

BRITISH GUIANA

REGULATIONS

THE HYDRO-ELECTRIC POWER ORDINANCE, 1956,
(No. 48 of 1956).

UNDER SECTION 23 OF THE HYDRO-ELECTRIC POWER ORDINANCE, 1956, THE FOLLOWING REGULATIONS HAVE BEEN MADE BY THE GOVERNOR IN COUNCIL:—

Short title. 1. These Regulations may be cited as the Hydro-electric Power Regulations, 1957.

Interpretation. 2. (1) In these Regulations, unless the context otherwise requires —

“applicant” means any person who has filed an application for a licence under these Regulations;

“final licence” means a licence issued under regulation 22 of these Regulations, and “final licensee” means the lawful holder of a “final licence”;

“initial development” means such portion of the development of the undertaking as is specified in the interim licence as being required to be completed before a final licence may be issued;

“interim licence” means a licence issued in accordance with the provisions of regulation 11 of these Regulations, and “interim licensee” means the lawful holder of an interim licence;

“Ordinance” means the Hydro-electric Power Ordinance, 1956.

(2) Expressions in these Regulations other than those specified in subregulation (1) of this regulation have the same respective meanings as in the Ordinance.

SURVEY PERMIT

Survey Permit.

3. (1) Any person desirous of applying for a licence to divert, store or use the waters of any river for the purpose of generating electrical energy may apply to the Commissioner for a survey permit empowering him to enter upon any lands of the Colony for the purpose of making such surveys and investigations as may be necessary for the preparation of plans accompanying his application, but for no other purpose, and the Commissioner may grant to such person a survey permit as aforesaid.

(2) A survey permit may be granted for any period not exceeding one year and may be renewed by the Commissioner on application made to him for further periods not exceeding one year each.

(3) The grant of a survey permit shall not confer any priority over other applicants for the diversion of any water-power, nor any special claim or right whatsoever in respect of the said water-power.

THE APPLICATION

4. (1) Every person desirous of diverting, storing or using the waters of any river for the purpose of generating electrical energy may file with the Commissioner an application to the Governor in Council for a licence under the Ordinance. Application

(2) Every applicant for a licence shall file with the Commissioner a statement giving or accompanied by the following information —

- Name. (a) the name of the applicant;
- Address, etc. (b) his address and occupation;
- River, etc. (c) the name or a clear description of the river, lake, or other water-course from which the water is to be diverted or used;
- Place of diversion. (d) the place where the water is to be diverted from or in the said water-course, referred if possible to an established survey mark; also the place where the water is to be returned or released;
- Riverflow. (e) the maximum quantity of water, expressed in cubic feet per second, which it is estimated will be ultimately diverted or used under the licence applied for;
- Head. (f) the estimated average head in feet which will be available for the production of power according to the plan of development now proposed;
- Minimum horse-power. (g) the estimated minimum amount of energy expressed in horse-power which will be developed on the turbine shaft within five years from the date of the application or within such other period as the applicant may state to be required for the completion of his initial development;
- Maximum horse-power. (h) the estimated maximum amount of energy expressed in horse-power which it is estimated will ultimately be developed on the turbine shaft from the waters applied for;
- Works—general description. (i) briefly the character and extent of all principal works which it is proposed to construct for diverting, conveying, or using the water or water-power, including dams, raceways, canals, tunnels, pipe lines and other water conduits, power-houses and transmission lines; (In reference to every dam give its approximate maximum length and height, also its proposed type, and the material to be used in its construction);
- Storage reservoirs. (j) if storage is involved, the location of each lake, basin or other place in which it is desired to store water; also, with reference to each such place the approximate number of acres of land which it is proposed to flood, the approximate area in acres of the surface of the reservoir when filled, the estimated vertical storage range in feet, and the total capacity of storage contemplated in acre-feet;
- Lands required. (k) a reasonably accurate description of the area in acres of the lands which require to be occupied or

used in the construction, maintenance or operation of the proposed works, noting separately lands required for rights of way and lands which are to be flooded:—

- (i) within Crown lands,
 - (ii) within Colony lands,
 - (iii) within privately owned lands;
- Plans. (l) general layout plans and data prepared in accordance with the provisions of regulation 7 of these Regulations;
- Neighbouring works. (m) the nearest neighbouring works or structures completed or in course of construction, both above and below the place of the proposed diversion, for diverting or using water for any purpose from the same source of supply and the approximate distance and direction of each such works from the proposed works; also the names and location of any other works or structures whatever (including bridges, railways and canals) which might affect or be affected by the construction, maintenance or operation of the proposed works;
- River-flow data. (n) the approximate discharge in cubic feet per second, at or near the place of diversion of the river, lake or other source from which the water is to be diverted at high, medium and low water stages respectively, also copies of any existing measurements of the flow of the stream in the applicant's possession and a reference to all other such measurements of which the applicant has knowledge;
- The undertaking. (o) briefly an outline of the undertaking in respect of which the licence is desired, including the use to which the power is to be applied, any sale, delivery or transfer thereof otherwise than to the applicant which is contemplated, the area, if any, within which such sale, delivery or transfer is to be exercised, the probable demand for power within such area and an estimate of the capital cost of the entire undertaking;
- Financial standing. (p) the financial standing of the applicant with reference to his ability to carry out the proposed undertaking;
- Incorporation data. (q) if the applicant be an incorporated company, the statement shall, in addition to the foregoing information, set forth:—
- (i) the names of the directors and officers of the company, and their places of residence;
 - (ii) the head office of the company in British Guiana;
 - (iii) the amount of capital authorized, also the amounts of subscribed, and of paid-up capital, specifying in regard to the latter, —
 - (a) how much has been paid in cash, and
 - (b) in what manner the balance has been

paid for, also the proposed method of raising further funds, if required, for the construction and operation of the proposed works;

- (iv) copy of the special instrument of incorporation or the memorandum of association and a statement setting out the particular sections or parts thereof which authorized the company to make the application and to carry out the proposed undertaking.

(3) All elevations given in connection with the plans or other information filed by any applicant should be referred to mean sea-level datum, or to a datum acceptable to the Commissioner.

5. Forthwith upon the filing by the applicant of such data as is required by these Regulations he shall pay to the Commissioner a fee of one hundred dollars (\$100.00).

Filing fee.

6. The Commissioner may, at any time while an application is pending, irrespective of any other requirement of these Regulations, call for such additional plans, descriptions, measurements, specifications, or other data (whether related directly or indirectly to the proposed works and undertaking) as he considers necessary, and the same shall be furnished by and at the expense of the applicant; provided that no further filing fee shall be payable in respect of such additional data.

Commissioner may require further information.

7. (1) The general layout plans and data shall be such as in conjunction with the data already available will enable the Commissioner to determine whether the proposed works are of suitable design to accomplish the purpose intended, whether the proposed development is in general accord with the most beneficial utilization of the resources of the stream, and whether the proposed undertaking is feasible and practicable and in the public interest, and such plans shall further conform to any requirements of the Commissioner not inconsistent with these Regulations.

General layout plans.

(2) The said plans and specifications must be carefully prepared, being based upon actual and thorough surveys and investigations on the ground. They must be in sufficient detail to enable the Commissioner to determine exactly what is proposed to be done by the applicant, and must show the position of the proposed works with reference to surrounding objects, so that the exact scope of what is desired may be readily located and ascertained. They shall show what provision is made for navigation, logging, and other interests. They should ordinarily include the following items but the applicant may be excused by the Commissioner in writing from supplying some part or parts of the information called for by this regulation:—

General map.

- (a) A general map with scale so selected as to clearly define the location of all dams, reservoirs, conduits, power-houses and other works, except transmission lines;

Dam-site.

- (b) A cross-section of each dam-site along the centre line of the proposed dam with graphical log of each boring, testpit, or other exploration, and a

- brief statement of the character and dip of the underlying material;**
- Principal structures.** (c) Plans, elevations and cross-sections of the dams showing spillways, sluiceways or sluicepipes and other outlet or control works, also of the other principal structures which may be required;
- Contours site of works.** (d) A satisfactory contour map showing the proposed power-house and other works;
- Contours conduits.** (e) A satisfactory contour map of the entire water conduit location and also plans, elevations and cross-section of each type of water conduit;
- Contours reservoirs.** (f) A satisfactory contour map of each reservoir site showing the amount of flooding involved, the location and character of each proposed dam and of other contingent works;
- Transmission.** (g) A map of the survey of the proposed final location of the centre line of all main transmission lines to and including the receiving stations;
- Lands occupied.** (h) Said plans or maps shall in every case show the location and area of the lands which are required to be occupied, used, or flooded in connection with the proposed works;
- General report, covering** (i) A general report outlining and describing the plan by which the applicant proposes to develop the water-power. Such report shall set out —
- Scope of project.** (i) sluices, pits and other structures or
 (ii) The dams, weirs, tunnels, races, flumes, works which it is proposed to build or make in connection therewith;
 (iii) The form in which the power developed is to be used, i.e., whether for direct mechanical connection, generation of electricity or otherwise, and for what purpose it is to be used;
 (iv) Any other data necessary to a full understanding of the nature of the undertaking;
- Physical data.** (v) The natural height of the fall or rapid;
 (vi) The extreme high and low water levels at the power dam site and the power station site, and of all bodies of water proposed to be used as storage reservoirs;
 (vii) The flow of water in cubic feet per second at the high, low and average stages of same;
 (viii) The estimated capacity in horse-power of the fall or rapid in its natural condition at the average low stage of water;
 (ix) The area and available capacity of each proposed storage reservoir;
 (x) The estimated percentage of stream-flow to be made available from storage;

- (x) All other data necessary to a full consideration of the natural features of the site or sites of the proposed works;
- Construction data. (xi) The estimated total average effective head it is proposed to develop;
- (xii) The height and full description of any dams or weirs, which it is proposed to construct;
- (xiii) The increase in the level of the water to be brought about, and the area and character of lands to be flooded by such dams or weirs;
- (xiv) The effective discharging capacity of such dams or weirs and the type of the proposed control works;
- (xv) The length and full description of the proposed water conduits;
- (xvi) A full description of the power station including the type, number and rated capacity of the water-wheels and generators proposed to be used, both in the initial and in the final development;
- (xvii) The probable load factor of the power system;
- (xviii) The length in miles and a full description of all main transmission lines;
- (xix) All other data necessary to a full consideration of the proposed works;
- Estimates of cost (j) The report mentioned in the last preceding paragraph shall in all cases be accompanied by preliminary estimates of cost;
- Field notes. (k) Copies of field notes of the entire survey of water conduits, transmission lines, exterior boundaries, powerhouse and reservoir sites, or of such parts thereof as the Commissioner may require, tied in wherever possible to the existing system of the Land Surveys;
- Neighbouring works. (l) If there are other works already constructed or in course of construction in the neighbourhood of the proposed works, for diverting or using water from the same or tributary streams, the said plans shall indicate the location and give the distance from the proposed works, of the nearest of such other existing works both above and below the proposed works, and, if a power development, the normal elevation of the head-water and tail-water thereof, or if other than a power development, the elevation of the sill of the head-gate or head-gates, such elevations in every case to be referred to the same system of elevations as are used to designate elevations at the site of the proposed works; and if there are any other works or structures, such as bridges, railways, highways and canals, or any other public or private works whatsoever which

might affect or be affected by the construction, maintenance or operation of the proposed works, the said plans shall indicate the location and set out the governing elevations of such other works or structures.

(3) The said maps, plans and specifications shall be signed by a professional engineer of recognized standing, satisfactory to the Commissioner, and shall be filed with the Commissioner. Elevations should be tied in to mean sea-level datum or to a datum acceptable to the Commissioner.

PUBLICATION AND OBJECTIONS

Publication
of applica-
tions.

8. (1) Forthwith upon the filing by the applicant of such data as is required by these Regulations and in every case before the issue of a licence in favour of the applicant, the Commissioner shall cause to be published, in three successive issues of the Gazette a notice of the application.

(2) Such notice shall be marked at the top in plain letters "Hydro-electric Power Application", and shall be in a form approved by the Commissioner, and shall give substantially the following information:—

- (a) Name and Address of applicant;
- (b) Date of application;
- (c) Name or clear description of source of supply;
- (d) Place of diversion clearly described;
- (e) If storage or pondage of water is contemplated, the place of storage, the capacity of the intended reservoir, and a general description of the lands which will be flooded;
- (f) Maximum horse-power capacity of proposed plant;
- (g) Nature of the undertaking and utilization of the power;
- (h) A statement that the application has been filed with the Commissioner, and that objections may be filed by any interested party with the Commissioner;
- (i) Such other information as the Commissioner may decide.

Objections.

9. (1) Any person may, within twenty-one days after publication of the first advertisement, lodge with the Commissioner a petition to the Governor in Council objecting to the grant of the licence.

(2) Every petition shall state shortly the grounds of objection to the grant of a licence and shall set out the address of the petitioner.

(3) The petitioner shall lodge with his grounds of objection a statutory declaration containing the material facts on which he relies in support of his grounds of objection.

(4) The petitioner shall, within two days after lodging the petition and statutory declaration, deliver a copy thereof at the registered address of the applicant.

Answer of
applicant.

10. (1) The applicant may, within fourteen days after delivery of the petition, lodge with the Commissioner—

- (a) an answer to the petition stating shortly the grounds on which he relies; and
- (b) a statutory declaration setting forth the material facts in support of such grounds.

11. Any objection entered in accordance with these Regulations shall be considered by the Governor in Council and shall be determined as he shall consider fit, and, subject thereto, the Governor in Council may, with the approval of the Secretary of State, issue an interim licence to the applicant for carrying out the said development.

Determination of application by Governor in Council.

THE INTERIM LICENCE

12. Every interim licence for the development of a water-power or storage undertaking under these Regulations shall set out particulars and lay down requirements, in so far as applicable to the case, with respect to the following matters—

Terms of interim licence.

Recitals.

- (a) A recital or recitals giving—
 - (i) the name and address of the interim licensee and date of his application;
 - (ii) the name and location of the power or storage site, the statement that lands or waters are required to be used or occupied in carrying out the undertaking, and briefly the nature of the works and undertaking proposed for the development of the said site; also a reference to any plans or data on file and where filed in which the said works and undertaking are more fully shown or described;
 - (iii) the date of each permit and extension thereof which may have been issued in favour of the interim licensee and a statement whether the requirements thereof and of the Regulations have been fully complied with by such interim licensee;

Time for completion of initial development.

- (b) The time within which an initial development of the site capable of producing and having available for beneficial use a stated minimum amount of horse-power measured on the turbine shaft, or in the case of a storage undertaking, capable of storing a specified quantity of water, shall be completed, such initial development in every case to represent substantial progress towards the completion of the entire development of the site as outlined in the plans approved by the Commissioner;

Use of lands.

- (c) A general statement with respect to the lands which the interim licensee may, for the time being

- and subject to the provisions hereinafter set out, enter upon, use or occupy for making surveys and investigations and constructing works;
- Temporary user. (d) The amounts of river-flow, if any, which may be temporarily diverted, used or stored under the interim licence, pending the issue of a final licence;
- Rentals and royalties. (e) The sum or sums to be paid as rentals or royalties for the lands occupied or the waters used during the life of the interim licence, also the times and the manner of the payment thereof;
- Bond. (f) The amount of the bond, if any, required to be deposited by the interim licensee as security for the performance of the terms and conditions of the interim licence;
- Final licence on fulfilment. (g) The issue in favour of the interim licensee upon the completion of his initial development and observance and fulfilment by him of all the terms and conditions required by the said interim licence and under these Regulations to be by him observed or fulfilled of a final licence for the use or storage of water, for the development of energy therefrom, for the utilization of such energy, and for the use or occupation of lands which, in the opinion of the Governor in Council are required for the proper maintenance and operation of the works; and a statement of the principal terms, which, subject always to these Regulations, will be embodied in such final licence when issued, including—
- (i) The maximum flow or quantity of water which may be diverted from time to time at the place of diversion, and used from time to time at the place of use, respectively, under such final licence; and if storage is involved, the maximum capacity of storage permissible from time to time at each storage site; subject in either case to the control and regulation of the stream-flow and of users on the stream as hereinafter provided;
 - (ii) A brief description of the undertaking in respect of which such final licence is to be issued, including the use which may be made of the power or storage, whether power may be sold or delivered to or used by other than the applicant, and if so, the territory within which such sale, delivery, or transfer of the right of use may be exercised;
 - (iii) The term of the final licence;
 - (iv) The sum or sums to be paid as rentals or royalties during the period of the

final licence for waters used or stored and for the lands occupied, respectively, or for any other privilege granted;

Special terms.

- (h) Any other special terms and conditions which, subject always to these Regulations, may be imposed by the Governor in Council.

13. Every interim or final licence shall be deemed to incorporate and shall be subject to the provisions of the Regulations in force at the time of the issue of such interim or final licence in so far as applicable to the said interim or final licence without restatement of the said provisions in such interim or final licence, and shall also be subject to such other stipulations, provisos and conditions, not inconsistent with these Regulations, as the Governor in Council may impose.

Incorporation of terms.

14. Forthwith after the execution of the interim licence the interim licensee shall commence the construction of the said works and shall thereafter without interruption, except such as may be occasioned by act of God or other major cause beyond the control of the interim licensee (other than want of funds) carry on and complete the construction of the said works according to the plans and specifications as so approved, and subject to the terms of the interim licence and of these Regulations.

Commencement of construction.

15. Only such interim rights of entry upon or of use or occupation of any lands shall be acquired by virtue of any interim licence executed under these Regulations as may, in the opinion of the Governor in Council, be necessary for the purpose of making surveys, preparing maps and plans, constructing works and otherwise carrying out the terms of the interim licence. The Governor in Council may, from time to time, as plans and information are filed showing the extent and scope of the works and undertaking of the interim licensee with greater precision than was possible when the interim licence was executed, designate, allot, amend and limit the areas of the said lands which the interim licensee is permitted to enter upon, use or occupy for the purpose aforesaid.

Temporary nature of rights

16. The interim licensee, before making any material change in the plans as approved, or in the works constructed or under construction in pursuance of his licence or in the location thereof authorized, shall submit a complete and satisfactory statement and plans of such proposed change to the Commissioner, and shall not proceed to carry out the same until such proposed change has been authorized.

Change in plans.

17. (1) The Commissioner, or the Engineer or any person authorized by either for that purpose shall have free access at all times to all parts of the lands being occupied or of the works being constructed by any interim licensee for the purpose of ascertaining whether the terms and conditions of the interim licence are being satisfactorily carried out by the interim licensee, and in particular whether the construction of the work is in accordance with the plans and specifications approved as hereinbefore provided; also for the purpose of checking and taking note of construction-cost data; for which purposes the contractor or any subcontractor shall give the person so authorized for the purpose ac-

Inspection during construction.

cess to figures in the possession of such contractor or sub-contractor at all reasonable time.

(2) The interim licensee shall abide by, conform to and carry out all reasonable written instructions of any person inspecting under sub-regulation (1) of this regulation regarding the construction of all works in accordance with the plans and specifications approved as hereinbefore provided, and in case of dispute, regarding the reasonableness of such written instructions, or regarding the requirements of the plans and specifications, the Governor in Council's decision shall be final and conclusive; and in case the interim licensee does not abide by or conform to and carry out the said written instructions the Governor in Council may cause the interim licensee to suspend all operations with respect to works herein mentioned until the Governor in Council gives instructions to resume the same, and in the case of continued refusal by the interim licensee the Governor in Council may cancel the interim licence.

Reports.

18. The interim licensee shall submit such reports of progress during construction of the said works as the Commissioner may from time to time require.

Amendment
of interim
licence.

19. Subject to these Regulations the terms of any interim licence may be amended by a supplementary licence granted by the Governor in Council; and plans and specifications previously approved may be amended with the consent in writing of the Governor in Council, but any such amendment shall affect only the portion specifically covered in such supplementary licence or writing, and shall in no case operate to alter or amend or in any way whatsoever be a waiver of any other part, condition or provision of the original interim licence.

Default by
interim
licensee.

20. (1) If the interim licensee fails to commence the actual construction of the initial development in good faith within the time required under his interim licence or fails to make substantial and satisfactory progress in the first year of the period allowed for the construction of the said initial development, the Governor in Council may cancel the interim licence.

(2) If the interim licensee fails to expend on the initial development within any of the stated periods set out in his interim licence, the amount required by such licence to be so expended, or fails to complete the said development within the time specified, or fails to comply with any other term or condition of his interim licence or of these Regulations, his interim licence shall be subject to cancellation by the Governor in Council after a full report has been made on the matter by the Commissioner and after sixty days' notice has been given to the interim licensee.

(3) If such failure occurs subsequently to the time when the licensee has expended on the initial development one-fourth of the total amount that the licence requires shall be expended, the interim licensee may appeal from the decision of the Governor in Council to the Supreme Court.

Completion
of initial
develop-
ment.

21. (1) As soon as the interim licensee has completed his initial development and otherwise fulfilled the terms of his interim licence he shall file in the office of the Commissioner written notice of such completion and fulfilment.

(2) The Commissioner shall thereupon, except in the cases provided for in the next following sub-regulation cause an inspection, and if necessary a survey, of the works constructed or used and of the lands and waters used or occupied in connection with the undertaking to be made.

(3) In those cases where the Commissioner deems inspection unnecessary he may require the interim licensee to file not later than sixty days after the expiry of the time fixed for such completion, proof of the said completion and fulfilment by a statutory declaration.

(4) Upon compliance on the part of the licensee with the requirements of the foregoing sub-regulations, the Commissioner shall determine a date which, for the purposes of these Regulations, shall be the date of completion of the initial development.

THE FINAL LICENCE

22. (1) Upon the completion of the initial development according to the plans previously approved and upon fulfilment and compliance otherwise with all the terms and conditions of his interim licence and of such of the provisions of these Regulations as are applicable to his case, the interim licensee shall be entitled to the issue in his favour by the Governor in Council of a final licence authorizing the diversion, use, or storage of water at the site in question, for the development of energy therefrom, for the utilization of such energy, and for the occupation or use of the lands which, in the opinion of the Governor in Council, are required for the proper maintenance and operation of the works.

Grant of
final licence.

(2) Upon the grant of any final licence all rights held and obligations assumed under the interim licence shall cease and determine.

23. The final licence shall embody the terms which were set out in the interim licence for incorporation into such final licence, and such other terms and conditions, not inconsistent with the Regulations in force at the time of the issue of such final licence, as the Governor in Council may impose, including in so far as applicable, the following particulars:—

Terms of
final licence.

Recitals. (a) A recital clause or clauses, giving —

- (i) The name and address of the licensee;
- (ii) The name and location of the power-site, with particular reference to the waters of the Colony whose use is required in its development;
- (iii) A reference to the interim licence which authorised the construction of the works and any amending licence issued, and a statement whether or not the conditions thereof have been fully complied with;

- (b) The maximum flow or quantity of water which may be diverted from time to time at the place of diversion, and used from time to time at the place of use, respectively, under the licence; and, if storage is involved, the maximum capacity of

Waters
granted.

storage permissible from time to time at each storage site, subject in either case to the control and regulation of the stream-flow and of storage in the interests of all the users on the stream as hereinafter provided;

Works
authorised.

(c) A statement setting forth clearly the position and extent of the works authorised to be maintained and operated under the licence;

Lands
required.

(d) An accurate description of the lands which may be entered upon, used or occupied for the maintenance and operation of the said works, setting out separately lands in any of the following classes:—

- (i) Lands not covered by water required for main diverting works, power-houses, etc.;
- (ii) Lands covered by water required for the said purposes;
- (iii) Lands required only to be flooded in connection with the storage or pondage of water;
- (iv) Lands required only for the rights of way for water conduits, transmission lines, etc.;
- (v) Lands, if any, required for substations, distributing stations, terminal stations, etc.;

Undertaking
authorised.

(e) A brief description of the undertaking in respect of which the licence is issued, including the use which may be made of the power, whether the power may be sold or delivered to or used by other than the licensee, and if so the territory within which such sale, delivery or transfer of the right of use may be exercised;

Term.

(f) The term of the final licence;

Annual
rental.

(g) The sum or sums to be paid as rentals or royalties during the period of the licence for waters used or stored and for the lands occupied respectively; or for any other privileges granted.

Term of
final licence.

24. Every licence shall be limited to such term not exceeding fifty years from the time fixed in the original interim licence for the completion of the initial development, as may be agreed upon between the Governor-in-Council and the licensee.

ACTUAL COST

Assessment
of actual
cost.

25. For the purposes of the Ordinance the actual cost of any undertaking or of any addition thereto shall be arrived at by taking into account the actual legitimate cost of any works in use and useful for the purposes of the undertaking at the time that any particular inquiry is being made; and shall ordinarily include —

- (i) the cost of engineering services appertaining to the construction of such development and works,
- (ii) interest during construction,
- (iii) taxes and insurance during construction.
- (iv) contractor's profit,
- (v) the purchase of equipment,

(vi) the cost of roads, railways, clearings, or other essential works undertaken and carried on solely in the construction of such development or works and not independently profitable,

(vii) such other expenditures as are necessary and inherent items of construction;

but shall in no case include —

(i) promotion expenses,

(ii) the cost of underwriting, selling, or disposing of stocks and bonds.

RENTALS AND ROYALTIES

26. The annual rental shall begin to run from the date on which the interim licence is issued. The first payment thereof shall be for the part of the year between the said date and the end of the then current calendar year. Subsequent rentals shall be payable in advance on or before the second day of January in each year during which the interim or final licence is in force.

Payment
of rental.

27. (1) The licensee shall from the date on which the Commissioner certifies the completion of the initial development (being a date from and after the date fixed in the interim licence for this said completion) pay such amounts (hereinafter called "royalty") calculated in accordance with the terms of the licence and these Regulations.

Payment of
royalty.

(2) Payments of royalty shall be due quarterly in arrears on the first day of April, the first day of July, the first day of October and the first day of January.

28. The royalty rate shall be subject to revision every five years after the first quarterly payment provided that no upward revision of the said rate may be made if the licensee has submitted his accounts for examination by an accountant qualified to be appointed auditor of a company under section 109 (8) of the Companies Ordinance, and it is established to the satisfaction of the Governor in Council that the proposed revised rate would not be justified in all the circumstances of the case. Provided that the Governor in Council may in any particular case approve a fixed sum for Royalties for the term of the licence.

Revision of
royalty.

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29. The licensee shall keep all necessary records and statistics of the undertakings and shall supply to the Commissioner all such data and information as may be required by him; and shall permit any duly authorised representative of the Commissioner to inspect such meters and instruments of the licensee as he may deem necessary for the purpose of ascertaining the royalty payable.

Keeping of
records and
statistics.

30. (1) If the royalty is not paid within sixty days of the date it becomes due, interest at the rate of six per centum per annum shall be added thereto, and the total amount shall bear interest compounded annually at six per centum per annum from the latest date until paid.

Non-pay-
ment of
royalty.

(2) The royalty together with the six per centum added by way of penalty and interest as above provided shall be the first lien or charge upon the entire water-power develop-

ment, the property, assets, rents and revenues of the licensee.

(3) If any royalty remains unpaid for more than one year after the latest date when it becomes payable, the licensee shall be given notice thereof by the Commissioner and if not paid within sixty days after such notice has been given, the Commissioner may—

- (a) request the Attorney General of the Colony to sue in any court of competent jurisdiction for the amount thereof together with the six per centum penalty and interest as above provided;
- (b) take such action as is provided for cases of default under the Ordinance or these Regulations.

(4) The acceptance of any payment shall not be deemed to be a waiver of any antecedent or then subsisting breach of any of the terms or conditions which have been accepted by the licensee.

31. All payments required to be made by the licensee shall be made to the Commissioner.

RIGHTS AND DUTIES OF LICENSEES

32. Every licence shall be valid and effective to authorize entry upon and use or occupation of any lands specified therein only in such manner and to such extent and for such length of time as may be necessary for the purpose of constructing, maintaining and operating the works authorized to be constructed, maintained and operated under this licence, and the licensee shall carry on operations under the licence to the satisfaction of the Commissioner.

33. A licence shall not confer on the licensee the right to any gold, silver, or other metals, minerals, ores, bauxite, rock, gems, or precious stones, coal or mineral oil in or under the land licensed which shall be saved and reserved to the Crown with the right to enter upon the land licensed to search and mine therefor, subject however, to the right of the licensee to receive compensation for any loss or damage to buildings occasioned by such searching and mining, the amount of such compensation to be assessed by the Commissioner.

34. The licensee shall not by any operations under this licence impair the free access to any landing place in actual use at the date on which the licence was granted in any river or waterway, nor in any way interfere with or prevent any person whomsoever going to or from such landing place as aforesaid or any person now or hereafter holding lands on the banks thereof using any river or waterway for drainage purposes or for any other purpose for which such person or persons may lawfully use the same.

35. The licensee may cut such timber from the said lands as he shall require for the purpose of constructing, maintaining and operating the works authorised under this licence subject to any Ordinance or Regulations for the time being in force relating to timber on Crown land or Crown forest and payment of royalty thereon but no further and shall furnish true and proper returns of the timber so cut to the Conservator of Forests.

Payments made to Commissioner.

Use of lands.

Licence not conferring rights to minerals.

Free access to landing places to be maintained

Limited right to cut timber.

36. If at any time during the term of a licence any part or parts of the licensed area are required for the purposes of any township or village, road or railway or for any other public purpose whatsoever it shall be lawful for the Governor in Council (the licensee having been notified and having thereafter received six calendar months previous notice of the intention of the Governor in Council in that behalf) to cause to be withdrawn the part or parts of land so required and the licensee shall be entitled to compensation to be assessed by the Governor in Council for all damage caused to him as a result of such withdrawal.

Resumption
of lands
for public
purposes

37. Every licensee shall at all times instal and use first-quality, modern, standard works, plant and equipment, giving consideration to requisite suitability of design, safety, strength, durability, efficiency, and all other relevant factors whatsoever, and shall maintain the same in good repair and condition, and shall exercise all due skill and diligence so as to secure satisfactory operations thereof.

Licensee to
observe cer-
tain stand-
ards.

38. (1) The Commissioner or any person appointed by him for the purpose shall have free access to all parts of the works, lands and property of the licensee and all books, plans, records or accounts used in connection with or affecting the undertaking hereunder, and may from time to time make measurements and observations and take such other steps for carrying out any enquiry as may be considered necessary or expedient in the operations under this licence.

Inspection
of accounts.

(2) The findings of the Commissioner with respect to the quantity of water diverted, used or stored, or capable of being diverted, used, or stored or the amount of power developed or capable of being developed under the authority of the licence shall be conclusive and binding upon the licensee.

39. Every licensee, before making any material change in any existing works or in his location, shall submit a complete and satisfactory statement and plans of such proposed change to the Commissioner, and shall not proceed to carry out such change until the same has been approved.

Change
in plans.

40. Every licensee shall when required by the Commissioner so to do, instal such meters, measuring wires, gauges or other approved devices as may be adequate for determining the amount of water used or power developed in the operation of the works, for determining the flow of the stream from which water is being diverted, and for determining the amount of water held in or drawn from storage.

Direction
to instal
meters, etc.

41. Upon a report being made by the Commissioner that a licensee has not developed the amount of power for which there is a public demand and which could be reasonably developed from the flow of water granted under his licence or controlled by him, the Governor in Council may order such licensee to develop and render available for public use the additional amount of power for which there is, in the opinion of the Governor in Council, a public demand, up to the full extent possible from the amount of water granted under such licence or controlled by such licensee and within a period to be fixed by the Governor in Council, which

Failure to
meet public
demand.

period shall not be less than two years after such licensee or the person in charge of the existing works shall have been notified of such order; and in default of compliance with such order the provisions of the Principal Ordinance for the cancellation of licences shall apply in respect of such default.

Securing of
enlarged
develop-
ment.

42. (1) The Governor may authorise the Commissioner where it has been reported that an enlarged or more comprehensive development of any water-power may be established at or near the site occupied by the licensee, to offer to the licensee a further licence in addition to the existing licence for the carrying out of such enlarged or more comprehensive development.

(2) If the licensee fails, within twelve months after such offer of a licence is made, to accept the same, and in good faith to begin and carry on to completion such new development, then in such case, the Governor may order the existing licence terminated; provided, however, that the licensee shall be subject to compensation as on the expiry of the licence.

Implied
terms.

43. Every licence shall be deemed to have been executed on the condition that the licensee shall—

- (a) divert, use, or store the water authorised to be diverted, used, or stored by him in such a manner as not to interfere, in the opinion of the Governor in Council, with the maximum advantageous development of the power and other resources of the river upon which his works are located;
- (b) conform to and comply with any orders in respect of the control or regulation of the flow of the waters of such river as may be made from time to time by the Governor in Council or any person authorised by the Governor in Council in that behalf;
- (c) at no time cause or permit the surface-level of the waters of such river or of any storage reservoir operated by him to be raised or lowered beyond the limits which shall be fixed from time to time by the Governor in Council or by a person authorised by the Governor in Council in that behalf.

Expenditure
returns.

44. The licensee shall keep a true and detailed account of all expenditures made in respect of the works, lands and properties under this licence and shall file annually with the Commissioner on or before the 31st day of March a return for the year ending the 31st day of December preceding, based on the said account and being an accurate summary thereof, such return to be attested by the Oath of the licensee.

Fair Wages
Rules.

45. Every licensee, shall pay to those persons employed in the construction, alteration, extension, maintenance and operation of the works authorised under this licence wages in accordance with the Fair Wages Rules or any Rules or Regulations replacing them and from time to time in force in the Colony in so far as they may be applicable to the licensee.

46. Notwithstanding any rights granted or approval given under any licence, the licensee shall comply fully with the Ordinances and Regulations in the Colony governing the preservation of the purity of the waters, or governing logging, forestry, fishing or other interests present or future which might be affected by any operations conducted under this licence.

Observance of laws of navigation etc.

SMALL WATER-POWERS

47. (1) Applications for the development of Colony water-powers, the capacity of which, under average usable flow conditions, does not, in the opinion of the Commissioner, exceed five hundred horse-power, and which are not deemed to be of primary importance for commercial or public utility purposes. may be dealt with under such special Regulations as the Governor in Council may make from time to time, subject, however, to the following provisions—

Water-powers not exceeding 500 horse-power.

(a) The licence-term shall not exceed twenty years, and renewals shall not exceed five years each;

Term.

(b) Applications for renewal shall in every case follow the procedure in force at the time such application is made, and the renewal licence shall in every case be subject to the laws and regulations in force at the time such licence is issued;

Renewal.

(c) Upon the expiry of any term or any renewal, if the licensee either has not applied for or has failed to secure a renewal licence, the water-power development and all works and structures connected therewith shall become the property of the Colony without compensation to the licensee: but with the privilege on the licensee's part of removing from the lands within such period after the said expiry as may be approved all works and structures erected or installed by the licensee in connection with such power development, which can, with the consent of the Commissioner, be removed without damage to the said lands;

Expiry of term.

(d) The Governor in Council may at any time, upon giving the licensee one year's notice, cancel any licence granted under this regulation, and resume full possession and control of the water-power development and all works, lands, and structures connected therewith, or at the option of the Governor in Council, of any part of such works and structures;

Resumption of possession.

(e) Compensation, in such case, shall be paid to the licensee for the works, lands, and structures taken over, to the amount of the actual cost thereof, determined in accordance with these Regulations together with such percentage added to such amount by way of bonus, not greater than fifteen per cent nor less than three per centum of such amount, as may be determined by the Governor in Council.

Compensation.

Water-powers not exceeding 100 horse power.

(2) The Commissioner may receive applications for the development and use of any Colony water-powers, the capacity of which, under average usable flow conditions, does not exceed, in his opinion, one hundred horse-power, and which are not of primary importance for public utility or commercial purposes; and may issue licences for the development and use of any such water-powers, subject, however, to the provisions of sub-paragraphs (a), (b), (c), (d) and (e) of the preceding paragraph.

Provided that the compensation to be paid to the licensee under the said sub-paragraphs (d) and (e) for any works taken over if the licence should be terminated before the expiry of the term shall, in cases arising under this paragraph, be arrived at by agreement of the parties, or in the case of non-agreement, by the Governor in Council.

UNDERTAKING ALREADY CONTEMPLATED OR COMMENCED.

Governor in Council may issue licence for undertakings already contemplated or commenced.

48. Where —

- (a) prior to the coming into force of these Regulations, the Governor in Council has, in pursuance of any agreement made or contemplated with respect to the development of any Colony water-power, authorised any person to carry out a survey with a view to the establishment of an undertaking for the development and use of such water-power; or
- (b) at the date of the coming into force of these Regulations there are constructed or in the course of construction works connected with an undertaking for the development and use of any Colony water-power,

the Governor in Council may, with the approval of the Secretary of State, notwithstanding any non-compliance with the provisions of these Regulations and on application made to him in that behalf, issue in respect of such undertaking an interim licence or a final licence, as the case may be, having regard to the stage of the development of the undertaking at the date of the application, and the provisions of the Ordinance and of these Regulations shall, *mutatis mutandis* apply to a licence so issued.

Made in Council this 1st day of May, 1957.

IVOR O. SMITH,
Clerk to the Executive Council.