

Act No. 42, 1910.

An Act to provide, in respect of areas affected by the Barren Jack Dam and Murrumbidgee Canals Construction Act, 1906, for the acquisition of land, the construction and use of roads, railways, tramways, works, and improvements; for constituting and managing irrigation areas; for the supply of water; for levying rates and tolls; for making charges for water, drainage, and improvements; for establishing and maintaining demonstration farms; to constitute a Trust to administer this Act, and for such purposes to amend certain Acts; and for purposes consequent thereon or incidental thereto. [28th December, 1910.]

MURRUMBIDGEE
IRRIGATION.
—

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Murrumbidgee Irrigation Act, 1910." Short title.

2. This Act is divided into Parts as follows:—

Division of Act.

PART I.—PRELIMINARY—*ss.* 1-5.

PART II.—ACQUISITION OF LAND AND CONSTRUCTION OF WORKS—*ss.* 6-10.

PART III.—CONSTITUTION AND MANAGEMENT OF IRRIGATION AREAS—*ss.* 11-20.

PART IV.—MISCELLANEOUS AND SUPPLEMENTAL—*ss.* 21-30.

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Interpretation.

3. In this Act, unless the context otherwise requires,—

“Improvements” includes all works, buildings, machinery, plantations, and other improvements provided or effected by or under the authority of the Trust.

“Irrigation area” means irrigation area constituted under this Act.

“Occupier” means the person holding under any tenure any portion of the land resumed under this Act.

“Prescribed” means prescribed by regulations under this Act.

“The Construction Act” means the Barren Jack Dam and Murrumbidgee Canals Construction Act, 1906.

“The Trust” means the Murrumbidgee Irrigation Trust.

“Water right” means right to such a quantity of water twelve inches deep as would cover an area of one acre.

Certain Acts not to apply within irrigation areas.

4. None of the provisions of the Country Towns Water and Sewerage Acts, 1880–1905, or of the Local Government Act, 1906, or of any Act amending the same, shall apply within an irrigation area.

Constitution of trust.

5. There shall be a Trust consisting of the Secretary for Public Works, the Secretary for Lands, and the Minister for Agriculture. Such Trust shall administer this Act.

The Trust shall be a body corporate under the name of the Murrumbidgee Irrigation Trust, having perpetual succession and a common seal.

There shall be an executive officer appointed by the Trust who shall also be secretary to the Trust and such officers and servants as the Trust may appoint for carrying out the provisions of this Act.

PART II.

ACQUISITION OF LAND AND CONSTRUCTION OF WORKS.

Acquisition of land.

Power to acquire land within beneficial operation of works.

6. (1) The Governor may, under the Public Works Act, 1900, and the Acts amending the same and the Murrumbidgee Irrigation Area Resumption Act, 1910, but subject to the provisions hereinafter mentioned, from time to time, purchase or resume any land or appropriate any Crown land not under lease or license included within the boundaries described in Schedule One to this Act; and such purchase, resumption, or appropriation shall be deemed to be made for an authorised work.

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(2) Provided that—

- (a) before land is resumed under this section an advisory board, constituted under the Closer Settlement (Amendment) Act, 1907, shall make a valuation and shall report to the Trust in respect of such land (without any limitation as to the value of the same) under section three of the said Act;
- (b) the provisions of sections nine and ten of the said Act, as amended by section twenty of the Closer Settlement (Amendment) Act, 1909, relating to the determination of the value of the land and improvements on appeal to a court, shall apply to any such resummptions; and
- (c) the provisions of section twenty-three of the Closer Settlement (Amendment) Act, 1909, relating to costs in the proceedings therein referred to shall, mutatis mutandis, apply to costs in appeals under this proviso.

The above provisions shall be in lieu of the valuation under section ninety-six of the Public Works Act, 1900, and in lieu of the provisions of sections ninety-seven, ninety-eight, and ninety-nine of the same Act.

Lands to be Crown lands.

7. The land so purchased, resumed, or appropriated shall vest in His Majesty and be Crown lands within the meaning of the Crown Lands Acts, and may be dealt with thereunder, but shall not be available for any class of holding thereunder until specifically set apart for the same by the Governor.

Construction of works.

8. (1) The Secretary for Public Works, when authorised by the Trust, may, in or in connection with any area so purchased, appropriated, or resumed, and under and subject to the Public Works Act, 1900, and any Act amending the same, and the Murrumbidgee Irrigation Area Resumption Act, 1910, and this Act—

- (a) construct roads, railways, and tramways, and may construct any such railway or tramway across, over, or along any roads;
- (b) construct conduits, lay pipes, and erect posts through or on any lands or through or on roads for the purpose of conveying or transmitting water or power, or for any other purpose, and fix electric wires or cables to any buildings;
- (c) construct drainage and other works;
- (d) provide or effect improvements;
- (e) purchase, resume, or appropriate, any land required for any such works.

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Public Works Act.

(2) For the above purposes any such work and improvement shall be an authorised work within the meaning of the Public Works Act, 1900, and the said Secretary shall be the constructing authority, but section twenty-eight of the said Act shall not apply in respect of the same.

Traffic on road, railway, or tramway.

9. (1) The Trust—

- (a) shall maintain and repair any works and improvements vested in it;
- (b) may on any railway or tramway vested in it use any motive power, and draw or propel carriages and wagons for passenger and goods traffic, and may charge such fares and rates as the Trust may fix or as may be prescribed in respect of such traffic.

Goondah and Barren Jack railway.

(2) The provisions of this section shall apply to the railway now constructed between Goondah and Barren Jack; and such railway shall be deemed to have been constructed under the Construction Act.

Gazettal of cost of works.

10. (1) The Governor shall from time to time publish in the Gazette a description of the works and improvements constructed or effected under the Construction Act or this Act, and the cost of the same, and shall vest such works and improvements in the Trust.

Fixing of charges.

(2) The Trust shall so fix the charges for water supply and drainage to be made under this Act that the revenue to be received therefrom when the works from time to time completed are fully utilised and the full charges for water supplied therefrom are payable, will as nearly as possible be equal to the amount required to provide for—

- (a) the expense of maintaining the works of water supply and drainage;
- (b) the expense incurred in the distribution of water, and the disposal of drainage;
- (c) interest at three and a half per centum per annum on the cost of such works gazetted as aforesaid, less such portion of the cost of the Barren Jack storage works as in the opinion of the Trust is not properly chargeable in respect of the areas supplied with water;
- (d) a sinking fund to repay the amount of the cost on which interest is to be provided as aforesaid in one hundred years or any lesser period fixed by the Trust.

(3) Charges in relation to improvements shall, subject to the regulations, be fixed by the Trust.

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PART III.

CONSTITUTION AND MANAGEMENT OF IRRIGATION AREAS.

Constitution of areas.

11. The Trust may, by proclamation in the Gazette, constitute any specified area of land as an irrigation area; such proclamation shall also be published in some newspaper circulating in or in the neighbourhood of the area. Proclamation of irrigation area.

12. (1) Every proclamation constituting an irrigation area shall— Particulars to be contained in proclamation.

- (a) specify the boundaries of the area, and, if the area be divided into districts, the boundaries of such districts;
- (b) assign a name to the area, and a name or a number to each district;
- (c) state the number of water rights assigned to the area and the months of the year during which they will be delivered and the places at which they will be measured;
- (d) state the number of such water rights per acre which are a fixed charge on lands in the area or, if the area be divided into districts, in each such district;
- (e) fix the price for each such water right;
- (f) contain such provisions not inconsistent with this Act as, according to the facts and circumstances of each case, the Trust thinks fit.

(2) Any such proclamation may be amended or revoked by the Trust by proclamation in the Gazette. Amendment of Proclamation.

Supply of water.

13. (1) The Trust shall each year allot to the occupier of any land within an irrigation area the number of water rights which, in pursuance of the proclamation constituting the area, or any proclamation amending the same, are a fixed charge on such land. Allotment of water rights which are a fixed charge.

(2) The Trust shall, at the times and in the quantities fixed by it, supply water in pursuance of the water rights so allotted—

- (a) to the boundary of any land held by any one person bona fide in his own interest; and
- (b) to such other points as may be agreed upon.

(3) The charge in respect of such water rights at the price fixed by such proclamation shall commence to be payable from the date of notification by the Trust to the occupier that water is available, and shall be paid by the said occupier whether the water is or is not taken by him, unless he proves that the water was not available. Payment for such water rights.

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The Trust in its discretion, may, in respect of any land during the first five years after the first supply of water, collect less than the amount so payable, but so that such amount shall be not less than one-half for the first year, increasing uniformly so that the whole amount payable is levied after the fifth year.

Other water rights for irrigation and other purposes.

14. (1) After providing for the water rights, which are a fixed charge, the Trust on application by the occupiers of any lands within the area, may, by agreement with such occupiers, allot to them out of the remaining available water rights assigned to the area additional water rights for a period of twelve months in proportion to the number of water rights which are a fixed charge on their lands.

Any such additional water rights not agreed for within a period prescribed by the Trust may be disposed of by it by agreement with the occupiers of land in the area, or in any other irrigation area.

All water supplied as above-mentioned shall be charged and paid for at the same rate as that charged for the water rights which are a fixed charge.

Surplus water not assigned to area.

(2) Any surplus water not assigned as water rights to the area under section twelve may be disposed of by the Trust by agreement with the occupiers of land in any irrigation area.

Supply of water under pressure.

15. The Trust may supply water through pipes under pressure, and make the prescribed charge for such supply.

Payment of charges.

Payment of charges.

16. Every charge made under this Act shall be paid to the Trust by the occupier of the land as and when prescribed, and shall, when so prescribed, be paid in advance, and, in default of payment, may be recovered in any court of competent jurisdiction.

The amount of any such charge, and any interest thereon, shall be carried to the Consolidated Revenue Fund.

Charges for water, how recoverable.

17. (1) The amount due for every charge made and levied under this Act by the Trust in respect of the supply of water to any land, shall be a charge upon the land and shall bind the occupier of the same.

Power to remit charges.

(2) The Trust may, in such cases as it thinks just, remit the payment of any charges or any portion of them.

Interest on overdue charges.

18. All charges becoming due under this Act in respect of the supply of water to any land shall bear interest at the rate of four per centum per annum from the due date until payment is made. Such interest shall be a charge on the land and may be recovered in the same manner as the charge.

Possession may be taken of occupied land for arrears of charges.

19. When charges under this Act, or any interest thereon, have been unpaid for four years, or where the holding has been abandoned, the Trust may take possession of the land in respect of which they are due, which thereupon shall revert to the Crown, and shall

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shall be Crown land within the meaning of the Crown Lands Acts and may be dealt with thereunder, but shall not be available for any class of holding until specifically set apart for the same by the Governor.

Demonstration farms.

20. The Trust may use any land reserved or set apart for the purpose within an irrigation area for establishing thereon demonstration farms; such farms shall be under the control of the Trust. The cost of working and maintaining such farms, and constructing and maintaining buildings in connection therewith, shall be defrayed from funds to be voted by Parliament for the purpose.

PART IV.

MISCELLANEOUS AND SUPPLEMENTAL.

Miscellaneous.

21. Any railway or tramway constructed by the Secretary for Public Works under this Act may be vested by the said secretary or the Trust in the Chief Commissioner for Railways and Tramways, and shall thereupon be subject to the provisions of the Government Railways Act, 1901, and any Acts amending the same.

22. Nothing in this Act shall be deemed to render it obligatory on the Trust to supply water to any area or person if by reason of drought, accident, or other cause, the Trust is of opinion that it is impracticable to do so.

23. Any land occupied by works constructed under this Act or the Construction Act, and any land covered by water used or intended to be used for the purposes of this Act, or the Construction Act, and any land used for the purposes of the railway from Goondah to Barren Jack, and any land purchased, resumed, or appropriated under this Act shall be exempted from all rates under the Local Government Act, 1906, or any Act amending the same.

24. The Governor, by proclamation in the Gazette, may constitute a catchment area for the works constructed under the Construction Act or this Act and define the boundaries of such area.

The Governor may also, by a like proclamation, revoke or vary any proclamation made as aforesaid.

25. The Murrumbidgee Irrigation Area Resumption Act, 1910, is amended by—

- (a) substituting the word "Schedules" for "Schedule" in section two; and
- (b) adding a new Schedule Two in the terms of Schedule Two to this Act.

Regulations.

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Regulations for
preventing pollution
of catchment area.

26. Notwithstanding anything to the contrary in the Water Rights Act, 1902, or the Mining Act, 1906, or in any regulation made, or any license, right, authority, or leave granted under or held in virtue of the provisions of any of the said Acts, before or after the commencement of this Act, the Trust may, with the approval of the Governor, make regulations to prevent the pollution of any river, stream, or lake flowing through or being in the said catchment area, and to prevent any person allowing any sludge, slime, or solid matter to flow into any such river, stream, or lake, and for that purpose to authorise the entry on any land.

General regulations.

27. The Trust may, with the approval of the Governor, make regulations,—

- (a) for the prevention of the pollution of water conserved or distributed in works constructed under the Construction Act or this Act ;
- (b) for the prevention of injury to such works, or any works used in connection therewith ;
- (c) regulating the transmitting and the supply and sale of electrical or other power produced by such works ;
- (d) regulating traffic on roads, railways, and tramways maintained by the Trust ;
- (e) prescribing quantities and times of supply of water in pursuance of water rights ;
- (f) prescribing the procedure in and in connection with the disposal by agreement of additional water-rights ;
- (g) prescribing the charges for water supplied, and the conditions of such supply ;
- (h) prescribing the method of measuring water-rights and quantities of water ;
- (i) prescribing the forms of agreement for the sale or disposal of water or power ;
- (j) for the supply of water to any land, and for cutting off such supply ;
- (k) for the prevention of nuisances or of the waste of water or power ;
- (l) fixing charges for the use of improvements effected by or under the authority of the Trust ;
- (m) for preventing stock from straying on roads and public places in an irrigation area ;
- (n) for the prevention of diseases in trees, vines, plants, fruit, seed, stock, or poultry in an irrigation area, and the exclusion from an irrigation area of any trees, vines, plants, fruit, fruit-cases, and packages, seed, stock, or poultry which in the opinion of the Trust would be likely to spread disease ;
- (o)

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- (o) regulating the working and control of demonstration farms established under this Act;
- (p) regulating proceedings at meetings of the Trust, and for the regulation and control of its officers and servants;
- (q) generally for carrying out the provisions of this Act.

28. Any regulations made under this Act may impose any Regulations may impose penalties. penalty, not exceeding twenty pounds for each breach of the same, or, where the breach is a continuing one, not exceeding five pounds for every day during which such breach continues.

29. All regulations made under this Act shall be published Regulations to be laid before Parliament. in the Gazette, and shall thereupon have the force of law. A copy of such regulations shall be laid before both Houses of Parliament within fourteen days after such publication if Parliament is then in session, and if not, then within fourteen days after the commencement of the next session.

30. The production of a copy of the Gazette containing any Production of Gazette to be evidence of validity of regulations. regulation purporting to have been made under this Act shall be evidence, until the contrary is proved, of the due making of such regulation, and that all preliminary steps have been duly taken necessary to give full force and effect to the same.

SCHEDULES.

SCHEDULE ONE.

ALL that area or tract of country comprising part of the parish of Narrandera and the whole of the parishes of Cudgel, Yarangery, Willimbong, Brobenah, Gibbs, Edon, Tuckerbil, Gogeldrie, Dallas, Tenningerie, Hebdon, Bondi, Yenda, Stanbridge, Wyangan, Jondaryan, Gorton, Colchester, Camarooka, Willbriggie, Naunton, Bringan, Hulong, Cuba, and Colaragang, in the county of Cooper; the whole of the parishes of Learmonth, Bendigo, Bringagee, Kooroongal, Hyde Park, Wiveon, Quambatook, Ereildoune, Cajaldura, Currathool, Alleyne, Terrapee, Buckley, Lethington, Yannaway, Houlong, Benerambah, Wowong, Djallah, Baillie, Ballingall, Warburn, O'Brien, Mirrool, North Bringagee, Denny, Maiden, Cockburn, Hervey, Mair, Livingstone, Wycheproof, and Carrego, in the county of Sturt; and also the whole of the parishes of Beaconsfield, Synnot, Elliott, Warrabalong, and Bolton in the county of Nicholson, in the State of New South Wales: Commencing at the junction of the Narrandera-Jerilderie Railway with the Narrandera-Hay Railway; and bounded thence by part of first-mentioned railway land southerly to the Murrumbidgee River; thence generally westerly by the Murrumbidgee River downwards to the south-western corner of the parish of Houlong, county Sturt; thence generally northerly by the eastern boundaries of the parishes of Toms Point, Uardry, North Uardry, Mills, county of Sturt, and the eastern boundaries of the parishes of Honuna, Gonowlia, and Russell, county of Nicholson, to the south western corner of the parish of Moncton; thence generally easterly by the southern boundaries of the parishes of Moncton, Griffiths, and Weerie; thence southerly by part of the western boundary of the parish of Goolgowi South; thence north-easterly by the south-eastern boundaries of the last parish and Stackpoole; thence southerly by the western

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western boundary of the parish of Munro, county of Sturt; thence generally easterly and south-easterly, by the south boundaries of the parishes of Munro and Kooba, part of the western boundary of parish of Tabbita, county Cooper, the southern boundary of the last parish, southern boundaries of the parish of Bingar, to the western boundary of the parish of Binya; by part of the western and the southern boundary of the last-named parish to the north-western corner of portion 12, parish of Moura; by the western and southern boundaries of the last parish, part of the western and the southern boundary of the parish of Waugh, and part of the southern boundary of the parish of Barralong to north-eastern corner of portion 16, parish of Brobenah; thence generally southerly by part of the western boundary of the parish of Bunganbil, the western boundaries of the parishes of Bermabere and Cudjello, and a line to the southern side of the Narrandera-Hay railway land; and by that railway land generally south-easterly to the point of commencement,—having an area of about 1,344,000 acres.

SCHEDULE TWO.

All that area or tract of country comprising the whole of the parishes of Learmonth, Bendigo, Bringagee, Kooroongal, Hyde Park, Wiveon, Quambatook, Ercildoune, Cajaldura, Currathool, Alleyne, Terrapee, Buckley, Lethington, Yannaway, and Houlong, in the county of Sturt, and State of New South Wales: Commencing on the right bank of Murrumbidgee River at the south-western corner of the parish of Wowong; and bounded thence generally northerly by the eastern boundaries of the parishes of Bringagee, Bendigo, and Learmonth; thence generally westerly by the northern boundaries of the parishes of Learmonth (aforesaid), Wiveon, and Quambatook; thence northerly by the eastern boundary of parish of Buckley; thence generally westerly by the northern and western boundaries of the last parish, and by the northern boundary of the parish of Lethington to the south-western corner of portion 37, parish of Carrego; thence generally southerly by the western boundaries of the parishes of Lethington, Yannaway, and Houlong to the Murrumbidgee River; and thence generally easterly by that river upwards, to the point of commencement,—having an area of about 324,000 acres.