an irrigation scheme with a command area greater than two thousand hectares;

“lift irrigation work” means an irrigation work by which water is supplied for agricultural purposes with the aid of a pump set or other mechanical devices;

“local government authority” means a local government authority as defined in the Local Government (District Authorities) Act and term “Local Government Authorities” shall be construed accordingly;

“medium scale irrigation scheme” means irrigation scheme with a command area between five hundred and two thousand hectares;

“member” means a member of the Commission;

“Minister” means the Minister responsible for irrigation;

“minor irrigation work” includes any irrigation work facilitating irrigation or useful for the drainage or protection of an irrigable area of not more than fifteen hectares but shall not include a lift irrigation work;

“prescribe” means prescribed by Regulations or Rules made under this Act;

Cap. 97 “Regional Secretariat” means the Regional Secretariat established under the Regional Administration Act;

Caps. 113 and 114 “right of occupancy” has the meaning ascribed to it under the Land Act and Village Land Act;

“shared functions” means a joint function undertaken or to be undertaken by all stakeholders as may be agreed upon including research, training, extension services, inputs supply, crop development and promotion, irrigation and drainage infrastructure development;

“smallholder farmer” means a farmer engaged in irrigation farming on a small holding of agricultural land which is up to five hectares and which is worked by only himself or with members of his family;

“small scale irrigation scheme” means an irrigation scheme with a command area up to five hundred hectares;

“stakeholders” means a person or an organisation involved in the irrigation sector including central government, local government authorities, Commission, development partners, cooperative societies, producers, dealers of irrigation equipment, input suppliers, research and extension service providers and all persons with vested interest in irrigation development;

“water course” means a river, stream, springs, channel, lake and includes any tributary or branch of any river, stream, springs or channel;

“water management” means all deliberative human activities designed to optimize the availability and utilization of water for agricultural purposes;

Cap. 331 “water resource” has the meaning ascribed to it under the Water Resources Management Act;

“water user” includes any individual or body corporate or a society or an institution or organization using water for any purpose from an irrigation system;

Cap. 331 “water use permit” shall have the same meaning as ascribed to it under the Water Resources Management Act.

PART II ADMINISTRATION

Establishment
of the National
Irrigation
Commission

3.-(1) There is hereby established a Commission to be known as the National Irrigation Commission.

(2) The Commission shall be an independent department of the Government under the Ministry responsible for irrigation.

(3) The Commission shall be a body corporate with perpetual succession and a common seal and shall in its own corporate name, be capable of-

- (a) suing and be sued;
- (b) acquiring and disposing movable or immovable property;
- (c) borrowing money and entering into contracts or other transactions; and
- (d) do all such other things for proper performance of its duties, and discharge its functions under this Act and any other subsidiary legislation made thereunder.

(4) Notwithstanding the preceding provisions of this section

- (a) the Commission shall have a duty of notifying the Attorney General of any impending suit or intention to institute a suit or matter for or against the Commission;
- (b) the Attorney General shall have the right to intervene in

any suit or matter instituted by or against the Commission.

(5) Where the Attorney General intervenes in any matter in pursuance of subsection (4), the provisions of the Government Proceedings Act, shall apply in relation to the proceedings of that suit or matter as if it had been instituted by or against the Government.

(6) The Commission shall have a governing Board composed of a Chairman appointed by the President and ten other members appointed by the Minister as follows-

- (a) a representative nominated from the Ministry responsible for agriculture;
- (b) a representative nominated from the Ministry responsible for land;
- (c) a representative nominated from the Ministry responsible for water;
- (d) a representative nominated from the Ministry responsible for environmental matters;
- (e) a Principal State Attorney nominated by the Attorney General;
- (f) a representative nominated from the Ministry responsible for local government;
- (g) a representative nominated from the Ministry responsible for livestock and fisheries development;
- (h) two representatives from the Irrigators' Organizations;
- (i) a person qualified in matters relating to irrigation nominated from a higher learning institution that offers irrigation training programme.

(7) The Director General of the Commission shall be the Secretary.

(8) In nominating a representative, regards shall be had on the need to nominate a person who has adequate knowledge in their respective profession and capacity to make decisions.

(9) The provision of the First Schedule shall have effect as to tenure of office, cessation of membership and other proceedings of the Commission.

(10) The Minister may, by Order published in the *Gazette*, amend, add to, vary, revoke or replace any of the provisions of the First Schedule other than the provisions set out in paragraph 2 of the Schedule.

4.-(1) Subject to the provisions of this Act, the Commission may by itself or in collaboration with the private sector, invest in the irrigation development as the Commission may deem fit, and

may from time to time vary, withdraw or realize any such investments.

(2) The Commission shall exercise such powers for the carrying out of such activities as are necessary and advantageous in the development and management of the irrigation sector.

(3) The Commission shall primarily oversee, monitor, regulate and supervise the implementation of functions of the Commission as prescribed under this Act.

Functions and powers of the Commission

5.-(1) The Commission shall be responsible for coordination, promotional and regulatory functions in the development of the irrigation sector.

(2) Without prejudice to the generality of subsection (1), the Commission shall-

- (a) advise the government on implementation and review of the National Irrigation Policy, Strategy, National Irrigation Master Plan and related legislation;
- (b) represent the government in the national and international *fora* and collaborate with both local and international firms or organizations in all matters pertaining to irrigation development and management;
- (c) coordinate all interventions in irrigation sector conducted by the development partners and other stakeholders;
- (d) promote and maintain cooperation in irrigation and drainage with similar bodies in other countries and with international bodies connected with irrigation and drainage;
- (e) advise the Minister on declaration of irrigation areas for the purposes of this Act;
- (f) plan, carryout studies, design, construct, supervise and administer implementations of the irrigation projects;
- (g) establish and maintain irrigation construction equipment centres and provide hiring services to support private sector in the irrigation investment;
- (h) register and maintain a register of all Irrigators;
- (i) promote institutional linkages training programmes and support the recruitment of persons for purposes of employment in connection with the irrigation sector;
- (j) act as a forum for information sharing pertaining to irrigation and drainage matters;
- (k) build capacity of the irrigator for effective participation at all levels in irrigation planning, implementation, operation and management;
- (l) undertake and coordinate research, disseminate

appropriate technologies emanating from the research findings and provide technical support services on irrigation;

- (m) promote development of multipurpose water storage facility for irrigation purposes and other social economic activities;
- (n) regulate all matters related to irrigation development and overseeing collaborations among different players in the development of irrigation and drainage;
- (o) approve construction of irrigation works, standards and guidelines for the development and management of irrigation and drainage;
- (p) promote efficient water use in irrigation systems and ensure compliance with the Integrated Water Resources Management approach in irrigation development;
- (q) advise the government in all matters relating to development and management of irrigation sector in the country; and
- (r) perform any other functions which are necessary for effectively carrying out the purposes of this Act.

Committees of the Commission

6.-(1) The Commission may, for the purpose of facilitation of the performance of its functions under this Act, establish such number of Committees to perform specific functions as may be directed by the Commission.

(2) The size functions and terms and conditions of such committees shall be as may be determined by the Commission.

Seal of the Commission

7.-(1) The common seal of the Commission shall not be affixed to any instrument except in the presence of the Chairman or the Director General or some other officer of the Commission and at least one member of the Board.

(2) The Commission may appoint and employ agents or officer to manage, administer, transact any business or do any act or render any services required to be transacted or done in the execution of its functions or for the better carrying into effect the purposes of this Act or any other written law enforced by the Commission.

Appointment of the Director General

8.-(1) There shall be the Director General of the Commission who shall be appointed by the President from amongst persons who possess high level of integrity, necessary qualifications, experience and competence to manage efficiently and effectively the affairs of the Commission.

(2) The Director General shall be the Chief Executive Officer of the Commission and shall be responsible for day to day administration and management of the affairs of the Commission and shall in particular-

- (a) be responsible for the management of funds, property and business of the Commission and for the administration, organization and control of the staff of the Commission;
- (b) enforce the provisions of this Act and any other subsidiary legislation made thereunder;
- (c) keep in custody the seal of the commission;
- (d) maintain records of all activities of the Commission;
- (e) register and maintain a register of irrigators and irrigation schemes;
- (f) monitor and assess activities being carried out in the irrigation schemes in order to ensure that they are advantageous to the national economy;
- (g) perform any other functions that are necessary for effective carrying out the provisions of this Act.

(3) For proper discharge of his functions under this Act, the Director General may assign his powers provided herein to any officer by title or name.

(4) In the performance of his function under this Act or any subsidiary legislation made thereunder, the Director General shall comply with the directive of the Commission as may be issued from time to time.

Appointment
of other
Directors

9. There shall be such number of Directors to be appointed or employed by the Commission from amongst persons who possess high level of integrity, necessary qualifications, experience and competence to manage efficient and effectively the affairs of the Commission.

Staff of the
Commission

10.-(1) The Commission shall have powers to establish such numbers of sections or offices as it may deem fit for proper discharge of its functions under this Act.

(2) The Commission may appoint such officers or other staff as necessary for the proper discharge of its functions under this Act or any other written law and upon such terms and conditions of service as the Commission may determine.

(3) Officers and employees of the Commission shall hold office for such period, receive such salaries, allowances and benefits, subject to such terms and conditions of services as may be determined by the Commission.

(4) Where a person is seconded or transferred to the service of the Commission under this Act, his terms and conditions of employment with the Commission shall not be less favourable than those of his previous employment in the public service, and his service with the Commission shall be deemed to be continuous with his previous employment in the public service for the purposes of determining his entitlement to and quantum of pension, gratuity or other superannuation benefit.

Regional
irrigation
offices

11.-(1) For effective discharge of functions of the Commission, the Commission shall establish such number of region irrigation offices to be headed by Regional Irrigation Managers as it may deem fit.

(2) A Regional Irrigation Managers shall be responsible for the following functions-

- (a) provision of expertise and services to the local government authorities in the development and management of irrigation and drainage infrastructure within respective jurisdictions in collaboration with other relevant authorities;
- (b) identification of irrigation potential areas for irrigation development within their respective jurisdictions;
- (c) preparation of irrigation projects feasibility studies, detailed designs and tender documents;
- (d) provision of technical support to local government authorities and the private sector in the development and management of irrigation schemes in their areas;
- (e) preparation of manuals for operation and maintenance of irrigation schemes;
- (f) assisting in the formulation of farmers irrigation organizations;
- (g) incorporate or mainstream environmental management issues in irrigation and drainage plans and designs;
- (h) data collection for irrigation data bank;
- (i) preparation of plans for the utilization of groundwater and rain water resources for irrigation purposes;
- (j) ensuring quality control of irrigation and drainage infrastructure;
- (k) supervision of construction and rehabilitation of irrigation and drainage works;
- (l) dissemination of new construction innovations on irrigation and drainage infrastructure;
- (m) facilitation on the undertaking of adaptive and applied research on various irrigation and drainage aspects;

- (n) promotion of renewable energy for irrigation and drainage purposes;
- (o) promotion on the use of locally available construction materials tested with positive results for optimization of costs and water losses; and
- (p) collaboration with Basin Water Boards established under the Water Resources Management Act to promote integrated Water Resources Management and issues regarding irrigation water use permits.

(3) A regional irrigation manager shall be appointed from amongst senior public officers with relevant qualifications, experience, skills and competence in irrigation development.

(4) The Regional irrigation Manager shall, in the performance of his functions be accountable to the Director General.

Regional
Secretariat

12.-(1) There shall be recruited within the Regional Secretariat a Regional Irrigation Officer who shall be responsible for coordination of regional irrigation development and in particular-

- (a) be a liaison officer between the Commission and the District authorities on the implementation and enforcement of this Act;
- (b) facilitate the promotion, development, fostering and upholding of local government authorities in realisation of the goals and targets of those local government authorities in relation to irrigation development;
- (c) advise the designation of the District Irrigation Offices in their areas to foster irrigation development and management.

District
Irrigation
Departments

13.-(1) For the betterment of carrying out the provisions of this Act, the Minister responsible for local government may, in consultation with the Minister establish Irrigation Department in a District Authority as may be advised by the Commission.

(2) The District Irrigation Department shall be headed by the District Irrigation Engineer and equipped with professional qualified staff in relevant field.

(3) Functions of the District Irrigation Department shall be to assist the Commission in execution of its functions as provided for under section 5 of this Act.

(4) Without prejudice to the generality of sub-section (3), the District Irrigation Department shall be responsible for the following-

- (a) to identify irrigation schemes, planning and designing, construction and operation and maintenance of irrigation schemes in collaboration with the Regional Irrigation Offices;
- (b) to provide linkage between Regional Irrigation Offices and irrigators' organizations;
- (c) to collaborate with stakeholders in respective districts as regards to the development and management of irrigation schemes;
- (d) to collect, maintain and disseminate data in relation to the irrigation activities in their respective areas;
- (e) to facilitate the formation of irrigators organisations and ensure that organisations are equipped with required skills for effective and sustainable irrigation management;
- (f) to ensure that irrigators are provided with appropriate training for effective management of irrigation schemes for enhancing production and productivity of crops;
- (g) to support the formulation and enforcement of irrigation by-laws by the Irrigators Association in their jurisdiction areas;
- (h) to support irrigators in soliciting funds for irrigation development;
- (i) to disseminate guidelines on irrigation interventions;
- (j) to ensure that village leadership support irrigation development intervention in their areas;
- (k) to provide backstopping services to the farmers in the irrigation scheme by establishing irrigation scheme management support teams;
- (l) to implement all directives as regards to the irrigation development and management which may be issued by the Commission from time to time; and
- (m) to perform such other duties in regard to irrigation development as provided for under this Act.

(5) The District Irrigation Engineer shall, prepare on quarterly basis a report on the performance of his functions for submission to the Regional Irrigation Manager.

Appointment
or of Irrigation
Inspectors.

14.-(1) The Commission shall, upon the recommendation of the Director General and by notice published in the *Gazette*, appoint or designate qualified irrigation engineers or any other officer from regional offices or under the local government authorities to be Irrigation Inspector who shall exercise powers generally respecting irrigation matters in accordance with the

provisions of this Act or as may be prescribed.

(2) Any person appointed or designated as Irrigation Officer under sub-section (1) shall be given an identity card or a document as a proof of his appointment or designation which shall be produced on entering of any premise in the exercise of his powers under this Act.

(3) Inspectors appointed under this section shall, in the performance of their function be accountable to the Director General.

Powers of
Irrigation
Inspector

15.-(1) An Irrigation Inspector appointed or designated under section 14(1), may at any reasonable time of day and upon reasonable notice -

- (a) enter into any irrigation scheme or any place where irrigation activities are undertaken, and inspect and examine works for purposes of ensuring that the provisions of this Act or any regulation or rules made hereunder or any directions given or order made by the Minister, the Director General are being complied with;
- (b) require any person to produce for inspection or for the purpose of obtaining copies thereof or extract therefrom, any document relating to financing, drawings, designing, intended for the construction or installation of any irrigation work;
- (c) order the owner or occupier of the irrigation land to-
 - (i) maintain, repair, renew or replace any channel, pipe, building, structure, fitting, equipment, tank, pond, dam or other facility forming part of the irrigation and drainage system;
 - (ii) clear any channel, pipe, fitting, equipment, tank, pond, dam or other facility forming part of the irrigation or drainage system provided by the authority;
 - (iii) clear the bush, weeds or sides of any drainage or irrigation works that are likely to damage works or harbour rats or other vermin.
- (d) inspect, examine or survey land in connection with the planning, design or construction of an irrigation or drainage system, or extensions to or alterations of, an irrigation or drainage system and for that purpose the irrigation inspectors may-

- (a) fix posts, stakes or other markers on the land; or
- (b) dig trenches or sink test holes on the land to determine the nature of the top soil and underlying strata; or
- (c) remove samples of any material from the land for analysis; or
- (d) exercise any other powers that are necessary for the implementation of this Act.

(2) The owner or occupier of any land or premises and every person found therein, shall give to an irrigation inspector all reasonable assistance in exercising his powers provided herein.

(3) An irrigation inspector may if he has reasonable grounds, that any of the provisions of this Act or regulations or orders made under this Act has been violated, he seize or issue a stop order by means of or in relation to which the violation was committed.

(4) Any person who is aggrieved by orders of an inspector under this section may, within fourteen days from the date of issuance of the orders, appeal to the Minister.

Restriction of
unqualified
Irrigation
Inspectors

16. Any person not being qualified as an Irrigation Inspector, who purports to act as Irrigation Inspector commits an offence and upon conviction shall be liable to a fine not less than two million but not exceeding ten million shillings or to imprisonment for a term of not less than two years but not exceeding three years or to both such fine and imprisonment.

PART III
DECLARATION OF IRRIGATION AREA AND LAND CLASSIFICATION

Declaration
of irrigation
area

17.-(1) The Minister responsible for land may, after consultation with the Minister and by Order published in the *Gazette*, declare any area specified in the order to be an irrigation area for the purposes of this Act.

(2) A declaration made under sub section (1), shall define the boundaries of such area and may include headworks and conveyance systems of any method.

(3) Where it is proposed to constitute an irrigation area under sub-section(1), the Commission shall forward to the Minister a report with respect to the proposed areas which shall contain or be accompanied by the following particulars, namely-

- (a) map or plan showing the boundaries and the extent of the lands proposed to be comprised in the area;
- (b) a description setting forth the scheme and purpose of the proposed irrigation works;
- (c) a general plan, prepared on a scale approved by the Minister, showing the nature and extent of the proposed irrigation works;
- (d) report on the Environmental and Social Impact Assessment;
- (e) an estimate of the total cost of the irrigation works if to be constructed by the Commission and of the annual charges necessary for the maintenance and management of the scheme;
- (f) an estimate of the annual revenue expected to be derived from the proposed works;
- (g) an estimate of the quantity of water that is proposed to be made available for use for irrigation purposes in the area, after making allowance for present and probable future requirements for all or any other purposes; and a statement on the sources from which it is proposed to obtain it, specifying, where deemed necessary, the quantity and quality of water proposed to be taken from each of such sources and the seasons at which it is to be taken;
- (h) statement of the existing water sources within or outside of the area, over or from which it is intended that the Commission should exercise any control or draw any part of its supply, and the nature or extent of such control, and for what purpose such control is necessary;

- (i) an estimate of the approximate value of the existing irrigation works, if any, within the area which it is proposed that the Commission should take over from any existing authority or person;
 - (j) a statement of the quantity of irrigable land that may be beneficially irrigated, and of the character and description and value of such land in its then state, including all existing improvements;
 - (k) information in respect to the advantages which are likely to accrue generally from the establishment of the irrigation schemes in the said irrigated area; and
 - (l) any other information as may be prescribed in the Regulations.
- (4) The Minister may, at any time and upon advice of the Commission, by order published in the *Gazette*-
- (a) combine two or more irrigation areas into one area;
 - (b) divide an irrigation area into two or more areas;
 - (c) alter the boundaries of an irrigation area by including in an area part of another area and excluding it from the latter;
 - (d) include in an irrigation area an outlying area of the scheme;
 - (e) abolish any irrigation area; or
 - (f) adjust any financial or other matters in his opinion has an advantage or is beneficial for the irrigation development in the country.
- (5) Where any declaration referred to in sub-section (1), affects the existing land rights, the holder of such land shall be entitled to compensation in accordance with relevant land law or as may be agreed upon.

Land acquisition
for irrigation
development
Cap. 118

18. Where it is necessary for better achievement of objectives of this Act, the Minister may, upon consultation with the Minister responsible for Land and Minister responsible for Local Government, advise the President to acquire, subject to the provisions of the Land Acquisition Act, any land or any estate for the purposes of irrigation development.

Classification of
irrigation land

19. The Commission may, upon the recommendation of the Director General, classify all land within an irrigation area for its suitability for specific crops and irrigation methods.

**PART IV
CONSTRUCTION OF IRRIGATION WORKS**

Undertaking of
irrigation
works

20.-(1) For the purposes of this Act, irrigation works may be undertaken in an irrigation area by-

- (a) Local Government Authorities;
- (b) individual farmer;
- (c) irrigators organizations;
- (d) registered companies or firms;
- (e) Governmental or Non-Governmental Organizations; or
- (f) any other person approved by the Commission pursuant to this Act

(2) Notwithstanding the provisions of subsection (1), undertaking of irrigation works may be supported by the Commission in collaboration with any of approved entities.

(3) Where a local government authority or any other person or corporate body intends to invest in irrigated agriculture including carrying out studies, undertaking, operation and maintenance, may request for the services of the Commission to undertake such activities subject to such terms and conditions as may be agreed upon.

(4) Where necessary, construction of irrigation schemes shall among others, consider incorporation of watering points for the purposes of providing drinking water for livestock.

Application for
construction of
irrigation
works

21. No irrigation works shall be constructed until the proposed scheme of the undertaking has been submitted to the Commission for approval and such project is subjected to the Environmental Impact Assessment as provided for under the Environmental Management Act.

Cap. 191

(2) Any person who wishes to construct irrigation works in any irrigation area other than the Commission shall first apply for the approval to the Director General or any authorized officer acting on his behalf pursuant to the procedures prescribed in the regulations made under this Act.

(3) Application made under subsection (2) shall be accompanied with the following-

- (a) design report;
- (b) list of drawings;
- (c) bill of quantities;
- (d) water use permit;
- (e) title deed in case of private sector;
- (f) registration certificate issued under this Act for

aggregated farmers; and
(g) such other information as may be required by the Commission.

(4) Where the Director General is satisfied with the contents of the application, he shall refer to the Commission for approval, a list of applicants with this respective irrigation works.

(5) The Director General shall issue an irrigation certificate to every approved construction irrigation work.

Construction and commissioning of irrigation works by Commission

22. Where the Commission considers that it is necessary, in the interest of the general public, to construct an irrigation work of any kind on an irrigation area in collaboration with any person or body of persons, the Commission may, by notice publishing in the *Gazette*, declare its intention specifying the area which is proposed to be covered by such irrigation work and such other particulars of the intended irrigation.

Consequences of construction of irrigation works
Cap. 331

23.(1) Subject to the provisions of the Water Resources Management Act, where the Commission or any person authorized under this Act constructs an irrigation work for utilizing the water from a water source, the Commission or such other person shall be entitled to regulate abstractions, utilize, protect and distribute water in accordance with water use permit from such water source in such a manner as may suit the public purpose.

(2) No person shall, without the sanction of the Commission or such authority as may be authorised by the Commission in that behalf, construct any irrigation works or interfere with or obstruct the flow of water in any water channel.

(3) No person shall use water from any irrigation work owned or controlled or maintained by the Commission for any purpose other than domestic purpose without the authorization by the Commission or any other authorized officer.

Compensation for damage suffered due to construction of irrigation works.

24. Any person who, by reason of the construction of an irrigation work or exercise of any powers by any person or body of persons under this Act, suffers material damage on account of the deprivation or infringement of his right to use water source for the purpose of irrigating his land or for any other purpose, shall be entitled to a compensation for such damage in accordance with relevant laws governing compensation.

Entrustment of irrigation

25.(1) Where the Commission considers it necessary so to do, it may, subject to such terms and conditions as may be

works specified by it, entrust the construction of irrigation works, to any local government authority or irrigators organization or to any other body corporate.

(2) The local government authority or irrigators' organization or any other body corporate to which any work is entrusted under sub-section (1) shall undertake the operation and maintenance of such work after completion of formal agreement which shall stipulate terms and conditions for such maintenance and upkeep.

Construction of minor irrigation works **26.** The Commission may enter into service level agreement with the local government authority, irrigators organizations or any person for providing support in the construction and maintenance of all minor irrigation works as may be agreed upon.

PART V
CATEGORIZATION AND APPROVAL OF IRRIGATION
SCHEMES AND IRRIGATORS

Categorisa-tion of irrigation schemes **27.-(1)** The following shall be categories of irrigation schemes for the purposes of this Act-

- (a) small scale irrigation schemes;
- (b) medium scale irrigation schemes; and
- (c) large scale irrigation scheme.

(2) All irrigation works on an irrigation area shall be subject to approval or registration according to categorization at the Commission, regional and district levels in the manner provided for in the Regulations.

Categori-sation and approval of irrigators **28.-(1)** The following shall be categories of irrigators for the purposes of this Act-

- (a) individual farmers;
- (b) Irrigators Organizations;
- (c) companies;
- (d) public entities;
- (e) Non-Governmental Organisations; and
- (f) any other body of persons.

(2) An individual farmer or body corporate shall be recognized and approved as an irrigator pursuant to this Act if he-

- (a) is the owner or occupier of the land in a particular irrigation scheme and is a holder of Water Use Permit for irrigation purposes as issued under the Water Resources Management Act;

- (b) is in the approved irrigation scheme; and
- (c) is a holder of irrigation certificate issued under this Act.

PART VI MANAGEMENT OF IRRIGATION SCHEMES

Management
of irrigation
schemes

29.-(1) An irrigation scheme shall be managed by the local government authorities, public or private entities, individual farmers, or irrigators' organizations or any other body or body corporate.

(2) For effective management of irrigation schemes, it shall be the duty of the Commission, Regional Secretariat and local government authorities in collaboration with respective irrigators, to-

- (a) promote the formation of irrigators' organizations for the management of irrigation schemes;
- (b) ensure that all farmers owning land in an irrigation scheme are members of the irrigators' organization;
- (c) strengthen the capacity of irrigators for effective monitoring and management of the irrigation schemes;
- (d) support irrigators to prepare by-laws and facilitate their enforcement for proper management of irrigation schemes;
- (e) institute mandatory formal transaction on transfer of land from one farmer to another in an irrigation scheme for openness and transparency pertaining to the responsibility for the operation and maintenance of the irrigation infrastructure where necessary;
- (f) create awareness on Integrated Water Resources Management approach;
- (g) facilitate the establishment of apex forums of the irrigators' organization to enable them to have effective representation of schemes management into river basin management sub-system as provided for in the Water Resources Management Act;
- (h) institute public private partnership arrangement for effective operation and maintenance of irrigation schemes;
- (i) undertake transitional measures by providing competent staff to form scheme management support teams while the farmers through their organizations are getting experience to take over their responsibilities;
- (j) monitor public entities and private investors in medium and large commercial irrigation schemes to ensure that

Cap.331

they abide by the prevailing contractual agreements and propagate the benefits of their experience to the out-growers;

- (k) promote management of irrigation infrastructures by service providers in the private sector where farmers have demonstrated inadequate capacity;
- (l) create awareness and enforcement on participatory, demand driven, cost sharing and recovery on investments for schemes implemented through public funds;
- (m) promote development of value addition and marketing infrastructure to leverage investment;
- (n) ensure establishment and maintenance of irrigation data base at both national and local government authority levels for effective planning, implementation and management of irrigation interventions; and
- (o) perform any other functions necessary for the betterment of irrigation scheme management.

(3) Irrigators in a particular irrigation scheme shall be recognised as beneficiaries of the said scheme and as such, they shall-

- (a) be responsible for identifying problems and opportunities associated with their schemes;
- (b) participate in the planning, design and implementation of irrigation development and be fully responsible on operation and maintenance of their irrigation schemes in specified areas within the respective schemes; and
- (c) be entitled to receive relevant training and information on the management of water, environment, irrigation and best agronomic practices.

Establishment
of irrigators'
organization

30.-(1) The Commission in collaboration with the local government authorities shall facilitate the establishment of irrigators' organization with due consideration of layout of a particular irrigation scheme.

(2) With effect from the date of registration, all the farmers having agricultural lands or fields within a particular irrigation scheme shall be required to become members of the organization and be bound by the organization's by - laws.

(3) There shall be an officer to assist in the management of the activities of the irrigators' organizations who shall be designated or appointed from the District Irrigation Department by the relevant local government authorities after consultation with the Commission.

(4) The Commission or local government authority may,

from time to time, give directions or suggest modifications as and when required for the functions of the Irrigators' organizations or committee or authorise any officer or body of officers for forming and monitoring the activities of such organizations.

Objects of the irrigators' organizations

- 31.** Objects of the irrigators' organizations shall include-
- (a) to promote and secure equitable distribution of irrigation water among its users;
 - (b) to create awareness for water conservation, adequate maintenance of the irrigation systems, efficient and economical utilization of water to optimize crop production; and
 - (c) to protect the environment and to ensure ecological balance by involving the farmers, inculcating a sense of ownership of the irrigation systems in accordance with the provisions of the Environmental Management Act, the Water Resources Management Act, and any other related legislation.

Cap.191
Cap. 331

Functions of the Irrigators' Organizations

- 32.** The irrigators' organizations shall perform the following functions-
- (a) to prepare and implement water schedule for each irrigation season, consistent with the operational plan, based upon the water use permits, area, soil and cropping pattern as approved by the Commission or Local Government Authority;
 - (b) to prepare a plan for the operation and maintenance of irrigation system at the end of each cropping season and carry out the maintenance works of the irrigation system under its control with the funds of the irrigators organization from time to time;
 - (c) to regulate the use of water and land in its irrigation system;
 - (d) to promote water use efficiency of allocated water;
 - (e) to assist the Commission or local government authority in the collection of irrigation service fees and cost recovery fees as the case may be;
 - (f) to maintain a register of land holders and organization members within their irrigation scheme;
 - (g) to prepare and maintain an inventory of the irrigation system including assets and liabilities within their irrigation scheme;
 - (h) to monitor and keep records of water flows for irrigation;
 - (i) to resolve any disputes between the members within

- their irrigation scheme;
- (j) to cause and maintain annual audited accounts and other records as may be prescribed;
- (k) to review regularly water allocations and periodical performance monitoring and evaluation as may be prescribed; and
- (l) to perform any other functions as may be prescribed in their by-laws.

Sources of funds for the Irrigators' Organizations

33. The Irrigators' Organizations shall maintain their own funds for proper management of their activities such funds shall comprise the following-

- (a) fees collected from their members as provided for in their by-laws;
- (b) such other funds received by way of grant or donation from the government, individuals or body corporate to support for the irrigation development in their area of operation; and
- (c) any amount received from any other lawful source.

Procedure for taking up works.-

34. The Commission or local government authority shall authorize the Irrigators' organizations to take up and execute all the works for rehabilitation of their irrigation systems under close supervision of the Commission or Local Government Authorities as the case may be.

Allocation of irrigation plots

35.(1) For the schemes owned by irrigators organisations, the Management Committee of the irrigators' organisation shall in consultation with the Village Council, authenticate ownership of plots or allocate plots on an irrigation scheme as the case may be, to its members for such terms and conditions as it deems fit for effective development of irrigation within its area.

(2) In authentication or allocating plots, the Management Committee shall regard to the residence of the farmer and his capacity to effectively manage the authenticated or allocated land.

(3) A plot shall be registered in the name of a person whom the plot has been authenticated or allocated and shall be held by such registered holder for a period specified in the certificate of allocation as the case may be.

(4) A registered holder of a plot may in consultation with his Management Committee, dispose or transfer his right to any person or body corporate pursuant to the relevant land laws.

(5) Where the right to hold a plot is transferred to another

person, such new owner shall become fully responsible for the management of the land and associated irrigation infrastructure in accordance with the provisions of this Act.

Disputes
settlement on
irrigation
schemes

36.- (1) In order to minimize water and land conflicts on irrigation schemes, the Commission shall maintain close collaboration with the Local government authorities, Basin Water Boards and respective irrigators using water from the same water source and ensure the establishment of mechanisms for amicable settlements of disputes within the schemes through involvement of relevant government machineries.

Cap. 331

(2) For the purpose of this section Basin Water Board means Basin Water Board established under the Water Resources Management Act.

Withdraw and
surrender of
irrigation plots
Cap. 113 and
114.

37. The provisions of Land Act and Village Land Act governing land withdraw or surrender of land shall apply in relation to any holder of a plot who breaches the conditions for ownership or occupation of a plot in irrigation schemes or wishes to surrender the plot as the case may be.

Power to
prescribe good
agricultural
practices and
irrigation
methods in the
irrigation area

38.-(1) Whenever the Commission is satisfied that for the better utilization of land for irrigation and water use efficiency on an irrigation scheme, it is expedient and desirable in public interests to regulate the kind of agricultural practices and irrigation methods on irrigation area under such irrigation scheme, may by notice published in the *Gazette*, make a declaration to that effect.

(2) Subject to sub-section (1), the Commission, after consultation with the irrigators and respective local government authority, may specify by notification published in such manner as may be prescribed, the kinds of farming systems and irrigation methods that shall be practiced on any irrigation area.

(3) On the publication of a notification under sub-section (1), no person shall practice farming systems or use irrigation methods other than that specified in such notification during the period specified in such notification.

(4) Any person who contravenes the provision of sub-section (3), commits an offence and upon conviction shall be liable to a fine not less than two million shillings but not exceeding ten million shillings or to imprisonment for the terms of two years or to both.

Power to take

39. (1) Where the Commission considers that any irrigation

over irrigation works for maintenance

scheme owned by any person or body of persons is neglected or mismanaged, for the public interest, may by notification to such owner or occupier, temporarily take over the scheme and place under its management or management of the local government authority for maintenance.

(2) For the purpose of subsection 1, the Commission shall return the management of the scheme to the owner or occupier after necessary remedies and recover from the owner or occupier of the scheme, the costs relating to operation and maintenance thereof.

Irrigation service fees

40-(1) The Minister shall upon consultation with the Minister responsible for Finance, and by order published in the *Gazette* prescribe and irrigation service fees and such other fees or charges for irrigation operation and maintenance in an Irrigation area.

(2) The irrigation service fees shall be collected by the Commission, local government authorities or irrigators' organizations as the case may be for operation and maintenance of irrigation schemes.

Operation and maintenance of irrigation schemes

41.-(1) Depending on the size and nature of an irrigation scheme, the responsibility for operation and maintenance of such schemes shall be as follows-

(a) as for small scale irrigation schemes, the owners of the lands benefited by the irrigation system shall be solely responsible for the operation and maintenance unless otherwise specified;

(b) as for medium and large scale irrigation schemes, the irrigators benefited by the irrigation system shall be responsible for the operation and maintenance of secondary and tertiary conveyance systems up to the field level and the Local Government Authority or the Commission as the case may be, shall be responsible for ensuring proper management of headworks and main conveyance systems unless otherwise specified; and

(c) for privately owned irrigation schemes, it shall be the responsibility of the owner of the scheme to operate and manage the irrigation system unless otherwise specified.

(2) Where the land owners fail to operate and maintain their irrigation schemes and the Irrigation Inspector is satisfied that operation and maintenance of schemes is necessary for proper irrigation of lands of such owners, he shall by notice, require the

land owners concerned to operate and maintain the systems within such time or manner as may be specified in the notice.

Clearance of banks

42.-(1) The Commission may, by notice in writing, require the owner or occupier of any land within any irrigation or drainage area to clear the banks or sides of any drainage or irrigation works that is likely to damage such works or harbour rats or other vermin.

(2) Such notice shall require the owner or occupier to take the necessary action within a certain fixed time, which shall not be less than fourteen days from the date of the service of the notice, and if default is made in complying with the provisions of such notice the Irrigation Inspector may enter upon such land and cause action to be taken as required by the notice and may recover the cost of so doing from such owner or occupier in any Court of competent jurisdiction.

(3) The Irrigation Inspector may, by notice in writing, prohibit the owner or occupier of any land within such area from planting any tree or plant on the banks or sides of any irrigation or drainage works that are likely to damage such works or harbour rats and other vermins.

(4) If default is made in complying with the provisions of a notice issued under subsection (2), the Irrigation Inspector or any authorized officer may enter upon such land and cause action to be taken to clear any tree, plant or weed from such banks or sides or to remove any such tree, plant or weed and may recover the cost of so doing from the said owner or occupier in any Court of competent jurisdiction.

(5) Where the Irrigation Inspector requires the destruction of, or destroys, valuable trees or plants he shall, unless notice has been issued on a previous occasion under subsection (2) in respect of the land on which such trees or plants are growing, pay the owner or occupier reasonable compensation for the same.

Commission to order provision of proper banks

43. The Commission or any Irrigation Inspector may, by notice in writing, require the owner or occupier of any land within such area to provide, either individually or jointly with other owners or occupiers, proper banks or bunds to specified levels and distribution or drainage channels for the supply, drainage, retention or exclusion of water:

Provided that, no person shall be required under this section to provide banks, bunds, distribution or drainage channels which will not benefit the land whereof he is the owner or occupier.

Procedure on failure to contribute for the cost or labour for work to be done by joint labour

44.-(1) Where, by an agreement or for any other good reason, any irrigation work is to be done by the joint labour of irrigators in a particular irrigation scheme or at the cost of owners of all the lands likely to be benefited by such work, and where any of such owners fails or neglects to do his share of the work or contribute his share of the cost of labour, it shall be lawful for the Irrigation Inspector, or the Management Committee, or any other officer authorized by the Commission to investigate the matter and pass such order as he deems fit, and he may, by such order, also direct the defaulting owner to execute any portion of such work or pay any portion of the cost of the work.

(2) An order directing that the defaulting owner shall execute the portion of the work shall also specify the portion of the work to be executed, the time within which it shall be done, or the estimate of the cost of such work prepared in such manner as may be prescribed.

(3) Where the defaulting owner refuses or fails to execute such work within the time specified in the order under sub-section (1), the Irrigation Inspector, the Management Committee or such other officer authorized by the Commission under that sub-section may entrust the work to be executed by some other person, and the cost thereof may be recovered from the defaulting owner in such manner as may be prescribed.

Distribution of water from Irrigation works

45.-(1) The Commission shall, upon the advice of the Director General and by notice published in the *Gazette* and any newspaper of wide circulation, prescribe and circulate to the irrigators' organization guidelines for the distribution of water for all irrigation works constructed or maintained wholly or partly at the cost of government.

(2) Owners of private irrigation schemes shall prepare records of water abstractions and distributions and submit a copy of such records to the Commission through respective Regional Irrigation Offices to enable the Commission to monitor compliance with crop water requirement and Water Use Permit.

(3) Any person who contravenes subsections (1) and (2) commits an offence and upon conviction shall be liable to a fine of not less than one million shillings and not exceeding five million shillings or to imprisonment for a term of not less than one year or both.

Prohibited acts

46.-(1) A person shall not-

(a) occupy or encroach an irrigation land for purposes other than irrigated agriculture and the Irrigation;

- (b) let out any toxic industrial or domestic effluent to any irrigation scheme without proper treatment;
 - (c) obstruct the proper functioning of the various cross drainage works, such as culverts, aqueducts, super passages, siphons, weirs and allied works for the safety of conveyance and drainage works except with the written permission of the Irrigation Inspector;
 - (d) operate a sluice gate, regulator or flood gate of a reservoir, canal, or any other water conveyance systems of an irrigation work owned, controlled or maintained by the Government or irrigators organizations unless such person is an Irrigation Inspector or a person duly empowered by him in his behalf;
 - (e) fish in any reservoir owned, maintained or controlled by the Government or irrigators organizations without the prior permission in writing of the Irrigation Inspector and except in accordance with such terms and conditions and subject to the payment of such fees, as may be prescribed;
 - (f) use any explosive or any poisonous substance for the purpose of fishing in a reservoir;
 - (g) without the written permission of the Commission conduct mining or carrying operation using explosives or any other activity which may cause destructive seismic forces within a distance of one kilometer from the irrigation scheme:
 - (h) let out water from an irrigation work owned, controlled or maintained by the Government and irrigators organizations by cutting any bund or constructing a sluice or outlet or by any other similar contrivance;
 - (i) connects a channel or pipe to the irrigation or drainage system;
 - (j) places or causes to be placed a structure or install equipment in a channel or pipe connected to the irrigation or drainage system;
 - (k) uses a method of distributing irrigation water to plants on his land that has not been approved by the Commission in respect of the land and the plants to be irrigated.
- (2) Every landholder shall-
- (a) ensure that irrigation water does not drain or otherwise escape onto or into adjoining land so as to cause a nuisance to the adjoining landowner;
 - (b) maintain, and when necessary repair or replace the irrigation and drainage systems if so required;

- (c) not to block or impede the flow of water in any part of the irrigation or drainage system except at the direction, or with the approval, of the Commission or any authorised officer acting on its behalf;
- (d) when necessary, clear channels and pipes of the irrigation or drainage system provided to his land; or
- (e) ensure that channels and pipes on his land including those forming part of the irrigation and drainage systems are protected from damage that is reasonably foreseeable.

(3) Any person who contravenes the provisions of this section commits an offence and upon conviction shall be liable to a fine of not less than two million shillings and not exceeding five million shillings or to imprisonment for a term of not less than one year or both.

Obligation of land owners in respect of works affecting safety of the irrigation works.

47-(1) Every owner of land whose tank, well, pond or other reservoir is situated above the level of any irrigation work, shall maintain the bunds and any other protection arrangements of such tank, well, pond or other reservoir in safe and efficient condition.

(2) Where the Irrigation Inspector is of the opinion that the bunds or protection arrangements referred to in sub-section (1) are not in a fit condition and are likely to endanger the irrigation work below, the owner concerned shall be served with a notice requiring him to maintain such bunds or protection arrangements in a reasonably fit condition in such manner and within such time as may be specified in the notice.

(3) Where the owner fails to comply with the notice under sub-section (2) or the repairs done by him are in the opinion of the Irrigation Inspector unsatisfactory, the Irrigation Inspector may carry out necessary repairs to keep such bunds and protection arrangements in a fit condition, and the cost thereof shall be realized from such owner in such manner as may be prescribed.

(4) An appeal shall lie against any order of Irrigation Inspector under sub-section (3) before the Director General within thirty days from the date of receipt of the order by the owner and the Director General shall decide the appeal within thirty days from the date of receipt of that appeal and his decision thereon shall be final.

Control of navigation and unplanned canal crossings

48.-(1) The Commission may, in consultation with the Ministry responsible for transportation and the local government authorities, by Regulation prohibit or regulate navigation in an irrigation work.

(2) Every Irrigator or owner of irrigation scheme shall ensure that there is no unplanned canal crossings or watering points in an irrigation scheme.

(3) Any person who crosses through unplanned canal crossings or takes water or livestock to unplanned watering points, shall be guilty of an offence and upon conviction, shall be liable to a fine not less than one million or to imprisonment for a term of not less than one year or to both such fine and imprisonment.

Inter- basin water transfer for irrigation

49. Subject to the provisions of the Water Resources Management Act, no irrigation water from a water source in the basin of an irrigation area shall be transferred to any other basin, except in accordance with an agreement between the Commission, Basin Water Boards and respective local government Authorities.

Cap 331

Monitoring and evaluation of performance of irrigation schemes

50.-(1) At the end of each cropping season, the Irrigator's Management Committee in collaboration with the Commission and local government Authority shall conduct an evaluation including continuous monitoring of respective irrigation scheme.

(2) Monitoring and evaluation referred to under sub-section (1) shall involve both water utilization against water allocations and expenditure incurred for maintenance of the irrigation system with reference to funds available to the irrigators' organization.

(3) The performance monitoring and evaluation shall cover-

- (a) equity in water distribution;
- (b) increase in production;
- (c) increase in productivity;
- (d) crop diversification;
- (e) multiple cropping;
- (f) water use efficiency;
- (g) water quality;
- (h) utilisation of resources for execution of works;
- (i) improvement in the cultivated areas of the irrigators organization compared to previous season;
- (j) utilisation of research facilities in adopting high yield varieties of seeds, pesticides;
- (k) quality of works undertaken; and
- (l) step-wise development of irrigation system.

(4) The results so obtained shall be made known to all the beneficiaries of the irrigators organizations by displaying a list containing the benefits accrued with reference to funds spent on the notice board of the irrigators' organizations.

(5) Wherever a work is taken up by an irrigators' organization, the estimated cost of the work, item of work proposed to be executed, details of the executed work are to be exhibited on a board at the place of work.

(6) The Commission may render any assistance in the conduct of the performance monitoring and evaluation and the results shall be sent to all concerned parties as stipulated by the Commission from time to time.

(7) The performance monitoring and evaluation report shall be utilized on general performance improvements of the scheme.

(8) A copy of the audit report referred to in sub-section (7) shall be exhibited on the notice board of the irrigators' organization.

PART VII ENVIRONMENTAL AND HEALTH PROTECTION

Compliance
with
environmental
requirement

Act No. 20
of 2004

51. (1) The Commission shall ensure that all irrigation development are integrated with other natural resources development and management activities such as catchment management in order to protect the environment.

(2) Any person who washes articles in or otherwise pollutes or causes to be polluted any irrigation works shall be guilty of an offence and upon conviction, shall be liable to a fine not less than one million or to imprisonment for a term of not less than one year or to both such imprisonment and fine.

(3) Without prejudice to the generality of the foregoing, the Commission, in collaboration with other competent authorities in environment and health, shall-

- (a) carry out such other activities and take such other measures with regard to irrigation as may be necessary or expedient for the better protection of the environment and human health;
- (b) ensure compliance to the environmental protection requirement during planning, implementation and operation stages of irrigation schemes;
- (c) ensure that unacceptable environmental impacts are avoided and that features such as high water tables, salinity and erosion are monitored;
- (d) ensure that designs of irrigation schemes take into

- consideration safety measures for flood control and other natural disasters;
- (e) prohibit the use of such chemicals, pesticides and other substances as may be specified on any land under irrigation farming;
 - (f) control the grazing of livestock in irrigation and drainage areas and river banks of rivers supplying water to an irrigation scheme;
 - (g) provide for the environmental standards to be adhered by the Irrigators in the schemes development; and
 - (h) ensure that all irrigators comply with other written laws governing the environmental protection and good agricultural practices.
- (4) For purposes of environmental protection, local government authorities and other stakeholders shall-
- (a) ensure that all irrigators comply with the directions requiring them to protect the environment within and in the vicinity of the irrigation areas; and
 - (b) ensure that all irrigators and other stakeholders do not undertake interventions detrimental to the environment in irrigation areas.

Commission to coordinate and promote irrigation research

52.-(1) For the purposes of improving the performance of irrigated agriculture for crop production, productivity and profitability and ensuring irrigation water efficiency, the Commission in collaboration with other local and international public and private entities, shall conduct, coordinate research on irrigation and drainage and promote the findings for use by the beneficiaries in line with the National Irrigation Policy and Strategy.

(2) The irrigation and drainage research shall aim at improving hydraulic performance of irrigation infrastructure for effective water management and enhanced crop production and productivity in irrigation schemes-

- (a) ensuring effective operation and maintenance of irrigation schemes;
- (b) increased adoption of appropriate technologies by farmers for sustainable irrigation development;
- (c) provide for capacity building of irrigation experts, service providers and farmers in irrigation sector.
- (d) identification of irrigation and drainage research challenges and their solutions;
- (e) solicitation of adequate funds for conducting irrigation and drainage research activities;

- (f) documentation, publication and dissemination of research findings;
- (g) establishment of mechanisms for linkage and coordination of all types of irrigation research by various stakeholders nationally and internationally.
- (h) conduct and disseminate irrigation technologies, research findings and innovations to the irrigators in the country;
- (i) promote the use of appropriate technologies and innovations in irrigation development;
- (j) promote awareness on appropriate and improved irrigation practices and conduct tailor made training programmes to the irrigators;
- (k) conduct tailor made in-service training to develop the newly recruited staff into professionals as quickly as possible and based on the research results to strengthen technical knowledge and skills of the irrigation staff for enhanced, effective, efficient and sustainable development of the irrigation sector;
- (l) identify, compile and adopt available irrigation technologies, practices and innovations;
- (m) facilitate solicitation of funds to support on urban and peri-urban irrigated agriculture where water harvesting from roof tops, treated waste water and appropriate technologies can be used;
- (n) establish and strengthen collaboration and networking with national and international irrigation based institutions including higher learning institutions; and
- (o) perform any other duties which deems fit.

PART VIII FINANCIAL PROVISIONS

Establishment
of the
Irrigation
Development

53.-(1) There is hereby established a Fund which shall be known as the Irrigation Development Fund for ensuring development and sustainability of the irrigation sector.

Fund

- (2) The Irrigation Development Fund shall consist of-
- (a) monies accrued from disposition or transfer of the government owned irrigation schemes;
 - (b) any monies accrued from the recoverable costs to be paid by irrigators for irrigation development under this Act;
 - (c) any other monies that may be payable to the Fund from moneys appropriated for that purpose by the Parliament;
 - (d) monies obtained by way of charge or fees in respect of programmes, publication, documents and other services provided by the Commission;
 - (e) any monies that Fund may obtain, with approval of the Minister and the Minister responsible for finance, by way of donations, loans or other financial assistance from within or outside the Country; and
 - (f) any monies that may accrue to the Fund, whether in terms of this Act or otherwise as approved by the Commission.

Use of the
Fund

54.- (1) The resources of the Fund shall be utilised for the purposes of-

- (a) meeting costs of planning, feasibility studies, designing, construction, operation and maintenance of irrigation schemes;
- (b) financing, by way of loan or grant, any irrigation and drainage research or study carried on by or for the benefit of persons or organizations engaged in irrigation and drainage;
- (c) the acquisition of land, equipment, materials and other assets and the construction of buildings in order to promote the objectives of the Fund;
- (d) financing by way of loan or grant, the training or capacity building courses of experts or farmers engaged in irrigation sector;
- (e) making an award or awards to persons who contributed to the development of irrigation sector;
- (f) meeting any expenses of the Commission and those arising from the establishment and maintenance of the Fund; and
- (g) any purpose which the Minister, on the recommendation of the Commission, considers to be in the interest of the objectives of the Fund.

Advances to

55. If in any financial year the income of the Fund together

the
Fund

with any surplus income brought forward from a previous year is insufficient to meet the actual or estimated liabilities of the Commission, the Minister responsible for finance may make advances to the Fund in order to meet the deficiency or any part thereof and such advances shall be made on such terms and conditions, whether as to repayment or otherwise, as the Minister responsible for finance may determine.

Management
of the Fund

56.-(1) Subject to any general or special directives of the Minister, the Fund shall be administered by the Commission.

(2) For the purposes of this section, the Commission shall maintain funds in a separately designated bank account or accounts, which shall operate in accordance with such directions as the Minister may, from time to time, give in that behalf, save that the Commission shall not make any payment out of the Fund except in accordance with the agreed annual expenditure framework.

(3) Without prejudice to the preceding provisions of this section, the Commission may, where circumstances so require, maintain and administer as part of the Fund any special account or accounts for the purposes of any project or programme carried on jointly with a foreign institution, department or organisation for the advancement of irrigation development in the United Republic.

(4) Any person who authorises the making of any payment out of the Fund in contravention of any provision of this section commits an offence and liable on conviction to a fine not less than two million shillings or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Accounts and
Audit of
Irrigation
Development
Fund

57.-(1) The Commission shall cause to be provided and kept proper books of accounts of the payments made into and out of the Fund.

(2) The accounts of the Fund shall be audited annually by the Controller and Auditor General in accordance with the Public Audit Act, and the audited Accounts of the Fund shall be published simultaneously with other audited accounts of the Commission.

Cap. 418

Funds of the
Commission

58. The sources of funds of the Commission shall be-

- (a) such moneys as may be appropriated by the Parliament;
- or
- (b) such sums as may be payable to the Commission by way of donations, gifts, grants and loans; or
- (c) irrigation service fees; or

(d) any other sources lawfully accrued or obtained by the Commission.

Annual budget of the Commission

59. The Commission shall prepare its income and expenditure estimates for the succeeding financial year and submit them to the Minister for scrutiny and submission to the National Assembly for approval.

Accounting and audit

60.-(1) The Commission shall cause to be kept and maintained in accordance with the International Accounting Standards, proper books of accounts with respect to-

- (a) all sums of moneys received and expended;
- (b) all the assets and liabilities of the Commission; and
- (c) all the income and expenditure statement of the Commission.

Cap. 418

(2) Within six months of the close of every financial year, the Controller and Auditor General in accordance with the Public Audit Act shall audit the accounts including the balance sheet of the Commission.

(3) Every income and expenditure accounts and audited balance sheet shall be placed before a meeting of the Commission of and, if adopted, it shall be endorsed with a certificate to that effect.

(4) As soon as the accounts of the Commission have been audited, and in any case not later than six months after the close of the financial year, the Commission shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report on that statement made by the auditors.

(5) The Minister may, where the report submitted to him under this section has any anomalies, direct the Commission to correct or furnish him with adequate explanatory information and the Commission shall give into effect such direction of the Minister.

(6) The Minister shall, as soon as practicable after receiving the report, lay before the National Assembly the audited accounts of the Commission together with the auditor's report, if any, on the accounts.

Powers to borrow and invest

61.-(1) Subject to the prior approval of the Minister and the Minister responsible for Finance, the Commission may, borrow moneys for the purposes of its activities by way of loan or overdraft, and upon such security and such terms and conditions relating to repayment of the principal and payment of interest, subject to any direction by the Minister, the Commission may

consider fit.

(2) The moneys held by the Commission pursuant to this Act, in so far they are not required to be expended or utilized by the Commission under this Act, be invested in such manner as the Commission deems fit with the approval of the Minister and the Minister responsible for Finance.

Financial year

62. The financial year of the Commission shall be the period of twelve months beginning from 1st day of July and ending at the 30th day of June of the following year.

PART IX OFFENCES AND PENALTIES

Offences and penalties

63.-(1) Any person who-

- (a) wilfully damages or fails to maintain irrigation systems or irrigation works;
- (b) interferes without any authority with any part of an irrigation or drainage system or with any property of an irrigators' organisation used in, or in connection with, the irrigation or drainage of land;
- (c) wilfully makes any statement knowing the same to be false or not having reason to believe the same to be true;
- (d) by overt act or writing, threatens, incites, intimidates or prevents construction of any irrigation works;
- (e) engages in practices which are destructive or potentially destructive to the catchment area of a river or public water course supplying water to an irrigation scheme;
- (f) grazes or permits livestock to graze in irrigation areas;
- (g) sets or causes to be set on fire crops on an irrigation scheme or on any irrigated farm, garden or plot, or
- (h) without reasonable cause refuses to assist in averting, fighting or extinguishing a fire on an irrigation scheme or on any irrigated farm, garden or plot;
- (i) applies or causes to be applied on an irrigation scheme, farm, garden or plot under irrigation any chemicals or substances prohibited under this Act or any order made by the Minister;
- (j) provides any false or misleading information to the Director General or any authorised officer responsible for the enforcement of this Act;
- (k) refuses or neglects to furnish information which he may be required to furnish under the provisions of this Act or

subsidiary legislation under this Act;

- (l) constructs or extends any irrigation works contrary to this Act or fails, without reasonable excuse, to comply with a requirement made under this Act or subsidiary legislation;
- (m) wilfully obstructs, damages or destroys any irrigation works or destroys, defaces or moves any level mark, beacon or other structure or appliance;
- (n) obstructs, molests or hinders any public officer in the lawful exercise of his powers or duties under this Act or subsidiary legislation made thereunder;
- (o) interferes with, increases or diminishes supply of water from or to any irrigation work;
- (p) interferes with or alters the flow of water in any irrigation work so as to endanger, injure or render less useful, any such work;
- (q) being entitled to the use of water from an irrigation work, causes or occasions waste of water in such irrigation work or interferes with the authorized distribution of water therefrom or uses water in any unauthorized manner;
- (r) intentionally corrupts or fouls water of any irrigation work so as to render it less fit for the purpose for which it is ordinarily used;
- (s) destroys, defaces, removes or alters any level marked or water gauge or any other mark or sign fixed in an irrigation work,

Commits an offence and shall be liable upon conviction:

- (i) if it is an individual, to a fine of not less than one million shillings and not exceeding five million shilling or to imprisonment for a term not less than one year but not exceeding three or to both such fine and imprisonment.
- (ii) if is a body corporate, to a fine of not less than ten million shillings and not more than fifty million shilling and to imprisonment for a term not less than three years but not exceed five years or to both such fine and imprisonment.

(2) The Court may in addition to any penalty imposed under this Act, order any article in respect of which such offence has been committed or which has been used for the Commission of such offence to be forfeited.

(3) The Minister shall have the power to determine the procedures for disposal of anything forfeited to the Government

under sub-section (2).

(4) Where an offence has been committed and because of that commission a person has suffered a direct damage or loss of his property, the court may, in addition to the penalty provided under subsection (1), order the offender to compensate the person who has suffered loss or damage.

(5) Where any person is convicted of an offence under this section, the cost of removing the obstruction or interference, or repairing the damage, alteration or injury to anybody or to the irrigation work or of replacing or repairing the level mark or any other mark of sign, if any, incurred by the any officer of the government empowered to enforce this Act shall be recoverable from such person in such manner as may be prescribed.

Offence by
body corporate
or firm

64.-(1) Any act which if done by an individual would be an offence against this Act or any regulations or orders made under this Act shall, if done by a body corporate, be an offence by every Director, Secretary or Manager thereof unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all circumstances.

(2) Where an offence against this Act or any regulations or orders made under this Act has been committed by a partner in a firm, every person who at the time of the commission of the offence was partner in that firm, or was purporting to act in that capacity, shall be deemed to have committed that offence unless he proves that the offence was committed without his consent and or connivance and he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Civil liability
not affected

65. Subject to any express provisions in this Act, nothing contained in this Act shall affect the civil liability of any person for any damage resulting from the construction, alteration or destruction of any irrigation works or the failure to maintain the same in proper repair or from the obstruction.

PART X GENERAL PROVISIONS

Duty of
secrecy

66. -(1) A member of any committee of the Commission and every person to be employed under this Act shall not disclose

to any person, except in the performance of his duties under this Act or when required to do so by any written law, any information which he may have acquired in the course of his duties in relation to the financial or business affairs of any person, undertaking or business.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and upon conviction be liable to a fine of not less than two million shillings or to an amount equivalent to the financial gain generated by the offence, if such amount be greater, or to imprisonment for a term of five years or to both such fine and imprisonment.

Service of notices

67. A notice under this Act shall be deemed to have been served on, or given to, any person-

- (a) if served on him personally; or
- (b) if left for him at his last known address; or
- (c) if sent by registered post addressed to his last known address.

Keeping records

68.-(1) The Minister may, on the recommendation of the Commission, prescribe activities in respect of which records shall be kept for purposes of this Act and may require any person in possession or control of such records to transmit the records to the Commission at such intervals as he may determine.

(2) Any person who-

- (a) fails to keep records required under this Act; or
 - (b) fraudulently or knowingly alters any such records,
- shall be guilty of an offence and upon conviction be liable to a fine of not less than one million shillings or to imprisonment for two years or to both.

Stakeholders meeting

69.-(1) For the purposes of promoting the development of the irrigation sector, there shall be a stakeholders' forum which shall be responsible for-

- (a) putting in place mechanisms for the funding of the shared functions in the irrigation sector;
- (b) making procedures for conducting annual general meetings;
- (c) determine modalities for financing its activities and meetings; and
- (d) establishing stakeholders' secretariat and other organs for better carrying out the shared functions.

(2) The stakeholders meeting shall be held at least once in a year to agree on the funding, implementation of the shared

functions and other matters of common interest.

(3) A local government authority may, upon consultation with the Commission, make by-laws for the better carrying out of the shared functions agreed by the stakeholders.

Commission may call for information

70. The Commission may in writing, require any person or body of persons engaged in an activity affecting or relating to irrigation development to furnish to it any information related to that activity as the Commission may specify.

Powers of the Minister to require information

71. The Commission shall furnish to the Minister with such returns, statistics, accounts, documentations or information with respect to the performance of any of its functions or exercising of its duties under this Act as the Minister may require.

Commission to establish and maintain collaboration

72. For the purposes of better performance of its functions the Commission shall establish and maintain a system of collaboration, consultation and co-operation with such other institutions and persons, whether corporate or unincorporated, and whether within or outside the United Republic, as are or would be likely to assist it in the effective and efficient discharge of its functions under this Act.

Indemnity and liability Cap. 16 and 76

73. No member of a Commission or officer of the Commission shall be personally liable for any act or default which is done or omitted to be done in good faith in the exercise or purported exercise of the powers conferred by this Act or such subsidiary legislation made thereunder.

Recovery of cost of repairing damage where the offender is unascertainable.

74. Where a person causing any damage, alteration, enlargement or obstruction to any irrigation work without proper authority cannot, after such inquiry as the Irrigation Inspector may deem sufficient, be ascertained or identified, the Irrigation Inspector may on a requisition from the Director General and after giving not less than one month's notice to the owners of all the lands affected by the damage, alteration, enlargement or obstruction, as the case may be, and after hearing their representations, if any, recover from them, in such proportion as he thinks fit, the cost of repairing such damage, or of removing such alteration, enlargement or obstruction.

Mode of recovery of money

75. Any amount due from any person in pursuance of the provisions of this Act or the regulations made thereunder may, if

the amount is in arrears, be recovered, without prejudice to any other mode of recovery, in the same manner as an arrear of public revenue.

Powers to
make
Regulations

76.-(1) The Minister may, after consultation with the Commission, make Regulations for the better carrying into effect of the provisions of this Act.

(2) Without limiting the generality of subsection (1), the Regulations may-

- (a) provide for maintenance of the irrigation and drainage system;
- (b) provide for the manner in which irrigation water may be used in irrigation and drainage area;
- (c) provide for the times at which irrigation water may be used in irrigation and drainage area;
- (d) provide for maintenance or improvement of the quality of irrigation water in irrigation and drainage area;
- (e) prescribe procedure for maintenance of irrigation works and drainage area;
- (f) prescribe the manner in which excess irrigation water shall be drained out of the irrigation and drainage system;
- (g) provide for the formation, functions and conduct and procedures of irrigators' organizations;
- (h) regulate the abstraction and distribution of water amongst irrigators;
- (i) prescribe the manner in which notification or information may be given under this Act;
- (j) provide for the assessment of the quantity of irrigation water or other water used by a landowner in irrigation and drainage system;
- (k) provide for the procedures for land allocation and administration by Irrigators' Organizations;
- (l) provide for dispute settlements;
- (m) provide for any fees or charges under this Act and the payment thereof;
- (n) provide for the forms to be used and the fees to be paid and be used in respect of any matter required or permitted to be done under this Act;
- (o) provide for the advertisement of applications for the use of irrigation works and for the giving of notice to interested persons;
- (p) regulate the procedure of appeals under this Act;
- (q) prescribe the registers and records to be kept and the

- manner in which prescribe they are to be kept;
- (r) provide for the installation, maintenance and testing of irrigation systems or for any other service provided to the irrigation and drainage system;
 - (s) provide for the installation, maintenance and testing procedure for application for the installation, for compensation under the provisions of this Act and the assessment thereof;
 - (t) provide for procedures for registration and deregistration of the irrigators;
 - (u) provide for model by-laws, establishment of the management Committees of the irrigator' organizations and administration of such organizations;
 - (v) prohibit or regulate navigation in an irrigation work;
 - (w) provide for the regulation and administration of the fund;
 - (x) prescribe forms to be used under this Act; and
 - (y) provide for any matter expressly required or allowed by this Act to be prescribed.

Transitional provisions

77.- (1) Within twelve months of the commencement of this Act, an association, cooperative society, or any other entity or body that performs any functions as an irrigators organization shall submit to the Director General an application for registration under this Act.

(2) Upon the commencement of this Act, Zonal Irrigation Offices shall continue to perform their functions until the Regional Irrigation Offices are established as provided for in this Act.

SCHEDULE

(Made under Section 3(5))

MEETING AND PROCEDURE OF THE COMMISSION

Vice Chairman

1. At its first meeting members of the commission shall elect amongst their number a Vice Chairman.

Tenure of office

2. Members of the Commission shall hold office for three years and, unless their membership is otherwise terminated due to misconduct or non attendance without excuse three successive meetings of the Commission,

shall be eligible for re-appointment for one further term.

Meetings
and power
to convene
meetings

3.-(1) The Commission shall meet at times and places as the Chairman may, after consultation with the Director General, determine.

(2) An ordinary meeting of the Commission shall be convened by the Chairman or the vice Chairman and the notice specifying the place, date, and time of, and agenda for, the meeting shall be sent to each member at his usual place of business or residence not less than fourteen days before the date of the meeting.

(3) The Chairman, or in his absence, the vice Chairman or a member elected to act as Chairman, shall convene a special meeting of the Commission in writing signed by not less than three members of the Commission and, where such special meeting is convened, the agenda for such meeting shall be circulated to each member at his usual place of business or residence at least not less than three days before the date of the meeting.

(4) A meeting of the Commission shall be presided over by the Chairman or in his absence, the vice Chairman or by a member elected by those members present at that meeting.

Quorum

4. Five members shall form a quorum of a meeting of the Commission.

Cooption
of member

5. The Commission shall have power to co-opt any person to attend its meeting except that such co-opted person shall not have the right to vote.

Conflict of
interest

6. A member who has any interest, direct or indirect in any matter coming before the Commission or sub-Committee shall, as soon as is reasonably practicable, disclose the nature of that interest to the Chairman or Vice-Chairman and shall not, thereafter take part in any decision on that matter nor, except with the consent of a majority of the members present at that meeting, take part in any deliberations of that meeting.

Commission to
regulate its
proceedings

7. Subject to the provisions of this Schedule, the Commission shall regulate its own proceedings.

Reports of
activities of
Commission

8. The Commission shall prepare an annual report setting out its current activities and indicating its future activities.

Remuneration
of members of
the
Commission.

9. The Minister shall in consultation with the Minister responsible for Finance prescribe emoluments and allowances payable to the members of the Commission from time to time.

OBJECTS AND REASONS

This Bill proposes for the enactment of the National Irrigation Act, 2013 with a view to ironing out challenges encountered in the irrigation sector. These challenges include the absence of a legal framework to protect and promote irrigation land; desertion and sabotage of irrigation works; inefficient of the current institutional framework which failed to keep paces with the rapid growth of irrigation activities; and lack of knowledge and awareness on the part of individuals that led to the poor performance in the management of irrigation works. In addition to that, the proposed Act seeks to establish the National Irrigation Commission, provide for the development, operation and maintenance of irrigation and drainage systems and for other related matters.

The Bill is divided into Ten Parts.

Part I of the Bill provides for preliminary matters including the name of the proposed Act as well as the definitions of words and phrases invariably used throughout the Bill.

In Part II, the Bill provides for the establishment of the National Irrigation Commission for purposes of coordinating, promoting and supervising the irrigations sector. This Part further provides for the composition of the Commission, committees of the Commission, powers of the Commission, appointment of the Director-General of the Commission and powers of the Commission to employ or appoint staff of the Commission. Other salient provisions of this Part include clause 10 that proposes for the establishment of zonal irrigation offices, district irrigation departments as well as the appointment of irrigation inspectors.

Part III of the Bill proposes for enactment of provisions relating to the declaration of irrigation areas and classification of irrigation land. In this Part, the Minister responsible for Agriculture is empowered to declare any specified area to be an irrigation area. This power is only exercisable upon consultations with the Minister responsible for Lands; Minister responsible for Water and the Minister responsible for local government authorities. Other salient provisions in this Part include clause 17 that authorizes the acquisition by the President, of land for purposes of irrigation, and clause 18 that deals with the classification of land for irrigation purposes.

In Part IV, the Bill proposes to make provisions for the construction of irrigation works. Salient features in this Part include clause 19 that specifies persons and entities who may undertake such construction as well as the procedures for obtaining permit to construct irrigation works; Clause 22 that provides for compensation for damages suffered by any person as a consequent of such construction of irrigation works; and Clause 23 that empowers the Commission to entrust the construction of irrigation works to a local government authority, irrigators' organization or any other body corporate.

In Part V, the Bill proposes to make provisions relating to irrigation schemes and irrigators. In this regard, the provisions relating to categorization of irrigation schemes and the categorization and approval of irrigators are well set out.

Part VI of the Bill deals with the management of irrigation schemes. In this Part, it is proposed that irrigation schemes be managed by the Commission, local government authorities, public or private entities and individual farmers or irrigators' organizations. It is further proposed in this Part to make provisions for the establishment of irrigators' organizations, functions of irrigators' organizations, sources of funds of irrigators' organizations, allocation of irrigation plots, protection of irrigation land, obligation of land owners in respect of works affecting safety of irrigation works, control of navigation and unplanned canal crossings, inter basin water transfer for irrigation and monitoring and evaluation of performance of irrigation schemes.

Part VII provides for environmental and health protection. It is proposed in this Part to make provisions covering environmental protection, promotion of irrigation research and the establishment of the National Irrigation Research Centre.

Part VIII of the Bill proposes for the financial provisions. The salient provisions in this Part include Clause 52 that proposes for the establishment of the Irrigation Development Fund for purposes of ensuring development and sustainability of the irrigation sector; Clause 55 that provides for the management of the Fund; and Clause 60 that empowers the Commission to borrow and invest funds of the Commission as the Commission thinks fit for the betterment of irrigation sector.

Part IX proposes for offences and penalties for persons who contravene the proposed Act. The proposed offences under this Part include damaging irrigation systems or irrigation works; preventing the construction of irrigation works; obstructing any public officer in the lawful exercise of his powers under the proposed Act; and interfering or altering the flow of water in any irrigation work.

Part X provides for general provisions. This Part contains provisions that impose upon members and employees of the Commission or committee, a duty of secrecy in the discharge of their duties or performance of their functions under the proposed Act. It further provides for stakeholders meetings, powers of Ministers to require information, as well as the powers of the Minister to make rules and regulations.

Dar es Salaam,
4 Juni, 2013

CHRISTOPHER K. CHIZA
*Minister of Agriculture Food
Security and Cooperatives*

SHERIA YA TAIFA YA UMWAGILIAJI

SEHEMU YA KWANZA MAMBO YA AWALI

1. Jina na kuanza kutumika Sheria.
2. Tafsiri.

SEHEMU YA PILI UTAWALA

3. Uanzishwaji wa Tume ya Taifa ya Umwagiliaji.
4. Uwekezaji katika maendeleo ya Kilimo cha umwagiliaji.
5. Mamlaka na majukumu ya Tume.
6. Kamati za Tume.
7. Lakiri ya Tume.
8. Uteuzi wa Mkurugenzi Mkuu.
9. Uteuzi wa Wakurugenzi.
10. Watumishi wengine wa Tume.
11. Ofisi za Mikoa za umwagiliaji.
12. Sekretarieti za Mikoa katika maendeleo ya kilimo cha umwagiliaji na uendeshaji wake.
13. Idara za Umwagiliaji za Wilaya.
14. Uteuzi wa wakaguzi wa umwagiliaji.
15. Mamlaka ya mkaguzi wa umwagiliaji.
16. Zuo dhidi ya wasio na sifa ya kuwa wakaguzi wa umwagiliaji.

SEHEMU YA TATU TANGAZO LA MAENEO YA UMWAGILIAJI NA MGAWANYO WA ARDHI

17. Tangazo la eneo la umwagiliaji.
18. Upatikanaji wa ardhi kwa ajili ya kilimo cha umwagiliaji.
19. Madaraja ya ardhi ya kilimo cha umwagiliaji.

SEHEMU YA NNE
UJENZI WA MIUNDOMBINU YA UMWAGILIAJI

20. Utekelezaji wa miundombinu ya umwagiliaji.
21. Maombi kwa ajili ya ujenzi wa miundombinu ya umwagiliaji.
22. Ujenzi na makabidhiano ya miundombinu ya umwagiliaji iliyojengwa na Tume.
23. Madhara ya ujenzi wa miundombinu.
24. Fidia inayotokana na uharibifu wa ujenzi wa miundo mbinu ya umwagiliaji.
25. Kukasimu ujenzi wa miundombimu ya umwagiliaji.
26. Ujenzi wa miundombinu ya umwagiliaji midogo.

SEHEMU YA TANO
MAKUNDI NA UIDHINISHAJI WA SKIMU ZA
UMWAGILIAJI NA WAMWAGILIAJI

27. Makundi ya skimu za umwagiliaji.
28. Makundi na kibali cha wamwagiliaji.

SEHEMU YA SITA
USIMAMIZI WA SKIMU ZA UMWAGILIAJI

29. Usimamizi wa skimu za umwagiliaji.
30. Uanzishaji wa vyama vya wamwagiliaji.
31. Madhumuni ya vyama vya umwagiliaji.
32. Majukumu ya vyama vya wamwagiliaji.
33. Vyanzo vya fedha vya vyama vya wamwagiliaji.
34. Utaratibu wa kutwaa shughuli za ujenzi.
35. Ugawaji wa vitalu kwa ajili ya umwagiliaji.
36. Usuluhishi wa migogoro katika skimu za umwagiliaji.
37. Kutoa na kuachia kitalu cha umwagiliaji.
38. Mamlaka juu ya kilimo bora na njia za umwagiliaji.
39. Mamlaka ya kutwaa kazi za umwagiliaji.
40. Ada za huduma ya umwagiliaji.
41. Uendeshaji na utunzaji wa skimu za umwagiliaji.
42. Usafishaji wa kingo.
43. Tume kuamuru uwekaji wa kingo sahihi.
44. Kuchangia gharama au kazi za ushirika.
45. Usambazaji wa maji kutoka kwenye miundombinu ya maji.
46. Vitendo vinavyokatazwa.
47. Wajibu wa wamiliki wa ardhi kuhusu usalama wa miundombinu.
48. Usimamizi wa usafiri ndani ya mifereji na vivuko visivyopangwa.
49. Uhamishaji maji kati ya mabonde kwa ajili ya kilimo cha umwagiliaji.
50. Ufuatiliaji wa tathmini ya utendaji wa skimu za umwagiliaji.

SEHEMU YA SABA
UHIFADHI WA MAZINGIRA NA ULINZI WA AFYA

- 51. Kukidhi matakwa ya kimazingira.
- 52. Tume itafanya, itaratibu, na kuendeleza utafiti wa umwagiliaji.

SEHEMU YA NANE
MASHARTI KUHUSU MASUALA YA FEDHA

- 53. Uanzishwaji wa Mfuko wa maendeleo ya umwagiliaji.
- 54. Matumizi ya Mfuko.
- 55. Malipo ya awali kwenye Mfuko.
- 56. Usimamizi wa Mfuko.
- 57. Hesabu na ukaguzi wa hesabu za Mfuko wa Maendeleo ya Umwagiliaji.
- 58. Fedha za Tume.
- 59. Bajeti ya mwaka ya Tume.
- 60. Hesabu na ukaguzi wa hesabu.
- 61. Mamlaka ya kukopa na kuwekeza.
- 62. Mwaka wa fedha.

SEHEMU YA TISA
MAKOSA NA ADHABU

- 63. Makosa na adhabu.
- 64. Makosa ya chombo hodhi.
- 65. Madai.

SEHEMU YA KUMI
MASHARTI MENGINEYO

- 66. Utunzaji wa siri.
- 67. Kutoa taarifa.
- 68. Uwekaji kumbkumbu.
- 69. Mikutano ya wadau.
- 70. Tume inaweza kuhitaji taarifa.
- 71. Mamlaka ya Waziri kupata taarifa.
- 72. Tume kuanzisha mahusiano.
- 73. Kinga.
- 74. Ukusanyaji wa gharama za matengenezo ikiwa mtenda kosa hajulikani.
- 75. Njia za kurejesha fedha.
- 76. Mamlaka ya kutengenza Kanuni.
- 77. Masharti ya Mpito.

JEDWALI

linaloweza kumwagiliwa kwa kutumia maji yanayotiririka kwa nguvu ya mvutano wa ardhi au kwa kusukumwa na pampu au kwa nyenzo nyingine kama itakavyotangazwa na Waziri kwa mujibu wa kifungu cha 17;

“eneo linalofaa kwa umwagiliaji” maana yake ni eneo linalofaa kitaalam, kiuchumi, kijamii na kimazingira kwa kilimo cha umwagiliaji kwa kuzingatia uwepo wa ardhi inayofaa kwa kilimo, upatikanaji wa maji na hali ya kukubalika kiuchumi na kijamii;

Sura ya 113 na 114 “haki ya umiliki wa ardhi” ina maana kwam ilivyotafsiriwa kwa mujibu wa Sheria ya Ardhi na Sheria ya Ardhi ya Vijiji;

“hati ya haki ya kutumia maji” maana yake ni kama ilivyotafsiriwa kwa mujibu wa Sheria ya Usimamizi wa Rasilimali ya Maji;

“halmashauri ya Wilaya” maana yake ni Mamlaka ya Serikali za Mitaa kwa mujibu wa Sheria za Serikali za Mitaa;

“huduma za umwagiliaji” maana yake ni shughuli au kazi zote zinazolenga kuboresha uendelevu wa skimu ya umwagiliaji zikijumuisha upembuzi yakinifu, utafiti, usanifu, ujenzi, uendeshaji na utunzaji wa skimu ya umwagiliaji na programu za kujenga uwezo wa wamwagiliaji;

“kazi za matupio” maana yake kazi za ujenzi na utunzaji wa mifereji ya maji ya matupio na miundombinu inayoambatana nayo kwa lengo la kuondoa maji yasiyohitajika;

“kazi za umwagiliaji” maana yake ni kazi za kuendesha na kutunza mifumo ya umwagiliaji ndani ya skimu ya umwagiliaji ili kuwezesha uzalishaji wa mazao;

“kazi za umwagiliaji au miundombinu ya umwagiliaji na maji ya matupio” maana yake ni miundombinu iliyojengwa au kuendelezwa katika mfumo wa umwagiliaji kwa lengo la kuwezesha upatikanaji wa maji kutoka katika chanzo kwa ajili ya uzalishaji wa mazao na inajumuisha miundombinu ya kuchapushia maji, ya kusafirisha na kusambaza maji kwenda mashambani, ya kuondoa maji yasiyohitajika na barabara za shambani ambazo zinajumuisha-

- (i) mifereji ya aina yote, mabwawa, visima na miundombinu yote ya kuinga na kuhifadhi maji kwa ajili ya kilimo;
- (ii) kazi zote, tuta au kingo, miundombinu mbalimbali ya kusafirisha maji kwenda kwenye mabwawa ya kuhifadhi maji;
- (iii) mifereji yote ya kusafirisha maji kutoka kwenye mabwawa;
- (iv) miundombinu yote ya kuondolea maji yasiyohitajika au maji ya matupio katika mfumo wa umwagiliaji

- ikiwemo mifereji, na miundombinu ya kuzuia mafuriko ya maeneo ya mashamba;
- (v) miundombinu yote ya kuzuia maji ya chumvichumvi kutapaka katika mashamba;
- (vi) miundombinu yote katika skimu ya umwagiliaji inayotumiwa na wamwagiliaji au kazi zote kama zitakavyoainishwa na Tume kama kazi za umwagiliaji;
- “kikundi cha umwagiliaji” maana yake ni kikundi cha wakulima kilichoundwa na kusajiliwa kwa mujibu wa Sheria hii au sheria nyingine na kuidhinishwa na Tume kwa mujibu wa kifungu cha 30 kwa lengo la kutekeleza kazi zenye manufaa kwa wakulima wote katika skimu ya umwagiliaji ili kuhakikisha ongezeko la tija katika uzalishaji wa mazao kutokana na usimamizi wa maji ya umwagiliaji, uendeshaji na utunzaji katika skimu zao;
- “kibali cha matumizi ya maji” maana yake ni kibali cha matumizi ya maji kama ilivyoainishwa kwenye Sheria ya Usimamizi wa Rasilimali ya Maji;
- “Mkaguzi wa Umwagiliaji” maana yake ni afisa aliyeteuliwa kwa mujibu wa kifungu cha 14 kufanya kazi ya ukaguzi;
- “Mkurugenzi Mkuu” maana yake ni Mtendaji Mkuu wa Tume kama atakavyoteuliwa kwa mujibu wa kifungu cha 8;
- “mabanio” maana yake ni maumbo yaliyojengwa kihandisi katika maeneo ya kuchepushia maji kutoka kwenye vyanzo kwa ajili ya umwagiliaji yakijumuisha maumbo katika mkondo wa maji, pampu za kusukuma maji kutoka mtoni au bwawani;
- “matupio” maana yake hatua ya kuondoa maji ya ziada au matupio kutoka shambani kwa lengo la kuweka mazingira ya ustawi wa mazao ya kilimo;
- “maji ya matupio” maana yake ni maji yanayoondolewa shambani kwa kutumia mfumo wa maji ya matupio;
- “maji ya umwagiliaji” maana yake ni maji yanayoingizwa shambani kumwagilia eneo hilo la shamba kwa kutumia miundombinu ya umwagiliaji na inajuisha maji yatokanayo na mvua;
- “majukumu ya pamoja” maana yake ni majukumu ya pamoja yanayofanywa au yatakayofanywa na wadau kama watakavyokubaliana yakijuisha utafiti, mafunzo, huduma za ugani, usambazaji wa pembejeo, maendeleo ya mazao na uhamasishaji, umwagiliaji na uendelelezaji wa miundombinu ya maji ya matupio;
- “mfumo wa maji ya matupio” maana yake ni mlolongo wa maumbo au miundombinu mingine ikijuisha mifereji mikuu, ya kati, midogo na ya shambani au mabomba mahsusi kwa kuondoa

maji yasiyohitajika na/au yenye chumvichumvi kutoka katika skimu ya umwagiliaji ili kuwezesha shughuli za kilimo kufanyika vizuri na kuzuia kutuama kwa maji shambani;

“mfumo wa usambazaji” unajumuisha-

- (a) mifereji mikuu na mtandao wa mifereji iliyojengwa kwa ajili ya kusafirisha na kusambaza maji ya umwagiliaji shambani;
- (b) maumbo na miundombinu ya umwagiliaji iliyojengwa kuunganisha mtandao wa kusambaza maji ya kumwagiliaji;
- (c) mtandao wa mifereji midogo na miundombinu yake kwa ajili ya kusambaza maji ya umwagiliaji shambani;

“mfumo wa umwagiliaji” maana yake ni majumuisho ya maumbo na miundombinu mbalimbali inayojumuisha banio, njia za kusafirisha na kusambaza maji kwenda mashambani, mitambo na vifaa ambavyo vinawezesha uwepo wa maji kwa ajili ya kumwagilia eneo la shamba;

“Mfuko” maana yake Mfuko wa kuendeleza umwagiliaji ulionzishwa kwa mujibu wa kifungu 53;

“mkulima mdogo” maana yake ni mkulima anayeshiriki kwenye kilimo cha umwagiliaji katika eneo lisilozidi hekta tano ambalo analilima mwenyewe au na familia yake;

“mmiliki wa shamba au kitalu au jaruba” maana yake ni mtu yeyote anayemiliki kihalali ardhi katika eneo la umwagiliaji katika skimu yeyote ya umwagiliaji na ambaye amesajiliwa katika kumbukumbu za Tume na inajumuisha wakodishaji wa mashamba na wanaolima au mtu yeyote anayemiliki na kulitumia eneo linaloweza kumwagiliwa;

“mmwagiliaji” maana yake ni mtu binafsi, kampuni au kikundi kinachofanya shughuli ya umwagiliaji katika skimu;

“msimu wa umwagiliaji” maana yake ni kipindi au muda unaopangwa na Kamati ya Wamwagiliaji ya Usimamizi wa skimu kwa ajili ya kuhakikisha kuwa maji ya umwagiliaji yanakuwepo katika eneo la umwagiliaji;

“mradi wa umwagiliaji” maana yake ni shughuli ya ujenzi wa miundombinu ya umwagiliaji mipya au kukarabati iliyoharibika au kuchakaa kwa lengo la kuendeleza kilimo cha umwagiliaji inayofanyika katika muda maalum.

“mkondo wa maji” maana yake ni mto, kijito, chemchem, mtaro, ziwa na inajumuisha tawi la mto wowote, kijito, chemchem au mtaro;

“mtaro” maana yake ni njia au mfereji wa aina yeyote ikijumuisha mifereji ya wazi iliyochimbwa na mabomba kwa ajili ya kupitishia maji;

“mfereji” maana yake ni mfereji au mtaro wa wazi kwa ajili ya

- kupitishia au kusafirishia maji;
- “mifereji ya shambani” maana yake ni mfumo wa mifereji ya umwagiliaji kwa ajili ya kusafirisha maji kutoka mifereji midogo kuingiza shambani;
- “miundombinu ya umwagiliaji midogo” inajumuisha ujenzi wa muundombinu ya umwagiliaji kwa ajili ya kuwezesha kilimo cha umwagiliaji au kwa ajili ya matupio ya maji au kulinda eneo la umwagiliaji lisilozidi hekta kumi na tano lakini halitajumuisha miundombinu ya umwagiliaji inayotumia pampu kuvuta maji;
- “mtumiaji wa maji” inajumuisha mtu au chombo kilichoanzishwa kisheria na kinachotumia maji kwa madhumuni yeyote kutoka katika mfumo wa umwagiliaji;
- “Rasilimali maji” ina maana kama ilivyotafsiriwa kwa mujibu wa Sheria ya Usimamizi wa Rasilimali ya Maji;
- “skimu ya umwagiliaji” maana yake ni eneo ambalo linastawishwa mazao kwa aina yeyote ya umwagiliaji uwe wa matone au kunyunyizia au wa wazi ikiwa ni pamoja na mifumo inayotumia maji yanayotiririka kwa nguvu ya mvutano wa ardhi au kusukumwa kwa pampu kuingia kwenye mifereji au mabomba kutoka kwenye chanzo wazi au chini ya ardhi, au maji ya mvua yaliyokingwa;
- “Skimu ndogo ya umwagiliaji” ni skimu za umwagiliaji zenye eneo lisilozidi hekta mia tano;
- “skimu ya uwagiliaji ya kati” maana yake ni skimu ya umwagiliaji kwenye eneo la hekta mia tano hadi elfu mbili;
- “skimu kubwa za umwagiliaji” maana yake ni skimu za umwagiliaji zenye eneo la umwagiliaji lenye ukubwa wa zaidi ya hekta elfu mbili;
- “Tume” maana yake ni Tume ya Taifa ya Umwagiliaji iliyoanzishwa kwa mujibu wa kifungu cha 3;
- “ufanisi wa umwagiliaji” ni uwiano kati ya kiasi halisi cha maji kinachotumika katika kustawisha mazao shambani na kiasi halisi cha maji kilichochepushwa kutoka kwenye chanzo kwa lengo la kustawisha mazao;
- “umwagiliaji” maana yake ni-
- (i) matumizi ya kiasi cha maji katika eneo maalum ili kukidhi mahitaji ya kuota na ustawi wa mimea katika eneo husika kwa kiwango kinachostahili kulingana na hatua ambayo mmea umefikia katika ukuaji wake;
 - (ii) matumizi ya maji kwa lengo la kufanya udongo uwe na unyevunyevu unaohitajika kabla ya kupanda mazao;
- “umwagiliaji wa kutumia nyenzo ya kusukuma maji” maana yake ni

umwagiliaji unaohusisha kusukuma maji ya umwagiliaji kwa kutumia nyenzo kama pampu au nyenzo nyingine yeyote;

“usimamizi shirikishi wa rasilimali za maji” maana yake ni utaratibu wa usimamizi wa rasilimali za maji na matumizi yake kwa kuzingatia watumiaji mbalimbali wa rasilimali hiyo waliopo juu au chini ya mkondo wa mto ikijumuisha ikolojia ya mfumo wa maji husika;

“usimamizi wa maji” maana yake ni shughuli za binadamu zinazolenga kuongeza upatikanaji na matumizi ya maji kwa ajili ya kilimo;

“wadau” maana yake ni mtu au taasisi inayojishughulisha na sekta ya umwagiliaji ikijumuisha Serikali kuu, Mamlaka za Serikali za Mitaa, Tume, wabia wa maendeleo, vyama vya ushirika, wauzaji wa vifaa vinavyotumika kwa umwagiliaji, wasambazaji wa pembejeo, watafiti, wageni na watu wote wenye maslahi katika maendeleo ya kilimo cha umwagiliaji;

“Waziri” maana yake ni Waziri mwenye dhamana ya umwagiliaji.

SEHEMU YA PILI UTAWALA

Uanzishaji wa
Tume ya Taifa ya
Umwagiliaji

3.-(1) Inaanzishwa Tume itakayojulikana kama Tume ya Taifa ya Umwagiliaji.

(2) Tume itakuwa ni Idara ya Serikali inayojitegemea chini ya Wizara yenye dhamana ya umwagiliaji.

(3) Tume itakuwa ni chombo chenye uhai kisheria na kwa jina lake, itakuwa na uwezo wa-

(a) kushitaki na kushitakiwa;

(b) kumiliki na kuuza mali zinazohamishika au zisizohamishika;

(c) kukopa fedha na kuingia katika mikataba;

(d) kufanya shughuli zote kwa ajili ya utekelezaji wa majukumu yake chini ya Sheria hii au Kanuni zitakazotungwa na Sheria hii;

(4) Bila kuathiri masharti yaliyotangulia ya kifungi hiki-

(a) Tume itakuwa na jukumu la kumtaarifu Mwanasheria Mkuu kuhusu kesi yeyote iliyopo au kusudio la kushitaki au kushitakiwa; na

(b) Mwanasheria Mkuu ana haki ya kuingilia kesi iliyofunguliwa na Tume na Tume au dhidi ya Tume.

(5) Pale ambapo Mwanasheria Mkuu ataingilia kesi yeyote kwa mujibu wa kifungu kidogo cha 4, masharti ya Sheria ya

Mwenendo wa Uendeshaji wa Kesi za Serikali yatatumika kama kesi hiyo ilifunguliwa na Serikali au dhidi ya Serikali

(6) Tume itaundwa na Bodi ya uendeshaji itakayokuwa na mwenyekiti atakayeteuliwa na Rais na wajumbe wengine kumi watakaoteuliwa na Waziri kama ifuatavyo-

- (a) mwakilishi kutoka Wizara yenye dhamana na masuala ya kilimo;
- (b) mwakilishi kutoka Wizara yenye dhamana na masuala ya ardhi;
- (c) mwakilishi kutoka Wizara yenye dhamana na masuala ya maji;
- (d) mwakilishi kutoka Wizara yenye dhamana na masuala ya mazingira;
- (e) Wakili wa Serikali Mkuu atakayeteuliwa na Mwanasheria Mkuu wa Serikali;
- (f) mwakilishi kutoka Wizara yenye dhamana na Serikali za Mitaa;
- (g) mwakilishi kutoka Wizara yenye dhamana na masuala ya mifugo na maendeleo ya uvuvi;
- (h) wawakilishi wawili kutoka taasisi za wamwagiliaji; na
- (i) mtu mwenye sifa katika masuala yanayohusu masuala ya umwagiliaji aliyeteuliwa kutoka taasisi za elimu ya juu ambazo zinatoa mafunzo katika fani ya umwagiliaji.

(7) Mkurugenzi Mkuu wa Tume atakuwa Katibu wa Tume.

(8) Katika kuteua wawakilishi, uteuzi utazingatia watu wenye weledi wa kutosha katika fani husika na uwezo wa kutoa maamuzi.

(9) Masharti ya Jedwali yatahusika na muda wa wajumbe kubaki katika nafasi zao, kusitishwa kwa ujumbe na uendeshaji wa vikao vya Tume.

(10) Waziri anaweza, kwa amri itakayochapishwa kwenye *Gazeti la Serikali*, kurekebisha, kuongeza, kubadilisha, au kufuta kipengele chochote kwenye Jedwali sipokuwa Masharti yaliyo katika aya ya pili ya Jedwali hilo.

Uwekezaji katika maendeleo ya Kilimo cha umwagiliaji

4.-(1) Kwa kuzingatia masharti ya Sheria hii, Tume inaweza yenyewe au kwa kushirikiana na sekta binafsi, kuwekeza kwenye maendeleo ya umwagiliaji kwa kadri itakavyokuwa inafaa, na inaweza kubadilisha, kuuza au kujiondoa katika uwekezaji huo.

(2) Tume itakuwa na mamlaka ya kufanya shughuli ambazo ni muhimu na za manufaa kwa maendeleo na usimamizi ya sekta ya umwagiliaji.

(3) Tume itasimamia, itafuatilia na kusimamia utekelezaji wa majukumu ya Tume kama ilivyoainishwa katika Sheria hii.

5.-(1) Tume itakuwa na majukumu ya kuratibu, kuendeleza na kusimamia maendeleo ya sekta ya umwagiliaji.

(2) Bila kuathiri masharti ya ujumla katika kifungu kidogo cha 1, Tume-

- (a) itaishauri Serikali katika utekelezaji na uhuishaji wa Sera ya Taifa ya Umwagiliaji, Mkakati Kabambe wa Taifa wa Umwagiliaji na Sheria;
- (b) itawakilisha Serikali kwenye mikutano ya kitaifa na kimataifa na kushirikiana na mashirika ya kitaifa na kimataifa au umoja wa wamwagiliaji katika masuala yote yanayohusu uendelezaji na usimamizi wa kilimo cha umwagiliaji;
- (c) itaratibu shughuli zote za umwagiliaji katika sekta ya umwagiliaji zinazotekelezwa na washirika wa maendeleo au wadau wengine na taasisi za nje zenye majukumu kama ya Tume;
- (d) itahamasisha na kudumisha ushirikiano na taasisi za kimataifa zenye kutekeleza majukumu yanayofanana na Tume katika masuala ya umwagiliaji na mifumo ya maji ya matupio;
- (e) itamshauri Waziri katika kuainisha maeneo ya umwagiliaji;
- (f) itapanga, kufanya upembuzi yakinifu, kusanifu, kujenga, kusimamia utekelezaji wa miradi ya umwagiliaji;
- (g) itaanzisha na kudumisha vituo vya vifaa vya ujenzi wa miradi ya umwagiliaji na kutoa huduma za ukodishaji kwa ajili ya kuisaidia sekta binafsi kuwekeza kwenye kilimo cha umwagiliaji;
- (h) itasajili na kuhifadhi orodha ya wamwagiliaji;
- (i) itahamasisha mahusiano ya kitaasisi, program za mafunzo na itasaidia katika upatikanaji wa watu kwa madhumuni ya ajira katika sekta ya umwagiliaji;
- (j) itakuwa jukwaa la kubadilishana uzoefu au habari katika masuala ya umwagiliaji na matupio;
- (k) itajenga uwezo wa wamwagiliaji kwa ajili ya kuongeza ushiriki katika ngazi zote kuanzia kupanga, kutekeleza, uendeshaji na usimamizi;
- (l) itafanya na kuratibu utafiti, kusambaza teknolojia sahihi inayotokana na matokeo ya utafiti na kutoa msaada wa huduma za kitaalam kuhusu umwagiliaji;
- (m) itahamasisha uendelezaji wa mabwawa yenye matumizi zaidi ya moja kwa moja kwa matumizi ya umwagiliaji na shughuli nyingine za kijamii na kiuchumi;
- (n) itasimamia masuala yote yanayohusu maendeleo ya

umwagiliaji na ushirikiano wa wadau mbalimbali katika maendeleo ya umwagiliaji na maji ya matupio;

- (o) itaidhinisha ujenzi wa mifumo ya umwagiliaji, viwango na miongozo kwa ajili ya maendeleo na uendeshaji wa shughuli za umwagiliaji na maji ya matupio;
- (p) itahamisisha matumizi ya maji yenye ufanisi katika mifumo ya umwagiliaji na kuhakikisha usimamizi shirikishi wa rasilimali za maji kwa maendeleo ya kilimo cha umwagiliaji;
- (q) itaishauri Serikali katika masuala yote yanayohusu maendeleo na uendeshaji wa sekta ya umwagiliaji nchini; na
- (r) itatekeleza majukumu yoyote ambayo ni muhimu katika utekelezaji wa madhumuni ya Sheria hii.

Kamati za Tume

6.-(1) Tume inaweza, kwa madhumuni ya utekelezaji wa majukumu yake chini ya Sheria hii, kuanzisha kamati mbalimbali kwa ajili ya kutekeleza majukumu mahsusi kama itakavyoelekezwa na Tume.

(2) Ukubwa, majukumu na masharti ya Kamati hizo yatakuwa kama yatakavyoamuliwa na Tume.

Lakiri ya Tume

7.-(1) Kutakuwa na lakiri ya Tume kama itakavyoamuliwa na Tume.

(2) Lakiri ya Tume haitawekwa katika andiko lolote hadi pale atakapokuwepo Mwenyekiti au Mkurugenzi Mkuu au afisa wa Tume na angalau mjumbe mmoja wa Tume.

(3) Tume inaweza kuteua na kuajiri mawakala au maafisa kwa madhumuni ya uendeshaji, usimamizi, utekelezaji wa majukumu au kutekeleza au kutoa huduma yeyote inayopaswa kufanyika katika utekelezaji wa majukumu yake au kwa utekelezaji wenye ufanisi wa madhumuni ya Sheria hii au Sheria nyingine inayotekelezwa na Tume.

Uteuzi wa
Mkurugenzi Mkuu

8.-(1) Kutakuwa na Mkurugenzi Mkuu wa Tume atakayeteuliwa na Rais kutoka miongoni mwa watu wenye uadilifu, wenye sifa, uzoefu na uwezo wa kusimamia uendeshaji wa Tume kwa ufanisi.

(2) Mkurugenzi Mkuu atakuwa Afisa Mtendaji Mkuu wa Tume na atawajibika na usimamizi na uendeshaji wa shughuli za kila siku za Tume na-

- (a) atawajibika na usimamizi wa fedha, mali na shughuli za Tume na kwa usimamizi na udhibiti wa watumishi wa Tume;
- (b) atasimamia Sheria hii na Kanuni zitakazotungwa chini ya Sheria hii;

- (c) atahifadhi lakiri ya Tume;
- (d) atatumza kumbukumbu ya shughuli za Tume ;
- (e) ataandikisha na kutunza daftari la wamwagiliaji na skimu za umwagiliaji;
- (f) atafuatilia na kutathmini shughuli zinazotekelezwa kwenye skimu za umwagiliaji kwa ajili ya kuhakikisha kuwa zina manufaa kwa uchumi wa taifa; na
- (g) atatekeleza majukumu yoyote yatakayosaidia utekelezaji wa Sheria hii;

(3) Kwa madhumuni ya kutekeleza majukumu yake katika Sheria hii, Mkurugenzi Mkuu anaweza kukasimu madaraka yake kwa afisa yeyote.

(4) Katika utekelezaji wa majukumu yake katika Sheria hii au Kanuni, Mkurugenzi Mkuu atatekeleza maelekezo ya Tume yatakayokuwa yakitolewa mara kwa mara.

Uteuzi wa
Wakurugenzi

9. Kutakuwa na idadi ya wakurugenzi watakaoteuliwa au kuajiriwa na Tume kutoka miongoni mwa watu wenye maadili, sifa, uzoefu na ujuzi wa kusimamia utekelezaji mzuri wa kazi za Tume.

Watumishi
wengine wa
Tume

10.-(1) Tume itakuwa na mamlaka ya kuanzisha sehemu au ofisi kama itaona inafaa kwa ajili ya utekelezaji wa majukumu yake na kuajiri watumishi mbalimbali katika ofisi hizo.

(2) Kwa madhumuni ya Kifungu kidogo cha (1), Tume inaweza kuteua maafisa au watumishi kwa ajili ya utekelezaji wa majukumu yake chini ya Sheria au Sheria nyingine yeyote na kwa kuzingatia masharti ya utumishi kama Tume itakavyoona inafaa.

(3) Maafisa na wajiriwa wa Tume watakuwa madarakani kwa, kipindi, kitakachoainishwa na watapokea mshahara, posho na stahili, kulingana na masharti ya utumishi kama Tume itakavyoona inafaa.

(4) Mtu anapohamishiwa au kupelekwa kwenye ajira ya Tume kwa muda maalum chini ya Sheria hii, masharti yake ya ajira hayatapunguzwa chini kulinganisha na aliyokuwa nayo katika nafasi yake kwenye utumishi wa umma, na utumishi wake utahesabika kuendelea kama ilivyokuwa kabla ya kuhamia Tume kwa madhumuni ya mafao, kiinua mgongo au stahili nyinginezo.

Ofisi za Mikoa za
umwagiliaji

11.-(1) Kwa lengo la kuleta ufanisi katika kutekeleza majukumu yake, Tume itaanzisha Ofisi za Umwagiliaji za Mikoa zitakazosimamiwa na Mameneja wa Umwagiliaji wa Mikoa kwa kadri itakavyoona inafaa.

(2) Meneja wa Umwagiliaji wa Mkoa atatekeleza majukumu yafuatayo-

- (a) kutoa utaalam kwa Serikali za Mitaa katika uendelezaji na

uendeshaji wa kilimo cha umwagiliaji na matupio kwa ushirikiano na mamlaka husika;

- (b) kutambua maeneo yanayofaa kwa kilimo cha umwagiliaji katika maeneo yao;
- (c) kuandaa upembuzi yakinifu wa miradi ya umwagiliaji, usanifu wa kina na nyaraka za zabuni;
- (d) kutoa huduma za kiufundi kwa Serikali za Mitaa na sekta binafsi kwa maendeleo na uendeshaji wa skimu za umwagiliaji katika maeneo yao;
- (e) uandaaji wa mungozi ya uendeshaji na matunzo ya skimu za umwagiliaji;
- (f) kusaidia katika uanzishaji wa Vyama vya Wamwagiliaji;
- (g) kuzingatia masuala ya usimamizi wa mazingira katika kilimo cha umwagiliaji na matupio wakati wa kuandaa mipango na usanifu;
- (h) kukusanya takwimu na kuzihifadhi kwenye benki ya takwimu ya kilimo cha umwagiliaji;
- (i) kuandaa mipango ya matumizi ya maji yaliyo chini ya ardhi na maji ya mvua kwa madhumuni ya kilimo cha umwagiliaji;
- (j) kuhakikisha udhibiti wa ubora katika miundombinu ya umwagiliaji na matupio;
- (k) usimamizi wa ujenzi na ukarabati wa miundombinu ya umwagiliaji na matupio;
- (l) kusambaza ubunifu wa teknolojia mpya kuhusu miundombinu ya umwagiliaji na matupio;
- (m) kuwezesha kufanyika kwa utafiti katika masuala ya miundombinu na matupio;
- (n) kuhamasisha nishati jadidifu kwa madhumuni ya kilimo cha umwagiliaji na maji ya matupio;
- (o) kuhamasisha matumizi ya vifaa vya ujenzi vilivyotaribiwa na vinavyopatikana nchini kwa minajili ya kupunguza gharama na upotevu wa maji;
- (p) kushirikiana na Bodi za Mabonde ya maji zilizoanzishwa chini ya Sheria ya Usimamizi wa Rasilimali ya Maji kwa madhumuni ya kuhamasisha ushirikishwaji wa usimamizi wa rasilimali za maji na masuala ya hati za haki ya matumizi ya maji kwa ajili ya kilimo cha umwagiliaji.

(3) Meneja wa Umwagiliaji wa mkoa atateuliwa kutoka miongoni mwa watumishi waaandamizi wa umma wenye sifa, uzoefu, ujuzi na uwezo katika maendeleo ya umwagiliaji.

(4) Meneja wa Umwagiliaji wa Mkoa katika utekelezaji wa majukumu yake atawajibika kwa Mkurugenzi Mkuu.

Sekretarieti za
Mikoa

12. Kutakuwa na Ofisi Afisa wa Umwagiliaji wa Mkoa ndani ya Sekretarieti ya Mikoa atakayeratibu maendeleo ya Umwagiliaji katika Mkoa na-

- (a) atakuwa kiunganishi baina ya Tume na Mamlaka za Wilaya katika utekelezaji wa Sheria hii;
- (b) itawezesha uhamasishaji, uendelezaji na kuzijengea uwezo mamlaka za Serikali za Mitaa katika maendeleo ya kilimo cha umwagiliaji;
- (c) itashauri kuhusu kuanisha Ofisi za Umwagiliaji za Wilaya katika maeneo yao kwa madhumuni ya uendelezaji na usimamizi wa kilimo cha umwagiliaji.

Idara za
Umwagiliaji za
Wilaya

13.-(1) Kwa utekelezaji wa vifungu vya sheria hii, Waziri mwenye dhamana na Serikali za Mitaa anaweza, kwa kushauriana na Waziri, kuanzisha Idara ya Umwagiliaji katika Mamlaka ya Wilaya kama atakavyoshauriwa na Tume.

(2) Idara ya Umwagiliaji ya Wilaya itaongozwa na Mhandisi wa Umwagiliaji wa Wilaya na itaajiri watumishi wenye sifa katika taaluma husika.

(3) Majukumu ya Idara ya Umwagiliaji ya Wilaya yatakuwa kusaidia Tume katika utekelezaji wa majukumu yake kama yalivyoainishwa katika kifungu cha 5 cha sheria hii.

(4) Bila kuathiri ujumla wa kifungu kidogo cha (3), Idara ya Umwagiliaji ya Wilaya itawajibika kwa yafuatayo-

- (a) kuanisha skimu za umwagiliaji, kupanga na kusanifu, kujenga, uendeshaji na kukarabati skimu za umwagiliaji kwa kushirikiana na Ofisi za Umwagiliaji za Mikoa;
- (b) kuunganisha Ofisi ya Mkoa ya Umwagiliaji na taasisi za Umwagiliaji;
- (c) kushirikiana na wadau katika wilaya husika kuhusu maendeleo na uendeshaji wa skimu za umwagiliaji;
- (d) kukusanya, kuhifadhi na kusambaza taarifa kuhusu shughuli za kilimo cha umwagiliaji katika maeneo yao;
- (e) kuwezesha uanzishaji wa Vyama vya Wamwagiliaji na kuhakikisha kwamba vina ujuzi kwa ajili ya usimamizi wa kilimo endelevu cha umwagiliaji;
- (f) kuhakikisha kwamba wamwagiliaji wanapata mafunzo kwa ajili ya usimamizi wa skimu za umwagiliaji kwa ajili ya uzalishaji na kuongeza tija katika uzalishaji wa mazao;
- (g) kusaidia uandaaji na utekelezaji wa masharti ya umwagiliaji ya vyama vya umwagiliaji katika maeneo yao;
- (h) kusaidia wamwagiliaji kupata fedha kwa ajili ya maendeleo ya kilimo cha umwagiliaji;
- (i) kusambaza miongozo kuhusu shughuli za kilimo cha

- umwagiliaji;
- (j) kuhakikisha kwamba uongozi wa kijiji unasaidia shughuli za umwagiliaji katika maeneo yao;
 - (k) kusaidia wakulima katika skimu za umwagiliaji kwa kuanzisha timu ya wataalam katika uendeshaji wa skimu;
 - (l) kutekeleza maelekezo yote yatakayotolewa na Tume kuhusu maendeleo na usimamizi wa kilimo cha umwagiliaji;
 - (m) kutekeleza majukumu mengine yanayohusu maendeleo ya umwagiliaji kama yalivyoainishwa katika Sheria hii.
- (5) Mhandisi wa Umwagiliaji wa Wilaya ataandaa taarifa kila robo ya mwaka kuhusu utekelezaji wa majukumu yake na kuwasilisha katika Ofisi ya Umwagiliaji ya Kanda.

Uteuzi wa
Wakaguzi wa
Umwagiliaji

14.(1) Tume, kwa kuzingatia mapendekeo ya Mkurugenzi Mkuu na kwa taarifa itakayochapishwa katika *Gazeti* la Serikali, itateua wahandisi wa umwagiliaji au afisa yeyote kutoka Ofisi za Mikoa au kutoka Mamlaka ya Serikali za Mitaa kuwa Wakaguzi wa Umwagiliaji ambao watakuwa na mamlaka kuhusu masuala ya umwagiliaji chini ya Sheria hii.

(2) Mtu yeyote atakayeteuliwa kuwa Mkaguzi wa Umwagiliaji kulingana na kifungu kidogo (1), atapewa kitambulisho, kama uthibitisho wa uteuzi wake na ambacho atakitumia katika utekelezaji wa majukumu yake chini ya Sheria hii.

(3) Wakaguzi wa Umwagiliaji walioteuliwa chini ya kifungu hiki, watawajibika kwa Mkurugenzi Mkuu katika utekelezaji wa majukumu yao.

Mamlaka ya
Mkaguzi wa
Umwagiliaji

15.(1) Mkaguzi wa Umwagiliaji aliyeteuliwa chini ya kifungu cha 14 (1) anaweza katika muda muafaka na baada ya kutoa notisi-

- (a) kuingia katika skimu ya umwagiliaji au sehemu yeyote ambayo shughuli za umwagiliaji zinaendelea, na kukagua miundombinu ya umwagiliaji kwa madhumuni ya kuhakikisha Sheria hii au kanuni zilizotungwa chini ya Sheria hii au maelekezo au amri ya Waziri, Mkurugenzi Mkuu zinafuatwa;
- (b) kumtaka mtu yeyote kutoa kwa madhumuni ya ukaguzi nakala au maandishi, nyaraka yoyote inayohusu fedha, michoro, usanifu, kwa madhumuni ya ujenzi au shughuli za ujenzi wa miundombinu ya umwagiliaji;
- (c) kumwamrisha mmiliki wa ardhi:
 - (i) kutunza, kukarabati, kubadilisha mtaro, bomba, jengo, maumbo, kifaa, tangi, dimbwi, bwawa au miundombinu mingine ambayo ni sehemu ya mfumo wa umwagiliaji na matupio ya maji;

- (ii) kusafisha mtaro, bomba, kifaa, tangi, dimbwi, bwawa au miundombinu mingine ambayo ni sehemu ya mfumo wa umwagiliaji na matupio ya maji;
 - (iii) kusafisha msitu, magugu au kingo za mfumo wa matupio ya maji au miundombinu ya umwagiliaji ambayo inaweza kuharibu miundombinu au kuhifadhi panya na wadudu wengine;
- (d) kukagua, kupima ardhi kwa ajili ya kupanga, kusanifu au kujenga miundombinu ya umwagiliaji na maji ya matupio, au kuongeza au kubadilisha, mfumo wa umwagiliaji na wa maji ya matupio na kwa madhumuni haya Mkaguzi wa umwagiliaji anaweza:
- (i) kuweka nguzo au alama nyingine kwenye eneo husika;
 - (ii) kuchimba mitaro au kuchimba mashimo kwa lengo la kuchukua sampuli;
 - (iii) kuomba sampuli za udongo kwa ajili ya uchunguzi;
 - (iv) kufanya jukumu lolote ambalo ni muhimu katika utekelezaji wa Sheria hii.

(2) Mmiliki wa ardhi au mali na mtu yeyote aliyepanga au atakayepatikana ndani ya eneo hilo atampa Mkaguzi wa Umwagiliaji ushirikiano wakati akitekeleza majukumu yake chini ya Sheria hii.

(3) Mkaguzi wa Umwagiliaji akiwa na sababu za msingi kwamba Sheria hii na Kanuni zake au amri iliyotolewa chini ya Sheria hii imekiukwa, anaweza kuzuia au kutoa amri ya zuio kuhusiana na ukiukwaji huo.

(4) Mtu yeyote ambaye hajaridhika na amri ya Mkaguzi wa Umwagiliaji chini ya kifungu hiki anaweza, ndani ya siku kumi na nne kuanzia tarehe ya kutolewa kwa amri hiyo, kukata rufaa kwa waziri.

Zuio dhidi ya wasio na sifa ya kuwa wakaguzi wa umwagiliaji

16. Mtu yeyote asiye na sifa za kuwa Mkaguzi wa Umwagiliaji, ambaye atafanya kazi za Mkaguzi wa Umwagiliaji atakuwa anatenda kosa na akipatikana na hatia atawajibika kulipa faini isiyopungua shilingi milioni mbili na isizozidi milioni kumi au atatumikia adhabu ya kifungo kwa kipindi kisichopungua miaka miwili lakini kisichozidi miaka mitatu au vyote faini na kifungo.

SEHEMU YA TATU TANGAZO LA MAENEO YA UMWAGILIAJI NA MGAWANYO WA ARDHI

Tangazo la eneo la umwagiliaji

17.-(1) Waziri mwenye dhamana na masuala ya ardhi anaweza, kwa kushauriana na Waziri na kwa amri itakayochapishwa

kwenye *Gazeti* la Serikali, kutangaza kwamba eneo lolote lililoainishwa kwenye amri hiyo kuwa ni eneo la umwagiliaji kwa madhumuni ya Sheria hii.

(2) Tangazo lililotolewa chini ya kifungu kidogo cha (1), litaainisha mipaka ya eneo hilo na linaweza kujumuisha miundombinu ya kuchepusha maji na mifumo ya kusafirisha maji ya umwagiliaji.

(3) Iwapo inapendekezwa kutenga eneo la umwagiliaji chini ya kifungu kidogo cha (1), Tume itawasilisha kwa Waziri, taarifa kuhusiana na maeneo yanayopendekezwa ambayo itakuwa na taarifa zifuatazo-

- (a) ramani au mchoro unaoonesha mipaka na ukomo wa ardhi inayopendekezwa kujumuishwa kwenye eneo;
- (b) maelezo yanayoainisha skimu na dhumuni la miundombinu inayopendekezwa;
- (c) ramani iliyoandaliwa na kuthibitishwa na Waziri mwenye dhamana inayoonesha eneo linalopendekezwa kuwekewa miundombinu ya umwagiliaji;
- (d) taarifa ya madhara kijamii na kimazingira katika eneo linalopendekezwa;
- (e) makisio ya gharama ya kuweka miundombinu ya umwagiliaji ikiwa miundombinu hiyo itajengwa na Tume pamoja na gharama za ada za uendeshaji na tozo zitakazotozwa kila mwaka;
- (f) makadirio ya mapato kwa mwaka yanayotarajiwa katika eneo lengwa;
- (g) makisio ya kiwango cha maji yanayokusudiwa kwa ajili ya umwagiliaji kwenye eneo linalopendekezwa kwa kuzingatia matumizi ya wakati huo na ya baadaye kwa kuzingatia matumizi kwa shughuli nyingine za kijamii na kimazingira pia taarifa itahitajika inayoeleza vyanzo vya maji vinavyopendekezwa na kuweka bayana pale inapobidi kiwango cha maji na ubora wake pamoja na misimu ambayo inafaa maji hayo kutumika;
- (h) taarifa ya vyanzo vya maji vilivyopo ambavyo vipo ndani ama nje ya eneo linalopendekezwa ambavyo Tume itakuwa na mamlaka ya kudhibiti matumizi yake kwa kuzingatia aina au ukomo wa uidhibiti huo;
- (i) makadirio ya thamani ya miundombinu ya umwagiliaji iliyopo ndani ya eneo ambalo linapendekezwa kuwa eneo linalomilikiwa na mtu au mamlaka yoyote litwaliwe na Tume;
- (j) taarifa ya eneo linalofaa kwa kilimo cha umwagiliaji likiwa na sifa na thamani ya wakati huo ikiambatana na maboresho

- ambayo yatakuwa yamefanyika kwa wakati huo;
- (k) taarifa inayohusu manufaa kwa ujumla yanayoweza kupatikana kwa kuanzisha skimu ya umwagiliaji katika eneo linalopendekezwa; na
 - (l) taarifa yoyote kwa kadri itakavyokuwa imeainishwa katika Kanuni.
- (4) Waziri anaweza kwa wakati wowote na kwa kushauriwa na Tume, kupitia Amri itakayotangazwa katika *Gazeti* la Serikali-
- (a) kuunganisha maeneo mawili ya umwagiliaji au zaidi kuwa eneo moja;
 - (b) kugawa eneo la umwagiliaji katika maeneo mawili au zaidi;
 - (c) kubadilisha mipaka ya eneo la umwagiliaji kwa kuingiza sehemu ya eneo jingine na pia kutoa sehemu ya eneo la awali;
 - (d) kufanya marekebisho katika masuala yanayohusu fedha au masuala mengine ambayo kwa maoni yake yatakuwa na manufaa au faida kwa uendelezaji wa kilimo cha umwagiliaji nchini.
- (5) Iwapo azimio lolote linalotajwa katika kifungu kidogo (1), litaathiri haki za umilikaji ardhi, mmiliki wa ardhi hiyo atastahili fidia kwa kuzingatia sheria ya ardhi ama kadri makubaliano yatakavyokuwa yamefikiwa.

Upatikanaji wa ardhi kwa ajili ya kilimo cha umwagiliaji Sura 118

18. Pale ambapo ni lazima na kwa lengo la kufanikisha madhumuni ya Sheria hii, Waziri anaweza baada ya kushauriana na Waziri mwenye dhamana ya ardhi na Waziri mwenye dhamana na Serikali za Mitaa, kumshauri Rais kwa kuzingatia Sheria ya Utwaaji wa Ardhi, kutwaa ardhi yoyote kwa lengo la kuendeleza kilimo cha umwagiliaji.

Madaraja ya ardhi ya kilimo cha umwagiliaji

19. Tume inaweza, kwa kushauriwa na Mkurugenzi Mkuu kuweka madaraja ya ubora wa ardhi wa eneo la umwagiliaji kwa kuzingatia aina ya mazao na aina ya umwagiliaji unaofaa.

SEHEMU YA NNE UJENZI WA MIUNDOMBINU YA UMWAGILIAJI

Utekelezaji wa Miundombinu ya umwagiliaji

20.-(1) Kwa madhumuni ya Sheria hii, miundombinu ya umwagiliaji inaweza kutekelezwa katika eneo la umwagiliaji na wahusika wafuatao-

- (a) Halmashauri za Wilaya;
- (b) mkulima binafsi;
- (c) vyama vya wamwagiliaji;
- (d) kampuni iliyosajiliwa;

- (e) asasi za kiserikali na zisizo za kiserikali; au
- (f) mtu mwingine yeyote aliyethibitishwa na Tume kwa madhumuni ya Sheria hii.

(2) Bila kujali masharti yaliyopo kwenye kifungu kidogo cha (1), utekelezwaji wa miundombinu ya kilimo cha umwagiliaji unaweza kuchangiwa na Tume kwa kushirikiana na wadau wengine waliothibitishwa.

(3) Pale ambapo Halmashauri ya Wilaya au mtu mwingine au kampuni inadhamira ya kuwekeza katika kilimo cha umwagiliaji ikiwa ni pamoja na kufanya upembuzi yakinifu, utekelezaji, utunzaji na matengenezo, inaweza kuomba huduma ya kitaalamu kutoka kwenye Tume kwa kadri taratibu na makubalino yatakavyofikiwa.

(4) Pale inapolazimu, ujenzi wa skimu za umwagiliaji utazingatia kuweka sehemu za kunyweshea mifugo.

Maombi kwa ajili ya ujenzi wa miundombinu ya umwagiliaji

Sura. 191

21.-(1) Hapatakuwa na miundombinu ya Umwagiliaji itakayojengwa hadi hapo pendekezo la skimu lithibitishwe na Tume na pendekezo hilo liwe limezingatia tathmini ya mazingira kama ilivyoanishwa katika Sheria ya Mazingira.

(2) Mtu yeyote mwenye dhamira ya kujenga miundombinu ya umwagiliaji kwenye eneo lolote la umwagiliaji isipokuwa Tume, atalazimika kuomba na kupata kibali cha Mkurugenzi Mkuu au afisa yeyote aliyeruhusiwa kwa kuzingatia taratibu kama zitakavyofafanuliwa katika kanuni za Sheria hii.

(3) Maombi yatakayofanywa kwa kuzingatia kifungu kidogo cha (2), yataambatana na-

- (a) taarifa ya usanifu;
- (b) orodha ya michoro;
- (c) gharama ya ujenzi;
- (d) hati ya haki ya kutumia maji;
- (e) hati ya kumiliki ardhi iwapo mmiliki ni sekta binafsi; na
- (f) hati ya usajili kwa vyama vya wamwagiliaji;

(4) Endapo Mkurugenzi Mkuu atakuwa ameridhika na maombi hayo, atawasilisha orodha ya maombi hayo kwenye Tume ili yaweze kupewa kibali.

(5) Mkurugenzi Mkuu atatoa Hati ya Kibali kwa kila miundombinu ya umwagiliaji iliyokubaliwa.

Ujenzi na Makabidhiano ya miundombinu ya umwagiliaji iliyojengwa na Tume

22. Pale ambapo Tume itaona ipo haja kwa maslahi ya umma kujenga miundo mbinu ya umwagiliaji kwenye eneo la umwagiliaji kwa kushirikiana na mtu au kampuni yoyote, Tume inaweza kwa kupitia taarifa kwenye *Gazeti la Serikali*, kutangaza dhamira hiyo ikitaja eneo linalopendekezwa kuwekwa miundombinu ya umwagiliaji pamoja na nyaraka nyingine muhimu kwa ajili ya ujenzi

huo.

Madhara ya ujenzi
wa miundombinu
Sura 331

23. Kwa kuzingatia Sheria ya Usimamizi wa Rasilimali za Maji, pale ambapo Tume au mtu yeyote atakayekuwa anakasimu, kwa kupitia Sheria hii atajenga miundombinu ya umwagiliaji itakayochepusha maji kutoka kwenye chanzo cha maji, Tume au mtu mwingine aliyeteuliwa ataratibu uchepusaji, utumiaji uzuiaji na mgawanyo wa maji kulingana na kiwango kilichoainishwa kwenye hati ya haki ya kutumia maji kwa kile chanzo cha maji ili kukidhi matarajio ya jamii husika.

(2) Mtu yeyote hataruhusiwa kujenga miundombinu ya umwagiliaji au kuzuia mtiririko wa maji katika mfereji wa maji bila ridhaa ya Tume au mamlaka yeyote iliyokasimiwa.

(3) Mtu yeyote hataruhusiwa kutumia hati ya haki ya kutumia maji kutoka kwenye miundombinu ya umwagiliaji kwa matumizi yoyote mbali ya umwagiliaji kwa matumizi yoyote mbali na matumizi ya nyumbani bila kupewa kibali na Tume au afisa yeyote aliyeidhinishwa.

Fidia inayotokana
na uharibifu wa
ujenzi wa miundo
mbinu ya
umwagiliaji

24. Mtu yeyote, ambaye kutokana na sababu za ujenzi wa miundombinu ya umwagiliaji au utekelezaji wa mamlaka na mtu yeyote au kikundi cha watu chini ya Sheria hii atapata hasara ya mali kutokana na kunyimwa au ukiukwaji wa haki ya kutumia chanzo cha maji kwa shughuli za kumwagilia shamba lake au kwa shughuli nyingine yoyote, atastahili kupata fidia kwa hasara hiyo kwa mujibu wa sheria zinazohusu fidia.

Kukasimu ujenzi
wa miundombinu
ya umwagiliaji

25.-(1) Pale ambapo Tume itaona kuwa inafaa, inaweza kwa kuzingatia taratibu na masharti yaliyowekwa kukasimu ujenzi wa miundombinu ya umwagiliaji kwa Mamlaka za Serikali za Mitaa au vyama vya wamwagiliaji au shirika lolote.

(2) Mamlaka ya Serikali za Mitaa au vyama vya umwagiliaji au shirika lolote ambalo limekasimiwa majukumu kwa mujibu wa kifungu kidogo cha (1), italazimika kufanya shughuli za uendeshaji na matunzo ya miundombinu baada ya kuingia mkataba ambao utakuwa umeweka bayana taratibu na masharti ya matengenezo na utunzaji.

Ujenzi wa
Miundombinu ya
umwagiliaji
midogo

26. Tume inaweza kuingia mkataba wa huduma na Mamlaka za Serikali za Mitaa, vyama vya wamwagiliaji au mtu yeyote kwa lengo la kuchangia ujenzi au matengenezo ya miundombinu midogo ya umwagiliaji kwa kadri itakavyokubalika.

SEHEMU YA TANO

**MAKUNDI NA UIDHINISHAJI WA SKIMU ZA
UMWAGILIAJI NA WAMWAGILIAJI**

Makundi ya skimu
za umwagiliaji

27.-(1) Yafuatayo yatakuwa ni makundi ya skimu za umwagiliaji kwa madhumuni ya Sheria hii-

- (a) skimu ndogo za umwagiliaji;
- (b) skimu za umwagiliaji za ukubwa wa kati; na
- (c) skimu kubwa za umwagiliaji.

(2) Kazi zote za umwagiliaji katika maeneo ya umwagiliaji zitahitaji kuidhinishwa au kusajiliwa na Tume kulingana na makundi yaliyoidhinishwa katika nagazi za mikoa na wilaya kama itakavyofafanuliwa katika Kanuni.

(3) Masharti ya kifungu kidogo cha (2), hayatumika pale ambapo Serikali itaona kuna masilahi ya kuanzisha skimu za umwagiliaji ambazo zina ukubwa mdogo, wa kati na skimu ambazo ni kubwa.

(4) Ujenzi wowote wa miundombinu ya umwagiliaji kwenye eneo la umwagiliaji sharti upate kibali cha Tume kabla ya kufanya hivyo kwa kuzingatia taratibu kama itakavyoelezwa katika Kanuni.

Makundi na Kibali
cha wamwagiliaji

28.-(1) Makundi ya wamwagiliaji yatakuwa kama ifuatavyo kwa madhumuni ya Sheria hii:

- (a) mkulima binafsi;
- (b) vyama vya wamwagiliaji;
- (c) makampuni;
- (d) taasisi za umma;
- (e) mashirika ya dini;
- (f) asasi zisizo za kiserikali; na
- (g) kikundi chochote kinachotambulika kisheria.

(2) Mkulima au shirika atatambuliwa na kupewa kibali kama mmwagiliaji kwa mujibu wa Sheria hii kama:

- (a) ni mmiliki au mpangaji wa ardhi katika skimu ya umwagiliaji na anayo hati ya haki ya kutumia maji kwa lengo la kilimo cha umwagiliaji kama ilivyotolewa chini ya Sheria ya Usimamizi wa Rasilimali Maji;
- (b) yumo ndani ya skimu ya umwagiliaji iliyopata kibali; na
- (c) anayo hati ya umwagiliaji iliyotolewa chini ya Sheria hii;

Sura 331

**SEHEMU YA SITA
USIMAMIZI WA SKIMU ZA UMWAGILIAJI**

29.-(1) Skimu ya umwagiliaji itasimamiwa na Serikali za Mitaa, taasisi za Serikali na za binafsi, mkulima binafsi, au vyama vya wamwagiliaji au chombo chochote au shirika.

(2) Ili kuwa na usimamizi wa skimu za umwagiliaji zenye ufanisi, litakuwa jukumu la Tume, Sekretareti za Mikoa na Mamlaka za Serikali za Mitaa kwa kushirikiana na wamwagiliaji husika-

- (a) kuhamasisha uanzishaji wa vyama vya wamwagiliaji kwa ajili ya usimamizi wa skimu za umwagiliaji;
- (b) kuhakikisha kuwa wakulima wote wanaomiliki ardhi katika skimu ya umwagiliaji wanakuwa wanachama wa vyama vya wamwagiliaji;
- (c) kujenga uwezo wa wamwagiliaji katika suala zima la ufuatiliaji na usimamizi wa skimu za umwagiliaji;
- (d) kusaidia vyama vya wamwagiliaji katika kuanzisha na kusimamia sheria ndogo ili kuleta ufanisi katika usimamizi wa skimu za umwagiliaji;
- (e) kuhakikisha uwepo wa utaratibu rasmi na wa wazi wa kuhamisha umiliki wa ardhi katika skimu za umwagiliaji kutoka mkulima mmoja kwenda kwa mwingine na unaozingatia uwajibikaji katika uendeshaji na utunzaji wa miundombinu ya umwagiliaji pale inapobidi;
- (f) kuhamasisha juu ya usimamizi shirikishi wa rasilimali maji;
- (g) kusaidia kuanzishwa kwa jukwaa kilele la vyama vya wamwagiliaji ili kuwa na uwakilishi kamili wa usimamizi wa skimu katika suala zima la usimamizi wa mabonde madogo ya mito kama ilivyoelezwa katika Sheria ya Usimamizi wa Rasilimali Maji;
- (h) kuanzisha utaratibu wa ubia kati ya sekta ya umma na sekta binafsi kwa lengo la kuwa na uendeshaji na utunzaji wa skimu za umwagiliaji wenye ufanisi;
- (i) Kuweka utaratibu wa mpito kwa kuweka wataalam wenye sifa ambao wataunda timu ya usimamizi na uendeshaji wa skimu wakati wakulima kupita vyama vyao, wanapata uzoefu wa kuchukua majukumu hayo;
- (j) kuhakikisha taasisi za umma na wawekezaji binafsi kwenye skimu za umwagiliaji za kibiashara zenye ukubwa wa kati na zile ambazo ni kubwa wanazingatia makubaliano ya mikataba na kuhakikisha kuwa wanawapa uzoefu na ujuzi wakulima wadogo wanaowazunguka;
- (k) kuhamasisha usimamizi wa miundombinu ya umwagiliaji kwa kutumia watoa huduma wa sekta binafsi pale ambapo wakulima wamedhihirisha kwamba wana uwezo mdogo;
- (l) kuhamasisha na kuteketeza dhana shirikishi na yenye msukumo unaotokana na mahitaji ya walengwa na

- uchangiaji na urejeshaji wa gharama za uwekezaji husan kwa skimu zinazotekelezwa kwa kutumia fedha za umma;
- (m) kuhimiza uanzishwaji wa miundombinu ya kuongeza thamani ya mazao na masoko ili kuvutia uwekezaji;
- (n) kuanzisha na kutunza benki ya takwimu za umwagiliaji katika ngazi ya taifa na Mamlaka za Serikali za Mitaa ili kuwa na mipango, utekelezaji na usimamizi wa shughuli za umwagiliaji zenye ufanisi; na
- (o) kutekeleza majukumu mengine ambayo ni muhimu katika kuboresha usimamizi wa skimu za umwagiliaji;

Uanzishaji wa
vyama vya
wamwagiliaji

30.-(1) Tume, kwa kushirikiana na Mamlaka ya Serikali za Mitaa itasaidia uanzishwaji wa vyama vya wamwagiliaji kwa kuzingatia mfumo wa umwagiliaji wa skimu husika.

(2) Kuanzia tarehe ya kusajiliwa wakulima wote wanaomiliki ardhi, mashamba katika skimu husika watatakiwa kuwa wanachama wa umoja na watalazimika kutekeleza masharti ya umoja huo.

(3) Kutakuwepo na mtaalam mwenye sifa wa kusaidia suala la usimamizi wa shughuli za vyama vya wamawagiliaji ambaye atateuliwa kutoka katika Idara ya Umwagiliaji ya Halmashauri husika baada ya kuwasiliana na Tume.

(4) Tume au Mamlaka za Serikali za Mitaa inaweza, kwa kadri itakavyolazimu, kutoa mwongozo au mapendekezo ya mabadiliko katika majukumu ya vyama vya wamwagiliaji au Kamati au kukasimisha afisa au timu ya maofisa kwa ajili ya kuanzisha na kufuatilia shughuli za umoja huo.

Madhumuni ya
vyama vya
umwagiliaji

- 31.** Madhumuni ya vyama vya wamwagiliaji yatajumuisha-
- (a) kuhamasisha na kuhakikisha usawa katika ugawaji wa maji ya umwagiliaji kwa watumiaji;
 - (b) kuelimisha juu ya uhifadhi wa maji, utunzaji bora wa mifumo ya umwagiliaji, ufanisi na matumizi bora ya maji kwa ajili ya uzalishaji wa mazao;
 - (c) kutunza mazingira na kuhakikisha uwiano wa kimazingira kwa kushirikisha wakulima ili wawezeshwe kumiliki mifumo ya umwagiliaji kwa kuzingatia masharti ya Sheria ya Usimamizi wa Mazingira, Sheria ya Usimamizi wa Rasilimali ya Maji, na sheria nyingine zinazohusika.

Sura 191
Sura 331

Majukumu ya
Vyama
Wamwagiliaji

- 32.** Vyama vya umwagiliaji vitatekeleza majukumu yafuatayo-
- (a) kuandaa na kutekeleza mpango wa maji kwa kila msimu wa umwagiliaji, uendelevu wa mpango wa utekelezaji kwa kuzingatia kibali cha matumizi ya maji, eneo, udongo na

- mpangilio wa upandaji wa mazao kama ulivyo dhinishwa na Tume au Mamlaka ya Serikali za Mitaa;
- (b) kuandaa mpango kwa ajili ya uendeshaji na matengenezo ya mifumo ya umwagiliaji kila mwisho wa msimu wa upandaji na kutekeleza shughuli za matengenezo ya mfumo wa umwagiliaji chini ya mamlaka yake kwa kutumia fedha za chama cha wamwagiliaji kila baada ya muda;
 - (c) kusimamia matumizi ya maji na ardhi katika mfumo wa umwagiliaji;
 - (d) kuhamasisha matumizi ya maji kwa ufanisi na ugawaji wa maji;
 - (e) kuisaidia Tume au Mamlaka ya Serikali za Mitaa katika kukusanya ada ya huduma ya umwagiliaji na ada ya marejesho vyovyote vile itakavyokuwa;
 - (f) kutunza daftari la wamiliki wa ardhi na wanachama wa chama cha wamwagiliaji katika skimu ya umwagiliaji;
 - (g) kuandaa na kutunza taarifa za mifumo ya umwagiliaji ikijumuisha mali na madeni katika skimu za umwagiliaji;
 - (h) kufuatilia na kutunza taarifa za mtiririko wa maji kwa ajili ya umwagiliaji;
 - (i) kutatua migogoro baina ya wanachama katika skimu za umwagiliaji;
 - (j) kusababisha na kutunza vitabu vya hesabu zilizokaguliwa kwa kila mwaka, na taarifa nyingine kwa kadri zitakavyotakiwa;
 - (k) kufanya mapitio, ufuatiliaji na tathmini ya utekelezaji wa mara kwa mara na ugawaji wa maji kwa kadri itakavyotakiwa; na
 - (l) kutekeleza majukumu yoyote mengine kama itakavyotamkwa katika sheria zake ndogo.

Vyanzo vya fedha vya Vyama vya wamwagiliaji

- 33.**-(1) Vyama vya wamwagiliaji vitatunza fedha zao kwa ajili ya kusimamia shughuli zao na fedha hizo zitajumuisha-
- (a) ada zilizokusanywa kutoka kwa wanachama wake kwa mujibu wa sheria ndogo;
 - (b) fedha nyingine zitakazopokelewa kwa njia ya misaada au ufadhili kutoka Serikalini, watu binafsi au shirika kwa ajili ya kuchangia maendeleo ya umwagiliaji katika eneo la uendeshaji; na
 - (c) fedha yoyote itakayopokelewa kutoka vyanzo vingine halali.

Utaratibu wa kutaa shughuli za ujenzi

- 34.** Tume au Mamlaka ya Serikali za Mitaa itatoa mamlaka kwa vyama vya wamwagiliaji kutwaa na kutekeleza majukumu yote

ya ukarabati wa mifumo ya umwagiliaji chini ya uangalizi wa Tume au Mamlaka ya Serikali za Mitaa vyovyote vile itakavyokuwa.

Ugawaji wa vitalu
kwa ajili ya
umwagiliaji

35.-(1) Kwa skimu zinazomilikiwa na vyama vya umwagiliaji, Kamati za Usimamizi wa Vyama vya wamwagiliaji, kwa kushauriana na baraza la kijiji, zitahakiki umiliki wa vitalu au kugawa vitalu katika skimu za umwagiliaji kama itakavyokuwa, kwa wanachama wake kwa kuzingatia masharti zitakavyoona inafaa kwa ajili ya maendeleo ya umwagiliaji katika eneo lake.

(2) Katika kuhakiki au kugawa vitalu, Kamati ya Usimamizi itazingatia ukaguzi wa mkulima husika na uwezo wake katika kusimamia uhakiki au ardhi aliyotolewa.

(3) Kitalu kitasajiliwa katika jina la mtu ambaye kwa ajili lake kitalu kimehakikiwa au kimegawiwa.

(4) Mmiliki wa kitalu aliyesajiliwa anaweza, kwa kushauriana na Kamati ya Usimamizi, kutoa au kuhamisha haki yake kwa mtu yeyote au shirika kwa kuzingatia sheria husika za ardhi.

(5) Iwapo haki ya kumiliki kitalu imehamishiwa kwa mtu mwingine, mmiliki huyo mpya atawajibika kusimamia ardhi na miundo mbinu husika ya umwagiliaji kwa mujibu wa masharti ya Sheria hii.

Usuluhishi wa
migogoro katika
skimu za
umwagiliaji

36.-(1) Ili kupunguza migogoro katika matumizi ya ardhi na maji katika skimu za umwagiliaji, Tume itaimarisha mahusiano ya karibu na Halmashauri za Wilaya, Bodi za Mabonde za Maji na wamwagiliaji husika wanaotumia chanzo kimoja cha maji na kuhakikisha kuwa utaratibu wa usuluhishi wa migogoro kwa njia ya makubaliano unaanzishwa katika kila skimu kwa kuhusisha vyombo vya Serikali husika.

(2) Kwa madhumuni ya kifungu hiki; “Bodi za Mabonde za Maji” maana yake ni bodi zilizoanzishwa kwa mujibu wa Sheria ya Usimamizi wa Rasilimali za Maji.

Sura ya 331

Kutoa na kuachia
kitalu cha
Umwagiliaji
Sura 113
Sura 114

37. Masharti ya Sheria ya Ardhi na Sheria ya Ardhi ya Vijiji yanayotawala utoaji na uachiaji wa ardhi yatatumika kwa mmiliki yeyote wa kitalu anayekiuka masharti ya umiliki au utumiaji wa kitalu katika skimu ya umwagiliaji au anayekusudia kuachia kitalu vyoyote vile itakavyokuwa.

Mamlaka juu ya
kilimo bora na njia
za umwagiliaji

38.-(1) Pale ambapo Tume imeridhika kuwa kwa ajili ya matumizi bora ya ardhi, umwagiliaji na ufanisi katika matumizi ya maji katika skimu ya umwagiliaji, ni muhimu na haraka kwa maslahi ya umma kusimamia utaratibu tofauti wa kilimo na njia za umwagiliaji katika eneo la umwagiliaji chini ya skimu ya

umwagiliaji, Tume kupitia Tangazo la Serikali itatoa tamko kwa ajili hiyo.

(2) Bila kuathiri kifungu kidogo cha (1), Tume, baada ya kushauriana na mamlaka husika ya Serikali za Mitaa, inaweza kuainisha kupitia taarifa iliyochapishwa utaratibu ulioelekezwa, aina ya mfumo wa kilimo na njia za umwagiliaji zitakazotumika katika eneo la umwagiliaji.

(3) Baada ya kuchapisha taarifa chini ya kifungu kidogo cha (1), hakuna mtu atakayetumia mfumo wa kilimo au kutumia njia za umwagiliaji nyingine zaidi ya zile zilizoainishwa katika taarifa kwa kipindi kilichotamkwa katika taarifa hiyo.

(4) Mtu yeyote atakayekiuka masharti ya kifungu kidogo cha (3), atakuwa ametenda kosa na akitiwa hatiani atatozwa faini isiyopungua shilingi milioni mbili na isiyozidi shingi milioni kumi au atatumikia adhabu ya kifungu kwa kipindi cha miaka miwili au vyote.

Mamlaka ya kutwaa kazi za umwagiliaji kwa ukarabati

39.-(1) Ikiwa Tume itaona kuwa skimu yoyote ya umwagiliaji inayomilikiwa na mtu yeyote au kikundi cha watu imetelekezwa au inasimamiwa vibaya, kwa kuzingatia maslahi ya umma, Tume kwa kutoa taarifa kwa mmiliki au mtumiaji itatwaa kwa kipindi kifupi skimu na kuiweka chini ya usimamizi wake au usimamizi wa Mamlaka ya Serikali za Mitaa kwa lengo la ukarabati.

(2) Kwa madhumuni ya kifungu kidogo cha 1, Tume itarudisha usimamizi wa skimu husika kwa mmiliki au mtumiaji baada ya kufanya ukarabati unaostahili na kudai gharama za ukarabati wa skimu hiyo kutoka kwa mmiliki au mtumiaji husika.

Ada za huduma ya umwagiliaji

40.-(1) Waziri baada ya kushauriana na Waziri mwenye dhamana ya Fedha, na kupitia Amri iliyotangazwa katika *Gazeti*, atatamka viwango vya ada za huduma za umwagiliaji na ada nyinginezo au tozo kwa ajili ya uendeshaji wa umwagiliaji na utunzaji wake katika eneo la umwagiliaji.

(2) Ada za huduma za umwagiliaji zitakusanywa na Tume, Mamlaka za Serikali za Mitaa au vyama vya wamwagiliaji vyovyote itakavyokuwa kwa ajili ya uendeshaji na utunzaji wa skimu za umwagiliaji.

Uendeshaji na utunzaji wa skimu za umwagiliaji

41.-(1) Kutegemeana na ukubwa na aina ya skimu ya umwagiliaji, uwajibikaji kwa ajili ya uendeshaji na utunzaji wa skimu hiyo utakuwa kama ifuatavyo:

(a) kwa skimu ndogo, wamiliki wa ardhi inayonufaika na mfumo wa umwagiliaji watawajibika kwa ajili ya uendeshaji na utunzaji wa skimu isipokuwa kama itatamkwa vinginevyo;

- (b) kwa skimu za kati na kubwa za umwagiliaji, wamwagiliaji wanaonufaika na mfumo wa umwagiliaji watawajibika kuendesha na kutunza mifumo ya mifereji ya kati na midogo hadi kiwango cha usawa wa shamba, na Mamlaka za Serikali za Mitaa au Tume vyovyote itakavyokuwa, itawajibika kuhakikisha usimamizi bora wa miundombinu ya kwenye vyanzo vya maji na mifumo mikubwa ya kusafirisha maji, isipokuwa kama itatamkwa vinginevyo; na
- (c) kwa skimu za umwagiliaji zinazomilikiwa na watu binafsi, itakuwa ni wajibu wa mmiliki wa skimu kuendesha na kusimamia mfumo wa umwagiliaji isipokuwa kama itatamkwa vinginevyo.

(2) Pale ambapo wamiliki wa ardhi wameshindwa kuendesha na kutunza skimu yao ya umwagiliaji na Mkaguzi wa Umwagiliaji ameridhika kuwa uendeshaji na utunzaji wa skimu ni lazima kwa ajili ya umwagiliaji bora wa ardhi ya wamiliki hao, atatoa taarifa kimaandishi kuwataka wamiliki wa ardhi husika, kuendesha na kutunza mifumo katika muda na utaratibu kama itakavyobainishwa katika taarifa.

Usafirishaji wa
kingo

42.-(1) Tume inaweza, kupitia taarifa ya kimaandishi, kumtaka mmiliki au mtumiaji wa ardhi yeyote ndani ya eneo la umwagiliaji au matupio kusafisha kingo za miundombinu ya matupio au umwagiliaji ambazo zinaweza kusababisha uharibifu wa miundombinu au kutunza wanyama waharibifu.

(2) Taarifa itamtaka mmiliki au mtumiaji kuchukua hatua za lazima katika muda uliowekwa ambao hautapungua siku kumi na nne kuanzia siku ya kutolewa kwa taarifa, na ikiwa kutakuwa na ukiukwaji wa masharti ya taarifa, hiyo, Mkaguzi wa umwagiliaji anaweza kuingia katika ardhi na kusababisha hatua kuchukuliwa kama ilivyotakiwa katika taarifa na anaweza kurejesha gharama alizotumia kutoka kwa mmiliki au mtumiaji huyo katika Mahakama yenye mamlaka.

(3) Mkaguzi wa umwagiliaji anaweza kwa taarifa ya kimaandishi, kuzuia mmiliki au mtumiaji wa ardhi yoyote katika eneo kupanda mti au mimea kwenye kingo za miundombinu ya umwagiliaji au matupio ambayo inaweza kuharibu miundombinu au kutunza wanyama waharibifu.

(4) Iwapo kutakuwa na ukiukwaji wa masharti ya taarifa iliyotolewa chini ya kifungu kidogo cha (2), Mkaguzi wa Umwagiliaji au afisa mwenye mamlaka anaweza kuingia katika ardhi hiyo na kusababisha hatua kuchukuliwa kwa kukata mti, mmea au gugu lolote kutoka kwenye kingo hizo au kung'oa mti, mmea au gugu lolote na anaweza kurejesha gharama za kufanya hivyo, kutoka kwa

mmiliki au mtumiaji katika mahakama yenye mamlaka.

(5) Pale ambapo Mkaguzi wa Umwagiliaji ametaka uharibifu ufanyike wa miti au mimea ya thamani, atamfidia mmiliki au mtumiaji fidia inayostahili, isipokuwa kama taarifa ilitolewa chini ya kifungu kidogo cha (2) kuhusu ardhi ambayo miti au mimea hiyo inaendelea kukua.

Tume kuamuru
uwekaji wa kingo
sahihi

43. Tume au Mkaguzi wa Umwagiliaji anaweza, kwa taarifa ya kimaandishi kumtaka mmiliki au mtumiaji wa ardhi yoyote katika eneo husika kuweka au mtu binafsi au kwa umoja na wamiliki au watumiaji wengine, kingo zinazostahili katika kiwango kilichotamkwa na usambazaji au mifereji ya matupio kwa ajili ya ugawaji, matupio, ukingaji au utengaji wa maji.

Isipokuwa kwamba, hakuna mtu atakayetakiwa chini ya kifungu hiki kuweka mifereji ya kingo, tuta au matupio ambayo haitakuwa na manufaa kwa ardhi ambayo mtu huyo ni mmiliki au mtumiaji.

Kuchangia
gharama au kazi za
pamoja

44.-(1) Pale ambapo kwa makubaliano au sababu nyingine yoyote, miundombinu ya umwagiliaji inatakiwa kushughulikiwa na ushirika wa wamwagiliaji katika skimu ya umwagiliaji au kwa gharama za wamiliki wa ardhi yote itakayonufaika na miundombinu hiyo, na pale ambapo wamiliki hao wameshindwa au kughairi kufanya sehemu yake au kuchangia sehemu ya gharama, itakuwa halali kwa Mkaguzi wa Umwagiliaji au Kamati ya Usimamizi au ofisa yoyote aliyeruhusiwa na Tume kuchunguza suala hili na kutoa amri kama atakavyoona inafaa, na inaweza kwa amri hiyo kumwelekeza mmiliki aliyekiuka kutengeneza sehemu ya miundo mbinu au kulipa sehemu ya gharama ya kazi hiyo.

(2) Amri inayoelekeza kuwa mmiliki aliyekiuka kutengeneza sehemu ya kazi, itaainisha sehemu ya kazi itakayotekelezwa, na muda wa utekelezaji, au makadirio ya gharama ya kazi hiyo katika utaratibu utakaowekwa.

(3) Iwapo mmiliki aliyekiuka amekataa au ameshindwa kutekeleza kazi hiyo katika muda ulipangwa katika amri chini ya kifungu kidogo cha (1), Mkaguzi wa Umwagiliaji, Kamati ya Usimamizi au Ofisa yeyote aliyeruhusiwa na Tume chini ya kifungu kidogo hicho, inaweza ikadhamini kazi hiyo kutekelezwa na watu wengine na gharama husika inaweza kurejeshwa kutoka kwa mmiliki mkiukaji katika utaratibu uliowekwa.

Miongozo ya
Usambazaji wa
maji kwenye

45.-(1) Tume, baada ya kushauriana na Mkurugenzi Mkuu, na kwa taarifa itakayochapishwa kwenye Gazeti la Serikali na gazeti lingine linalofikiwa na watu wengi, itaainisha na kusambaza kwa

miundombinu ya
umwagiliaji

vyama vya wamwagiliaji miongozo kuhusu usambazaji wa maji katika miundombinu ya umwagiliaji iliyojengwa au kutunzwa yote au kwa sehemu kwa gharama za Serikali.

(2) Wamiliki wa skimu binafsi wataandaa taarifa za uchapushaji na usambazaji wa maji na kuwasilisha nakala ya taarifa hizo kwa Tume kupitia Ofisi za Umwagiliaji za Mkoa ili kuiwezesha Tume kufuatilia uzingatiaji wa uhitaji wa maji kwa mazao na vibali vya matumizi ya maji.

(3) Mtu yeyote atakayekiuka kifungu kidogo cha (1) na cha (2), atakuwa ametenda kosa na akitiwa hatiani atatozwa faini isiyopungua shilingi milioni moja na isiyozidi shilingi milioni tano au kutumikia adhabu ya kifungo kwa kipindi kisichopungua mwaka mmoja au vyote.

Vitendo
vinavyokatazwa

46.-(1) Itakuwa ni marufuku kwa mtu yeyote kufanya yafuatayo-

- (a) kutumia au kuingia katika ardhi ya umwagiliaji kwa madhumuni mengine zaidi ya kilimo cha umwagiliaji na umwagiliaji;
- (b) kuruhusu sumu za viwandani au uchafu wa nyumbani katika skimu yoyote ya umwagiliaji, bila kutibu maji kikamilifu;
- (c) kuzuia ufanisi wa maumbo mbalimbali ya mfumo wa matupio na kuhatarisha usalama wa mifereji ya kusafirisha maji ya umwagiliaji na matupio;
- (d) kufungua au kufunga mlango au chombo cha kudhibiti mwenendo wa mafuriko kwenye bwawa, mfereji au mfumo wowote wa kusafirisha maji kwenye miundombinu ya umwagiliaji unaomilikiwa na kuhudumiwa na Serikali au vyama vya wamwagiliaji isipokuwa Mkaguzi wa Umwagiliaji au mtu yeyote aliyepewa mamlaka hayo;
- (e) kuvua katika mabwawa yanayomilikiwa, kutunzwa au kusimamiwa na Serikali au vyama vya wamwagiliaji bila kibali cha maandishi kutoka kwa mkaguzi wa umwagiliaji na isipokuwa kwa masharti na vigezo na kwa kulipa ada kama itakavyopangwa;
- (f) kutumia mlipuko au kitu chochote cha sumu kwa madhumuni ya kuvua katika bwawa;
- (g) bila kibali cha maandishi cha Tume kuchimba madini au kufanya shughuli kwa kutumia mlipuko au shughuli yoyote inayoweza kusababisha mtikisiko ndani ya umbali wa kilometa moja kutoka kwenye skimu;
- (h) kuruhusu maji kutoka katika miundombinu ya umwagiliaji inayomilikiwa, kusimamiwa au kutunzwa na Serikali na vyama vya wamwagiliaji kwa kukata tuta au kutoboa,

- kujenga mlango au kwa njia nyingine zinazofanana na hizo;
- (i) kuunganisha mifereji au bomba kwenye mifumo ya umwagiliaji au matupio;
 - (j) kuweka au kusababisha kuweka umbo au kuweka kifaa katika mfereji au bomba iliyounganishwa kwenye mifumo ya umwagiliaji na matupio; na
 - (k) kutumia njia ya usambazaji wa maji ya umwagiliaji kwenye mimea katika ardhi yake ambayo haijapata kibali cha Tume.
- (2) Kila mmiliki wa ardhi atatakiwa-
 - (a) kuhakikisha maji ya umwagiliaji hayavuji au kupotea kwenye ardhi iliyokaribu na kusababisha usumbufu kwa mwenye ardhi hiyo;
 - (b) kutunza na pale ambapo ni lazima kufanya matengenezo au kubadilisha mfumo wa umwagiliaji na matupio kama itahitajika kufanya hivyo;
 - (c) kutokuziba au kuzuia mtiririko wa maji katika sehemu yoyote ya mfumo wa umwagiliaji au matupio isipokuwa kwa maelekezo au kibali cha Tume au ofisa aliyeruhusiwa kufanya hivyo kwa niaba ya Tume;
 - (d) pale ambapo ni lazima, kusafisha mifereji na mabomba ya mfumo wa umwagiliaji au matupio uliowekwa katika ardhi yake;
 - (e) kuhakikisha mifereji na mabomba katika ardhi yake ikiwemo yale yanayoweka sehemu ya mfumo ya umwagiliaji na matupio vinalindwa kutokana na uharibifu unaoweza kujitokeza.
 - (3) Mtu yeyote atakayekiuka masharti ya kifungu hiki atakuwa ametenda kosa na akitiwa hatiani atatozwa faini isiyopungua shilingi milioni tano au atatumikia adhabu ya kifungo kwa kipindi kisichopungua mwaka mmoja au vyote.

Wajibu wa wamiliki wa ardhi kuhusu usalama wa miundo mbinu ya umwagiliaji

47.-(1) Kila mmiliki wa ardhi ambapo tangi, kisima, dimbwi, au bwawa lolote limejengwa juu ya kiwango cha miundombinu ya umwagiliaji, atatunza au kuweka matuta na utaratibu mwingine wa kuhifadhi tangi, kisima, dimbwi au bwawa ili kuweka mazingira ya usalama.

(2) Pale ambapo Maguzi wa Umwagiliaji ana maoni kuwa matuta au hifadhi iliyowekwa chini ya kifungu kidogo cha (1), haiko katika mazingira bora na inaweza kuhatarisha miundombinu ya umwagiliaji iliyoko nchini, mmiliki mhusika ataandikiwa taarifa ya kumtaka kuweka matuta hayo au kuweka mpango wa hifadhi katika mazingira bora katika utaratibu na katika muda uliotamkwa katika taarifa.

(3) Iwapo mmiliki anashindwa kukidhi masharti ya taarifa

chini ya kifungu kidogo cha (2), au iwapo ukarabati uliofanywa na mmiliki huyo, kwa maoni ya Mkaguzi wa Umwagiliaji, hauridhishi, Mkaguzi wa Umwagiliaji anaweza kufanya ukarabati stahiki ili kuweka vizuizi na mikakati ya kuhifadhi katika namna inayofaa, na gharama zake zitabebwa na mmiliki huyo katika namna itakayoainishwa.

(4) Rufaa yoyote dhidi ya amri ya Mkaguzi wa Umwagiliaji chini ya kifungu kidogo cha (3), itapelekwa kwa Mkurugenzi Mkuu ndani ya siku thelathini tangu tarehe ya kupokelewa amri hiyo na Mkurugenzi Mkuu atatoa uamuzi kuhusu rufaa ndani ya siku thelathini tangu tarehe ya kupokea rufaa hiyo na uamuzi wake utakuwa ni mwisho.

Udhibiti wa usafiri
ndani ya mifereji
na vivuko
visivyopangwa

48.-(1) Tume inaweza, kwa kushauriana na wizara yenye dhamana na masuala ya uchukuzi na mamlaka za Serikali za Mitaa na kwa kutumia Kanuni, kuzuia au kusimamia usafiri katika muundombinu ya umwagiliaji.

(2) Kila mmwagiliaji au mmiliki wa skimu ya umwagiliaji atahikikisha kwamba hakuna njia za mifereji zisizopangwa au vituo vya kuchotea maji visivyopangwa katika skimu yoyote ya umwagiliaji.

(3) Mtu yeyote anayevuka katika njia ya mfereji isiyopangwa au anayechukua maji au anayepeleka mifugo katika vituo vya kunyweshea maji visivyopangwa, atakuwa ametenda kosa na, baada ya kutiwa hatiani, atawajibika kulipa faini isiyopungua shilingi milioni moja au kutumikia adhabu ya kifungo kisichopungua mwaka mmoja au vyote.

Uhamishaji maji
kati ya mabonde
kwa ajili ya kilimo
cha umwagiliaji
Sura 331

49. Kwa kuzingatia masharti ya Sheria ya Usimamizi wa Rasilimali maji, hakuna maji yoyote ya umwagiliaji, kutoka kwenye chanzo cha maji kilicho katika bonde la eneo la umwagiliaji, yatahamishiwa kwenye bonde jingine lolote isipokuwa kwa mujibu wa makubaliano baina ya Tume, Bodi za Mabonde ya Maji na Mamlaka husika na Serikali za Mitaa.

Ufuatiliaji na
tathmini ya
utendaji wa skimu
za umwagiliaji

50.-(1) Mwishoni mwa kila msimu wa mazao, Kamati tendaji ya wamwagiliaji, kwa kushirikiana na Tume na Mamlaka za Serikali za Mitaa itafanya tathmini inayojumuisha ufuatiliaji endelevu wa skimu husika ya umwagiliaji.

(2) Ufuatiliaji na tathimini inayorejewa kwenye kifungu kidogo cha (1), utajumuisha matumizi ya maji dhidi ya mgawanyo wa maji, gharama zilizotumika kukarabati mfumo wa umwagiliaji kwa kurejea fedha zilizopo katika chama cha wamwagiliaji.

(3) Ufuatiliaji na tathminiya utendaji utahusisha-

(a) usawa katika usambazaji maji;

(b) ongezeko la uzalishaji;

(c) ongezeko la tija;

(d) mazao mbadala;

(e) upandaji wa mazao mchanganyiko kwenye eneo moja kwa wakati mmoja;

(f) ufanisi wa matumizi ya maji;

(g) ubora wa maji;

(h) matumizi ya rasilimali katika utendaji kazi;

(i) maboresho katika maeneo yaliyolimwa ya vyama vya wamwagiliaji ikilinganishwa na msimu uliopita;

(j) matumizi ya huduma za utafiti katika kupata aina stahiki mbalimbali za mbegu na viuatilifu;

(k) ubora wa kazi iliyofanywa; na

(l) uboreshaji wa mfumo wa umwagiliaji kwa awamu.

(4) Matokeo yaliyopatikana yatawekwa bayana kwa wadau wa vyama vya wamwagiliaji kwa kutoa orodha yenye manufaa yaliyopatikana kutokana na fedha zilizotumika na orodha hiyo itawekwa kwenye mbao za matangazo za vyama vya wamwagiliaji.

(5) Inapotokea kazi imefanywa na vyama vya wamwagiliaji, makisio ya gharama ya kazi hiyo, kipengele cha kazi kinachopendekezwa kufanywa, na mnyambulisho wa kazi zilizokwisha fanyika zitabandikwa kwenye ubao mahali kazi hiyo ilipofanyika.

(6) Tume inaweza kutoa msaada wowote katika uendeshaji wa zoezi la ufuatiliaji na tathmini ya utendaji na matokeo yake yatawasilishwa kwa wahusika wote kama itakavyoelekezwa na Tume.

(7) Taarifa ya ufuatiliaji na tathmini ya utendaji itatumiwa katika kuboresha utendaji wa skimu.

(8) Nakala ya taarifa ya tathimini inayorejewa katika kifungu kidogo cha (7), itabandikwa kenye ubao wa matangazo wa chama cha wamwagiliaji.

SEHEMU YA SABA
UHIFADHI WA MAZINGIRA NA ULINZI WA AFYA

Kukidhi matakwa
ya kimazingira

51.-(1) Tume itahakikisha kwamba maendeleo yote ya umwagiliaji yanaenda sambamba na shughuli za maendeleo na usimamizi wa mali asili kama vile usimamizi wa vyanzo vya maji kwa lengo la kuhifadhi mazingira.

(2) Mtu yeyote anayeosha vifaa ndani ya, au naye chafua au anayesababisha kuchafuliwa kwa, miundo mbinu ya umwagiliaji atakuwa amefanya kosa na, endapo atatiwa hatiani, atawajibika kulipa faini isiyopungua shilingi milioni moja au kifungo kisichopungua mwaka mmoja au vyote viwili, faini na kifungo.

(3) Bila kuathiri ujumla wa masharti yaliyotangulia, Tume kwa kushirikiana na mamlaka stahiki zinazohusiana na mazingira na afya-

- (a) itafanya shughuli nyingine zozote na kuchukua hatua kuhusiana na umwagiliaji kwa kadri itakavyofaa au kuonekana ni muhimu kwa uhifadhi wa mazingira na afya ya binadamu;
- (b) itahakikisha kwamba masharti yanayohusu uhifadhi wa mazingira yanazingatiwa wakati wa kupanga, kutekeleza na kuendesha skimu za umwagiliaji;
- (c) itahakikisha kwamba athari za mazingira zisizokubalika zinaepukwa na kwamba masuala yanayohusu maji yasiyotakiwa kutuama juu ya ardhi, kiwango cha chumvi kwenye maji na mmomonyoko, yanasimamiwa;
- (d) itahakikisha kwamba usanifu wa skimu za umwagiliaji unazingatia hatua za kiusalama kuhusu udhibiti wa mafuriko na majanga mengineyo;
- (e) itazuia matumizi ya kemikali, viutilifu na vitu vinginevyo kama vitakavyoainishwa, kwenye ardhi yoyote itumiwayo kwa kilimo cha umwagiliaji;
- (f) itadhibiti uchungiaji wa mifugo kwenye maeneo ya umwagiliaji na yale ya matupio na kingo za mito ambayo ni chanzo cha maji katika skimu ya umwagiliaji;
- (g) itaainisha viwango vya kimazingira vinavyotakiwa kuzingatiwa na wamwagiliaji katika uendelezaji wa skimu; na
- (h) itahakikisha kwamba wamwagiliaji wote wanazingatia sheria za nchi zinazosimamia uhifadhi wa mazingira na mbinu bora za kilimo.

(4) Kwa madhumuni ya uhifadhi mazingira, Mamlaka za Serikali za Mitaa na wadau wengine-

- (a) watahakikisha kwamba wamwagiliaji wanakidhi maelekezo

yanayowataka kuhifadhi mazingira ndani ya eneo la umwagiliaji; na

- (b) itahakikisha kwamba wamwagiliaji na wadau wengineo hawafanyi shughuli zinazoweza kupelekea uharibifu wa mazingira katika maeneo ya umwagiliaji.

Tume itafanya,
itaratibu na
kuendeleza utafiti
wa umwagiliaji

52.-(1) Kwa madhumuni ya kuboresha utendaji wa kilimo cha umwagiliaji kwa ajili ya uzalishaji mazao, tija na faida na kuhakikisha ufanisi wa matumizi ya maji ya umwagiliaji, Tume kwa kushirikiana na taasisi binafsi za umma za ndani ya nchi na za kimataifa, itaendesha, itaratibu utafiti kuhusu umwagiliaji na matupio na kuhamasisha matumizi ya matokeo ya tafiti hizo kwa wanufaika kwa mujibu wa Mkakati na Sera ya Taifa ya Umwagiliaji.

(2) Utafiti wa umwagiliaji na matupio utalenga katika kuboresha ufanisi wa miundombinu ya umwagiliaji katika kudhibiti matumizi ya maji na kuendeleza uzalishaji wenye tija wa mazao katika skimu za umwagiliaji Tume-

- (a) itahakikisha uendeshaji na utunzaji bora wa skimu za umwagiliaji;
- (b) itaongeza matumizi ya teknolojia sahihi kwa wakulima kwa ajili ya maendeleo endelevu ya umwagiliaji;
- (c) itajenga uwezo wa wataalam wa umwagiliaji, watoa huduma na wakulima katika sekta ya umwagiliaji;
- (d) itatambua changamoto za utafiti wa umwagiliaji na matupio ya maji na hatua za kuchukua;
- (e) itatafuta fedha za kutosha kwa ajili ya kuendesha shughuli za utafiti wa umwagiliaji wa matupio;
- (f) itahifadhi, kuchapisha na kusambaza matokeo ya tafiti;
- (g) itaanzisha wa mfumo wa mahusiano na uratibu aina zote za tafiti za umwagiliaji kwa wadau mbalimbali wa kitaifa na kimataifa;
- (h) itafanya utafiti na kusambaza matokeo ya utafiti na teknolojia za umwagiliaji kwa wamwagiliaji nchini;
- (i) itahamasisha matumizi sahihi ya teknolojia na ubunifu kwa maendeleo ya umwagiliaji;
- (j) itaendeleza mwamko kuhusu mbinu sahihi na boa za umwagiliaji na kuendesha parogramu mahsusi za mafunzo kwa wamwagiliaji;
- (k) itaendesha mafunzo katika maeneo mahsusi kwa ajili ya kuwaendeleza waajiriwa wapya kitaaluma mapema iwezekanavyo kwa kuzingatia matokeo ya tafiti kwa lengo la kuimarisha weledi na ujuzi wa watumishi wa umwagiliaji ili kuimarisha na kuboresha maendeleo endelevu kwenye sekta ya umwagiliaji;

- (l) itatambua, itahifadhi, na itatumia teknolojia, mbinu na ubunifu uliopo;
- (m) itawezesha upatikanaji wa fedha ili kusaidia kilimo cha umwagiliaji katika miji na pembezoni mwa miji ambapo maji yanayovunwa kwenye paa, maji taka yaliyowekwa dawa na teknolojia sahihi zinazoweza kutumiwa;
- (n) itaanzisha na kuimarisha ushirikiano na kuwa na mtandao wa taasisi za umwagiliaji za ndani ya nchi na za kimatifa ikiwemo taasisi za elimu ya juu; na
- (o) itafanya kazi nyingine yoyote inayofaa.

SEHEMU YA NANE
MASHARTI KUHUSU MASUALA YA FEDHA

Uanzishwaji wa
Mfuko wa
Maendeleo ya
Umwagiliaji

53.-(1) Unaanzishwa Mfuko utakaojulijana kama Mfuko wa Maendeleo ya Umwagiliaji kwa lengo la kuhakikisha maendeleo na uendelevu wa sekta ya umwagiliaji.

- (2) Mfuko wa Maendeleo ya Umwagiliaji utakuwa na-
 - (a) fedha zitokanazo na uuzwaji au uhamishwaji wa skimu za umwagiliaji zinazomilikiwa na serikali;
 - (b) fedha zozote zitokanazo na gharama zinazorejeshwa ambazo zitalipwa na wamwagiliaji kwa maendeleo ya umwagiliaji chini ya Sheria hii;
 - (c) fedha zitakanazo na mauzo ya mitambo chakavu na vifaa vilivyotumika kujengea skimu za umwagiliaji;
 - (d) fedha zozote zinazoweza kulipwa kwenye Mfuko kutoka kwenye fedha zilizoidhinishwa kwa ajili hiyo na Bunge;
 - (e) fedha zilizopatikana kwa njia ya ada au tozo kuhusiana na programu, uchapishaji, nyaraka na huduma nyinginezo zinazotolewa na Tume;
 - (f) fedha zozote ambazo Mfuko utapata, kwa idhini ya Waziri na Waziri mwenye dhamana na masuala ya fedha, kwa njia ya misaada, mikopo au misaada mingine ya kifedha kutoka ndani au nje ya nchi; na
 - (g) fedha zozote ambazo zitapatikana kwenye Mfuko kwa kuzingatia masharti ya sheria hii au vinginevyo kama itakavyoidhinishwa na Tume.

Matumizi ya
Mfuko

- 54.**-(1) Rasilimali za Mfuko zitatumiwa kwa -
- (a) kugharamia mipango, upembuzi yakinifu, usanifu, ujenzi, uendeshaji na utunzaji wa skimu za umwagiliaji;
 - (b) kugharamia, kwa njia ya mkopo au msaada, utafiti wa

masuala yoyote ya umwagiliaji na matupio yanayofanywa na, au kwa faida ya watu au vyama vinavyojihusisha na umwagiliaji na matupio;

- (c) kutwaa ardhi, vifaa, malighafi na mali nyinginezo na ujenzi wa majengo kwa lengo la kuendeleza madhumuni ya Mfuko;
- (d) kugharamia kwa njia ya mkopo au msaada, mafunzo au kozi za kujenga uwezo wa wataalam au wakulima wanaojihusisha katika sekta ya umwagiliaji;
- (e) kutoa tuzo kwa watu waliochangia maendeleo ya sekta ya umwagiliaji;
- (f) kugharamia matumizi ya Tume na yale yatokanayo na uanzishwaji na uendelezaji wa Mfuko; na
- (g) dhumuni lolote ambalo Waziri, kwa ushauri wa Tume, ataona ni kwa maslahi ya malengo ya Mfuko.

Malipo ya awali
kwenye Mfuko

55. Iwapo katika mwaka wowote wa fedha, mapato ya Mfuko na mapato mengine ya nyongeza yatokanayo na mwaka uliotangulia hayatoshelezi kugharamia mahitaji halisi au makisio ya mahitaji ya Tume, Waziri mwenye dhamana na masuala ya fedha anaweza kutoa malipo ya awali kwa Mfuko ili kukabiliana na upungufu au sehemu ya upungufu, na malipo hayo ya awali yatafanywa kwa kuzingatia vigezo na masharti, ama ya kurejesha fedha au vinginevyo, kama Waziri mwenye dhamana na masuala ya fedha atakavyoamua.

Usimamizi wa
Mfuko

56.-(1) Kwa kuzingatia maelekezo ya jumla au mahususi ya Waziri, Mfuko utasimamiwa na Tume.

(2) Kwa madhumuni ya kifungu hiki, Tume itatunza fedha zake katika akaunti tofauti za benki ambazo zitatumika kwa kuzingatia maelekezo ambayo Waziri anaweza kuyatoa, isipokuwa kwamba Tume haitafanya malipo yoyote kutoka kwenye Mfuko isipokuwa kwa kuzingatia mpango wa matumizi wa mwaka uliokubaliwa.

(3) Bila kuathiri masharti yaliyotangulia ya kifungu hiki, Tume inaweza, iwapo mazingira yatahitaji hivyo, kutunza na kusimamia akaunti mahsusi yoyote ya benki kwa madhumuni ya mradi au programu inayotekelezwa kwa ushirikiano na taasisi, idara au shirika la kigeni kwa maendeleo ya umwagiliaji katika Jamhuri ya Muungano.

(4) Mtu yeyote anayeidhinisha malipo kutoka kwenye Mfuko kwa kukiuka masharti yoyote ya kifungu hiki atakuwa ametenda kosa na atawajibika, baada ya kutiwa hatiani, kulipa faini isiyopungua shilingi milioni mbili au kifungu kwa kipindi

kisichozidi miaka mitano au vyote viwili, faini na kifungo.

Hesabu na
ukaguzi wa
hesabu za Mfuko
wa Maendeleo ya
Umwagiliaji
Sura ya 418

57.-(1) Tume itaweka na kutunza vitabu sahihi vya mahesabu ya malipo yaliyofanywa kwenye, na kutoka katika Mfuko.

(2) Vitabu vya mahesabu ya Mfuko vitakaguliwa kila mwisho wa mwaka na Mdhibiti na Mkaguzi Mkuu wa Hesabu za Serikali kwa mujibu wa Sheria ya Ukaguzi wa Umma, hesabu za Mfuko zilizokaguliwa zitachapishwa sambamba na hesabu nyingine za Tume zilizokaguliwa.

Fedha za Tume

58. Vyanzo vya fedha za Tume vitakuwa ni-

- (a) fedha zinazoweza kutengwa na Bunge;
- (b) kiasi cha fedha kitakacholipwa kwa Tume kwa njia ya msaada, zawadi, na mkopo;
- (c) tozo za huduma ya umwagiliaji; na
- (d) vyanzo vingine vyovyote halali vilivyopatikana au vipatakavyopatikana.

Bajeti ya mwaka
ya Tume

59. Tume itaandaa makisio ya mapato na matumizi yake kwa mwaka uanofuatia na kuyawasilisha kwa Waziri ili yapitiwe na kisha yawasilishwe Bungeni ili yaidhinishwe.

Hesabu na
Ukaguzi wa
hesabu

60.-(1) Kwa kuzingatia viwango vya kimataifa vya hesabu, Tume itatunza na kuhifadhi vitabu sahihi vya hesabu kuhusiana na-

- (a) fedha zote zilizopokelewa na kutumiwa;
- (b) mali na madeni yote ya Tume; na
- (c) taarifa zote za mapato na matumizi ya Tume.

(2) Ndani ya miezi sita ya kufungwa kwa kila mwaka wa fedha, Mdhibiti na Mkaguzi Mkuu wa Hesabu za Serikali kwa kuzingatia Sheria ya Ukaguzi wa Umma atakagua hesabu ikiwemo mizani ya hesabu ya Tume.

(3) Kila mahesabu ya mapato na matumizi na mizani ya mahesabu iliyokaguliwa itawajibishwa kwenye kikao cha Tume na, iwapo itathibitishwa, itaidhinishwa kwa cheti kwa ajili hiyo.

(4) Mapema baada ya hesabu za Tume kukaguliwa, na kwa hali yoyote ile si zaidi ya miezi sita baada ya kufungwa kwa mwaka wa fedha, Tume itawasilisha kwa Waziri nakala ya taarifa ya hesabu zilizokaguliwa pamoja na taarifa kuhusu taarifa iliyotolewa na wakaguzi wa hesabu.

(5) Waziri anaweza, iwapo taarifa iliyowasilishwa kwake chini ya kifungu hiki ina makosa yoyote, kuielekeza Tume irekebishe au iwasilishe kwake maelezo ya kina na Tume itatekeleza maelekezo hayo ya Waziri.

Sura 418

(6) Waziri, mapema iwezekanavyo baada ya kupokea taarifa, atawasilisha Bungeni hesabu zilizokaguliwa za Tume pamoja na taarifa ya wakaguzi.

Mamlaka ya kukopa na kuwekeza

61.-(1) Kwa kuzingatia idhini ya awali ya Waziri na Waziri mwenye dhamana na masuala ya fedha, Tume inaweza kukopa fedha kwa madhumuni ya shughuli zake kwa njia ya mkopo au mkopo bila kuwa na fedha baada ya amana na vigezo na masharti yahusianayo na ulipwaji wa kiasi cha fedha cha msingi na malipo ya riba, kwa kuzingatia maelekezo yoyote ya Waziri kama Tume itakavyoona inafaa.

(2) Fedha zinazomilikiwa na Tume chini ya Sheria hii, ambazo hazihitajiki kutumiwa na Tume zitawekezwa kwa namna ambayo Tume itaona kuwa inafaa baada ya kupata kibali cha Waziri wa Fedha.

Mwaka wa fedha

62. Mwaka wa Fedha wa Tume utakuwa ni kipindi cha miezi Kumi na mbili kuanzia tarehe 1 ya mwezi Julai na kuishia tarehe 30 ya mwezi Juni ya mwaka unaofuatia.

SEHEMU YA TISA MAKOSA NA ADHABU

Makosa na adhabu

63.-(1) Mtu yeyote ambaye-

- (a) kwa makusudi anaharibu au anashindwa kutunza mfumo wa umwagiliaji au miundo mbinu ya umwagiliaji;
- (b) anaingilia sehemu yoyote ya miundo mbinu ya umwagiliaji au mali yoyote inayotumiwa na vyama vya wamwagiliaji kuhusiana na umwagiliaji au matupio au kukausha maji katika ardhi bila ruhusa ya mamlaka husika;
- (c) kwa makusudi anasema maneno ambayo ni ya uongo au ambayo hana sababu ya kuyaamini kuwa ni ya ukweli;
- (d) kwa kitendo au kwa maandishi, anatishia, anachochea, au anazuia ujenzi wa miundombinu yoyote ya umwagiliaji;
- (e) anajihusisha katika vitendo ambayo vinaharibu au vinaweza kuharibu vyanzo vya maji katika mfereji au mikondo ya maji ya umma ambayo inapeleka maji kwenye skimu za umwagiliaji;
- (f) analisha au anaruhusu mifugo kulishwa katika maeneo ya umwagiliaji tofauti na ilivyoelekezwa na Waziri;
- (g) anawasha au anasababisha moto kuwashwa kwenye mazao yaliyopo kwenye skimu za umwagiliaji au sehemu yoyote

- ya shamba, bustani au kitalu kinachomwagiliwa;
- (h) bila kuwa na sababu ya msingi, anakataa kutoa msaada wa kuzima moto katika Skimu za umwagiliaji au eneo lolote la umwagiliaji ikiwa ni shamba, bustani au kitalu;
 - (i) anatumia au anasababisha kutumia katika skimu ya umwagiliaji, shamba, bustani au kitalu ndani ya eneo la umwagiliaji kemikali yoyote au kitu chochote kilichozuiwa chini ya Sheria hii au Amri itakayotolewa na Waziri;
 - (j) anatoa au atatoa taarifa za uongo au taarifa za kumpotosha Mkurugenzi Mkuu au afisa aliyeidhinishwa kutekeleza majukumu chini ya Sheria hii;
 - (k) anakataa au atakataa au anazembea kutoa taarifa ambazo angepaswa kuzitoa chini ya masharti ya Sheria hii au Sheria Ndogo itakayotengenezwa chini ya Sheria hii;
 - (l) anajenga au anapanua miundombinu ya umwagiliaji kinyume cha masharti ya Sheria hii au anashindwa bila kuwa na sababu ya msingi, kuzingatia masharti yaliyotolewa kwenye Sheria hii au Sheria Ndogo;
 - (m) kwa makusudi anazuia, anaharibu au anabomoa kazi yoyote ya umwagiliaji au miundombinu ya umwagiliaji;
 - (n) anamzuia, anamnyanyasa kijinsia au anamkwamisha afisa wa Serikali katika utekelezaji wa majukumu yake chini ya Sheria hii au Sheria Ndogo zilizotengenewa chini ya Sheria hii;
 - (o) anaingilia kwa kuongeza au kupunguza maji katika miundo mbinu ya umwagiliaji;
 - (p) anaingilia kwa kubadili mtiririko wa maji katika miundombinu yoyote ya umwagiliaji kiasi cha kusababisha uharibifu;
 - (q) ameruhusiwa kutumia maji katika kazi yoyote ya umwagiliaji anasababisha upotevu wa maji katika eneo la umwagiliaji au anaingilia utaratibu uliowekwa wa kutumia maji bila utaratibu;
 - (r) kwa makusudi anaachafua maji katika miundombinu ya umwagiliaji na kusababisha yasiweze kutumika kama ilivyokusudiwa;
 - (s) anaharibu, anaondoa au anabadili kiasi cha maji kilichokusudiwa kutumika katika shughuli za umwagiliaji, atakuwa ametenda kosa na baada ya kutiwa hatiani:
 - (i) ikiwa ni mtu binafsi, atalipa faini isiyopungua shilingi milioni moja na isiyozidi shilingi milioni tano au kifungo kwa kipindi kisichopungua mwaka mmoja lakini kisichozidi miaka mitatu au vyote,

faini na kifungo; na

(ii) ikiwa ni kampuni, italipa faini isiyopungua milioni kumi na isiyozidi shilingi milioni hamsini.

(2) Mahakama inaweza kuamua kuongeza adhabu iliyotolewa chini ya Sheria hii, kwa kuamuru kuwa kifaa kilichotumiwa kutenda kosa kitaifishwe.

(3) Waziri atakuwa na mamlaka ya kutoa utaratibu utakaotumika kutaifisha kifaa kilichotumika kutenda kosa chini ya kifungu kidogo cha (2) ili kiweze kumilikiwa na Serikali.

(4) Ikiwa kosa limetendeka na kwa sababu hiyo, mtu amejeruhiwa au kupoteza mali, mahakama inaweza, katika nyongeza ya adhabu iliyotolewa chini ya kifungu kidogo cha (1), kuamuru mtenda kosa kumfidia mtu aliyeumia au kupoteza mali.

(5) Ikiwa mtu ametiwa hatiani kwa kosa lililotendeka chini ya kifungu hiki, gharama za kuondoa uharibifu uliojitokeza, kukarabati, au kubadilisha mfumo wa umwagiliaji zilizotumiwa na afisa yeyote wa Serikali anayetekeleza masharti ya Sheria hii zitalipwa na mtu huyo kama itakavyokuwa imeelekezwa.

Makosa kwa
chombo hodhi

64.-(1) Kitendo chochote ambacho kama kingefanywa na mtu binafsi kingekuwa ni kosa chini ya Sheria hii au Kanuni zitakazotengenezwa chini ya Sheria hii, kama kitafanywa na chombo hodhi, kitakuwa ni kosa lililotendwa na Mkurugenzi, Katibu au Meneja isipokuwa kama atathibitisha kuwa kosa hilo limetendwa bila idhini yake au kushirikishwa na kwamba alitumia jitihada zake kuzuia kufanyika kwa kosa kama alivyotakiwa kulingana na majukumu yake katika nafasi yake katika mazingira yote.

(2) Ikiwa kosa chini ya Sheria hii, Kanuni au Amri iliyotengenezwa chini yake limetendwa na mbia katika kampuni, itakukwa kosa hilo limetendwa na mtu yeyote ambaye kwa wakati kosa likitendeka alikuwa mbia katika kampuni hiyo au alikuwa anatenda katika wadhifa huo isipokuwa kama atadhibitisha kwamba kosa limetendwa bila idhini yake au kushirikishwa na kwamba alitumia jitihada zote kuzuia kutendeka kwa kosa kama alivyopaswa kulingana na majukumu yake katika mazingira yote.

Madai

65. Kwa kuzingia masharti bayana ya Sheria hii, hakuna kitu chini ya Sheria hii, kitakachozuia madai ya mtu yeyote kutokana na uharibifu unaosabishwa na ujenzi, maadiliko au uharibifu wa miundo mbinu ya umwagiliaji au kushindwa kuifanyia matengenezo.

**SEHEMU YA KUMI
MASHARTI MENGINEYO**

Utunzaji wa siri

66.-(1) Kila mjumbe wa Kamati ya Tume na kila mtu aliyeajiriwa chini ya Sheria hii hatatoa kwa mtu yeyote, isipokuwa katika kutekeleza majukumu yake chini ya Sheria hii au pale atakapotakiwa kufanya hivyo chini ya Sheria iliyoandikwa, taarifa yoyote ambayo atatakiwa katika kutekeleza majukumu yake kuhusiana na masuala ya fedha au taarifa za biashara za mtu.

(2) Mtu yeyote ambaye atakiuka mashartiya kifungu kidogo (1), atakuwa ametenda kosa na atawajibika baada ya kutiwa hatiani kulipa faini isiyopungua shilingi milioni mbili au kiasi cha fedha ambacho ni sawa na faida aliyoipata kutokana na kosa hilo, ikiwa kiasi hicho ni kikubwa, au kifungo cha miaka mitano au vyote, faini na kifungo.

Kutoa taarifa

67. Taarifa chini ya Sheria hii itakuwa imetolewa kwa mtu ikiwa-

- (a) atapewa mtu huyo binafsi;
- (b) itaachwa katika eneo lake la makazi linalojulikana; au
- (c) itatumwa kwake kupitia anuani ya posta ya mahali alipokuwa anaishi mwishoni.

Uwekaji
kumbukumbu

68.-(1) Waziri anaweza, kwa mapendekezo ya Tume, kuanisha vitendo ambavyo kumbukumbu zitahifadhiwa kwa madhumuni ya Sheria hii na anaweza kumtaka mtu yeyote anayemiliki au kutunza kumbukumbu hizo kuziwasilisha kwenye Tume kwa muda utakaoamuliwa.

(2) Mtu yeyote ambaye-

- (a) atashindwa kutunza kumbukumbu zinazotakiwa chini ya Sheria hii; au
- (b) kwa makusudi atabadilisha kumbukumbu hizo, atakuwa ametenda kosa na atawajibika baada ya kutiwa hatiani kulipa faini isiyopungua shilingi million moja au kifungo cha miaka miwili au vyote, faini na kifungo.

Mikutano ya
wadau

69.-(1) Kwa madhumuni ya kukuza maendeleo katika sekta ya umwagiliaji, kutakuwepo na Jukwaa la wadau ambalo litakuwa linahusika na mambo yafuatayo-

- (a) kuweka taratibu za kulipia majukumu yanayowashirikisha wadau katika sekta ya umwagiliaji;
- (b) kuweka taratibu za kuendesha mkutano mkuu wa mwaka;
- (c) kuweka utaratibu wa namna ya kugharamia shughuli na mikutano;

(d) kuanzisha Sekretariati ya wadau pamoja na vyombo vingine kwa ajili ya kutekeleza majukumu yanayowashirikisha.

(2) Mkutano wa wadau utafanyika angalau mara moja kwa mwaka kwa lengo la kukubaliana ugharamiaji wa shughuli au kazi mbalimbali na kutekeleza majukumu ya pamoja na kufanya jambo lolote linalowahusu.

(3) Mamlaka ya Serikali za Mitaa inaweza, kwa kushauriana na Tume, kutengeneza Sheria Ndogo kwa utekelezaji bora wa majukumu yanayowashirikisha wadau kama watakavyokubaliana.

Tume inaweza kuhitaji taarifa

70. Tume inaweza kwa maandishi, kumtaka mtu yeyote au kikundi cha watu wanaojihusisha na masuala ya kukuza maendeleo ya umwagiliaji kuipatia taarifa zinazohusu jukumu hilo kama Tume itakavyoainisha.

Mamlala ya Waziri kupata taarifa

71. Tume itawasilisha kwa Waziri mrejesho wa takwimu, akaunti, maandiko au taarifa kuhusiana na utekelezaji wa majukumu yake chini ya Sheria hii kama Waziri atakavyoelekeza.

Tume kuanzisha mahusiano

72. Kwa madhumuni ya kutekeleza majukumu yake ipasavyo, Tume itaanzisha na kuweka mahusiano, mashauriano na ushirika pamoja na vyombo na watu wengine, ikiwa wamejiunga au sivyo, na ikiwa wapo ndani au nje ya Jamhuri ya Muungano, kama itakavyoonekana inafaa kwa utekelezaji bora wa majukumu yake chini ya Sheria hii.

Kinga

73. Hakuna mjumbe wa Tume au mtumishi wa Tume atakayewajibishwa kwa kitendo chochote alichofanya au kushindwa kufanya kwa nia njema wakati akiwa anatimiza wajibu wake ndani ya Sheria hii au chini ya Sheria Ndogo itakayotengenezwa chini ya Sheria hii.

Ukusanyaji wa gharama ikiwa mtenda kosa hajulikani

74. Ikiwa mtu aliyesababisha kuharibika, mabadiliko, ongezeko au kuzuia kazi za umwagiliaji bila ruhusa ya mamlaka husika, hawezi kupatikana baada ya uchunguzi uliofanywa na Mkaguzi wa Umwagiliaji, kadri atakavyoona inatosha kuwa angekuwa ameshajulikana, Mkaguzi wa Umwagiliaji anaweza kwa idhini ya Mkurugenzi Mkuu baada ya kutoa taarifa ya mwezi mmoja kwa wamiliki wa ardhi iliyoathiriwa na uharibifu, baada ya kupokea maoni yao kama yatakuwepo, kurejesha toka kwao kiasi cha fedha ambacho ataona kinatosha kufanya marekebisho ya uharibifu au kuondoa mabadililo au zuio katika kazi za umwagiliaji.

Njia za kurejesha fedha

75. Kiasi chochote cha fedha kinachodaiwa kutoka kwa mtu yeyote kulingana na masharti ya Sheria hii au Kanuni zitakazotengenezwa chini yake, kama kiasi hicho ni cha kazi iliyopaswa kuwa imefanywa lakini haikufanywa, kitakusanywa, bila ya kuathiri njia nyingine za urejeshaji, kwa namna ambayo mapato ya Serikali yanakusanywa.

Mamlaka ya kutengeneza Kanuni

76.-(1) Baada ya kushauriana na Tume, Waziri anaweza kutunga kanuni kwa lengo la kutelekeza Sheria hii kikamilifu.

(2) Bila ya kuathiri masharti ya ujumla ya kifungu kidogo cha (1), Waziri anaweza kutunga Kanuni-

- (a) kutoa utaratibu wa matengenezo ya mfumo wa umwagiliaji;
- (b) kuelekeza namna ambavyo maji ya umwagiliaji yatakavyotumika katika umwagiliaji na utoaji wa maji katika maeneo ya umwagiliaji;
- (c) kuelekeza muda ambao maji ya umwagiliaji yanaweza kutumika katika maeneo ya umwagiliaji;
- (d) kutoa utaratibu wa matengenezo au uboreshaji wa ubora wa maji ya umwagiliaji katika maeneo ya umwagiliaji na matupio;
- (e) kutoa utaratibu wa matengenezo ya miundombinu ya umwagiliaji;
- (f) kuelekeza namna ambavyo maji yaliyozidi kwenye umwagiliaji yatakavyokaushwa kutoka kwenye mfumo wa umwagiliaji;
- (g) kutoa utaratibu wa namna ya kuunda, majukumu na kuendesha vyama vya umwagiliaji;
- (h) kusimamia ugawaji wa maji miongoni mwa wamwagiliaji;
- (i) kuelekeza namna ya kutoa taarifa ambazo zinatakiwa kutolewa chini ya “Sheria hii;
- (j) kukadiria kiasi cha maji ya umwagiliaji au matumizi mengine ya maji yanayotumiwa na wamiliki wa ardhi katika mfumo wa umwagiliaji na matupio;
- (k) kutoa taratibu za ugawaji wa ardhi na usimamizi wa vyama vya umwagiliaji;
- (l) kuhusiana na usuluhishi wa migogoro;
- (m) kuelekeza viwango vya ada na tozo chini ya Sheria hii na namna ya ulipaji;
- (n) kuelekeza fomu zitakazotumika na ada zinazopaswa kulipwa kulinga na masharti yanayoruhusu katika Sheria hii;
- (o) kutoa matangazo kuhusu maombi ya kutumia kazi za umwagiliaji;

- (p) kutoa taratibu za kukata rufaa ndani ya Sheria hii;
- (q) kuelekeza namna ya kuwa na rejista ya kuweka kumbukumbu;
- (r) kuelekeza namna ya kujenga, kutengeneza na kujaribu mifumo ya umwagiliaji au huduma nyingine zinazohusu mifumo ya umwagiliaji na matupio;
- (s) kuelekeza namna ya kujenga, kutengeneza na taratibu za kujaribu miundombinu, kutoa fidia chini ya Sheria hii;
- (t) kutoa utaratibu wa kuandikisha na kuwafuta wamwagiliaji;
- (u) kutoa utaratibu wa kutengeneza Sheria Ndogo, uanzishwaji wa Kamati za vyama vya umwagiliaji na uendeshaji wa vyama hivyo;
- (v) kuzuia au kusimamia usafiri wa majini katika maeneo ya umwagiliaji;
- (w) kuelekeza usimamizi na uendeshaji wa mfuko;
- (x) kueleza kitu chochote ambacho kinaweza au kinachotakiwa kuelezwa ndani ya Sheria hii.

Masharti ya
Mpito

77.- (1) Ndani ya miezi kumi na mbili baada ya kuanza kutumika kwa Sheria hii, chama cha umwagiliaji, chama cha ushirika, au taasisi yoyote au chombo chochote kinachojishughulisha na shughuli za umwagiliaji kama chama cha wamwagiliaji wanapaswa kuwasilisha maombi yao kwa Mkurugenzi Mkuu kwa ajili ya kusajiliwa chini ya Sheria hii.

(2) Baada ya Sheria hii kuanza kutumika, Ofisi za Umwagiliaji za Kanda zitaendelea kutekeleza majukumu yake mpaka Ofisi za Umwagiliaji za Mikoa zitakapoanzishwa kama ilivyoainishwa katika Sheria hii.

JEDWALI

(Chini ya Kifungu cha 3(7))

VIPENGELE KUHUSU UENDESHAJI WA TUME

Makamu
Mwenyekiti

1. Katika Kikao cha Kwanza Wajumbe wa Tume watachagua mmoja wao kuwa Makamu Mwenyekiti.

Muda wa uteuzi

2. Wajumbe wa Tume watahakikilia madaraka yao kwa miaka mitatu, isipokuwa ujumbe wao umetenguliwa au umefutwa kutokana na utovu wa nidhamu au kutohudhuria vikao vitatu mfululizo vya Tume bila sababu ya msingi, na atastahili kuteuliwa tena kwa kipindi kingine.

Mikutano na utaratibu wa kuendesha mikutano

3.-(1) Tume itafanya mikutano yake kwa wakati na katika eneo litakaloamuliwa na mwenyekiti baada ya kushauriana na Mkurugenzi Mkuu.

(2) Mikutano wa kawaida wa Tume utaitishwa na Mwenyekiti au Makamu Mwenyekiti na taarifa inayoainisha mahali, tarehe na muda wa mkutano itatumwa kwa kila mjumbe kupitia sehemu yake ya kawaida anapofanya shughuli au anapoishi katika kipindi kisichopungua siku kumi na nne kabla ya tarehe ya mkutano huo.

(3) Mwenyekiti, au kama hayupo, Makamu mwenyekiti au mmoja wa wajumbe aliyeteuliwa kuwa Mwenyekiti, ataongoza mkutano maalum wa Tume kwa kusambaza Waraka wa maandishi yaliyosainiwa na wajumbe wasiopungua watatu wa Tume, na pale ambapo mkutano maalum utafanyika dondoo za kikao hicho zitasambazwa kwa kila mjumbe kupitia sehemu yake ya kawaida anapofanyia shughuli katika kipindi kisichopungua siku tatu kabla ya tarehe ya mkutano huo.

(4) Kikao cha Tume kitaongozwa na Mwenyekiti au kama hayupo Makamu Mwenyekiti au Mjumbe mwingine atakayeteuliwa na wajumbe waliopo kuongoza kikao.

Akidi

4. Wajumbe watano wataunda akidi ya mikutano ya Tume.

Mjumbe mshirikishwa

5. Tume itakuwa na mamlaka ya kumwalika mtu yeyote kuhudhuria vikao vya Tume isipokuwa mtu huyo hatakuwa na haki ya kupiga kura.

Mgongano wa maslahi

6. Mjumbe ambaye atakuwa na mgongano wa maslahi katika hoja yoyote iliyopo mbele ya Tume au Kamati ya Tume anapaswa kutangaza kuwa na maslahi na jambo hilo kwa Mwenyekiti au

Makamu Mwenyekiti, na hataruhusiwa kushiriki katika kutoa maamuzi kuhusu hoja hiyo, isipokuwa kwa idhini ya wajumbe wengi waliopo katika kikao hicho anaweza kuruhusiwa ushiriki katika mjadala.

Tume itajiwekea utaratibu **7.** Kulingana na aya za Jedwali hili, Tume inaweza kujiwekea utaratibu.

Taarifa za shughuli za Tume **8.** Tume itaandaa taarifa ya mwaka itakayoonyesha mpango kazi wa Tume ikianisha malengo ya muda mfupi na muda mrefu.

Marupurupu **9.** Waziri baada ya kushauriana na Waziri wa fedha ataainisha marupurupu ya wajumbe wa Tume.

MADHUMUNI NA SABABU

Muswada huu unapendekeza kutunga Sheria ya Taifa ya Umwagiliaji ya mwaka 2013 ambayo pamoja na mambo mengine, inalenga kuondoa changamotozilizojitokeza kwenye sekta ya kilimo cha umwagiliaji. Changamoto hizo nipamoja na kukosekana kwa mfumo wa kisheria wa kulinda na kuendeleza ardhi inayofaa kwa kilimo cha umwagiliaji; kutoendelezwa, kutelekezwa na kuhujumiwa kwa miundombinu ya umwagiliaji; udhaifu wa mfumo wa kitaasisi usiokidhi kasi ya kuendelea kupanuka kwa shughuli za umwagiliaji; na uelewa mdogo wawananchi unaopelekea kushindwa kutambua na kutekeleza kikamilifu wajibu wao katika kumiliki na kuchangia ukarabati wa miundombinu ya umwagiliaji inayojengwa kwa fedha nyingi za Serikali. Kadhalika, Sheria inayopendekezwa inalenga kuanzisha Tume ya Taifa ya Umwagiliaji, kuendeleza, kuendesha na kusimamia kilimo cha umwagiliaji na mifumo ya Umwagiliaji na kuanisha masuala mengine yanayofanana na hayo.

Muswada huu umegawanyika katika sehemu kuu kumi.

Sehemu ya Kwanza ya Muswada inaaainisha masharti ya utangulizi yakiwemo jina la Sheria pamoja na tafsiri ya manenona virai vilivyotumika katika muswada.

Sehemu ya Pili ya Muswada inapendekeza kuanzishwa kwa Tume ya Taifa ya Umwagiliaji kwa lengo la kuratibu, kuendeleza na kusimamia sekta ya umwagiliaji. Kadhalika, Sehemu hii pia imeainisha muundo wa Tume, Kamati za Tume, mamlaka ya Tume, uteuzi wa Mkurugenzi Mkuu wa Tume, na mamlaka ya

Tume ya kuajiri au kuteua watumishiwa a Kamisheni. Maeneo mengine muhimu katika sehemu hii yanajuisha Ibara ya 10 ambayo inapendekeza kuundwa kwa Ofisi za umwagiliaji za kanda, idara za umwagiliaji za Wilaya na uteuzi wa wakaguzi wa umwagiliaji.

Sehemu ya Tatu ya Muswada inapendekeza kuweka masharti yahasianayo na utangazaji wa maeneo ya umwagiliaji na ugawaji wa makundi ya ardhi kwa ajili ya umwagiliaji.

Katika sehemu hii, Waziri mwenye dhamana na masuala ya kilimo amepewa mamlaka ya kutangaza maeneo maalum ya umwagiliaji. Mamlaka hayo yanatekelezwa baada ya mashauriano na Waziri mwenye dhamana na masuala ya ardhi, Waziri mwenye dhamana na masuala ya maji na Waziri mwenye dhamana na masuala ya mamlaka za Serikali za mitaa. Masharti mengine ya muhimu katika sehemu hii ni pamoja na Ibara ya 17 ambayo inampa Rais mamlaka ya kutwaa ardhi kwa madhumuni ya umwagiliaji, na Ibara ya 18 ambayo inahusu ugawaji wa ardhi kwa madhumuni ya Kilimo cha umwagiliaji.

Sehemu ya Nne, Muswada unapendekeza kuweka masharti yanayohusu ujenzi wa miundombinu ya umwagiliaji. Masuala ya muhimu katika sehemu hii ni pamoja na Ibara ya 19 inayoainisha watu na taasisi zinazoweza kufanya shughuli hizi za ujenzi pamoja na utaratibu wa kupata kibali cha ujenzi wa miundombinu ya miundombinu ya umwagiliaji; Ibara ya 22 inayohusu fidia kutokana na uharibifu ambao mtu yeyote ameupata kutokana na ujenzi huo wa miundombinu ya umwagiliaji; na Ibara ya 23 inayotoa mamlaka kwa Tume kukabidhi jukumu la ujenzi wa miundombinu ya umwagiliaji kwa mamlaka ya Serikali ya mtaa, vyama vya wamwagiliaji au chombo kingine hodhi.

Sehemu ya Tano, Muswada unapendekeza kuweka masharti yanayohusiana na skimu za umwagiliaji na wamwagiliaji. Kwa misingi hiyo, masharti yahasianayo na mgawanyo wa skimu za umwagiliaji na makundi ya wamwagiliaji yameainishwa bayana.

Sehemu ya Sita ya Muswada inahusu usimamizi wa skimu za umwagiliaji. Katika sehemu hii inapendekezwa kwamba skimu za umwagiliaji zisimamiwe na Tume, mamlaka za Serikali za mitaa, taasisi za umma na binafsi na wakulima au vyama vya wamwagiliaji. Kadhalika, inapendekezwa katika sehemu hii kuweka masharti yanayohusu uanzishwaji wa vyama vya wamwagiliaji, ugawaji wa maeneo ya umwagiliaji, utunzaji wa ardhi ya umwagiliaji, wajibu wa umiliki wa ardhi kuhusiana na shughuli zinazoweza kuathiri shughuli za umwagiliaji, usimamizi wa mjongeo na mifereji isiyopimwa, uhamishaji wa maji ya umwagiliaji baina ya mabonde na usimamizi na tathmini ya utendaji wa skimu za umwagiliaji.

Sehemu ya Saba inaweka masharti kuhusu uhifadhi wa mazingira na ulinzi wa afya. Kadhalika, inapendekezwa katika sehemu hii kuweka masharti yanayohusiana na uhifadhi wa mazingira, uendelezaji wa tafiti za umwagiliaji na uanzishwaji wa Kituo cha Taifa cha Utafiti wa Umwagiliaji.

Sehemu ya Nane ya Muswada inapendekeza kuweka masharti kuhusu masuala ya fedha. Maeneo ya muhimu katika sehemu hii ni pamoja na Ibara ya 52 ambayo inapendekeza kuanzishwa kwa mfuko wa Maendeleo ya Umwagiliaji kwa lengo la kuendeleza na kuimarisha sekta ya umwagiliaji; Ibara ya 55 inahusu usimamizi wa Mfuko; na Ibara ya 60 inayotoa mamlaka kwa Tume kukopa na kuwekeza fedha za Tume kwa kadri Tume itakavyoona inafaa kwa maendeleo ya sekta ya umwagiliaji.

Sehemu ya Tisa inapendekeza kuweka masharti kuhusu makosa na adhabu mbalimbali kwa watu wanaokiuka sheria inayopendekezwa. Makosa yanayopendekezwa chini ya sehemu hii ni pamoja na kuaharibu mifumo ya umwagiliaji au miundombinu ya umwagiliaji; kuzuia ujenzi wa miundombinu ya umwagiliaji; kumzuia afisa yeyote wa umma asitekeleze mamlaka yake halali chini ya sheria inayopendekezwa; na kuingilia au kubadilisha mkondo wa maji kwenye muundmbinu wowote wa umwagiliaji.

Sehemu ya Kumi inahusu masharti ya jumla. Sehemu hii inaweka masharti yanayotoa kwa wajumbe na watumishi wa Tume na Kamati, wajibu wa kutunza siri katika utekelezaji wa majukumu yao chini ya Sheria inayopendekezwa. Kadhalika, sehemu hii pia inaweka masharti kuhusiana na mikutano ya wadau, mamlaka ya Waziri kutengeneza Kanuni.

Dar es Salaam,
4 Juni, 2013

CHRISTOPHER K. CHIZA
Waziri wa Kilimo, Chakula na Ushirika