

## Act No. 73, 1912.

An Act to make better provision for the construction, control, and management of works of water conservation, irrigation, and water supply, and for the constitution, administration, and management of irrigation areas; for the resumption and the disposal of land; for the appointment of a commissioner and other officers; to repeal certain Acts; to amend certain other Acts; and for purposes consequent thereon or incidental thereto. [20th December, 1912.]

IRRIGATION  
(No. 2).

**B**E 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 "Irrigation Act, 1912," and shall come into operation on the first day of January, one thousand nine hundred and thirteen. It is divided into Parts as follows:—

PART I.—PRELIMINARY—*ss.* 1-3

PART II.—THE COMMISSIONER AND IRRIGATION AREAS—*ss.* 4-7.

PART III.—POWERS AND DUTIES OF COMMISSIONER—*ss.* 8-11.

PART IV.—SUPPLY OF WATER—*ss.* 12-16.

PART V.—MISCELLANEOUS AND SUPPLEMENTAL—*ss.* 17-29.

**2.** (1) The Murrumbidgee Irrigation Act, 1910, is repealed, Repeal.  
except—

Sections six, twenty-three and twenty-five.

The Schedules.

The definition of "The Construction Act" in section three.

(2)

*Irrigation (No. 2).*

## Definitions.

- (2) Such repeal shall not—
- (a) affect any lease, reservation, dedication, proclamation, appointment, or notification lawfully made before the commencement of this Act; or
  - (b) prejudice or affect any proceeding matter or thing lawfully done or commenced, or contracted to be done, under the authority of any enactment hereby repealed.
- 3.** In this Act the following terms shall, if not inconsistent with the context or subject matter, have the following meanings—
- “Commissioner” means commissioner for water conservation and irrigation appointed under this Act.
- “Improvements” includes all works, buildings, machinery plantations, and other improvements provided or effected under the authority of the Act hereby repealed, or by or under the authority of the irrigation commissioner or this Act.
- “Irrigation area” means irrigation area constituted under the Murrumbidgee Irrigation Act, 1910, or under this Act.
- “Occupier” means person holding under any tenure any land in an irrigation area.
- “Prescribed” means prescribed by regulations under this Act.
- “The Construction Act” means the Barren Jack and Murrumbidgee Canals Construction Act, 1906.
- “Water right” means right to such a quantity of water twelve inches deep as would cover an area of one acre.

## PART II.

## THE COMMISSIONER AND IRRIGATION AREAS.

*Appointment of Commissioner.*Appointment of  
Commissioner.

- 4.** (1) The Governor may appoint some fit and proper person to be Commissioner for Water Conservation and Irrigation.
- (2) The Commissioner shall hold office for seven years from the date of his appointment, and shall be eligible for reappointment; and may be removed from office by the Governor only for misbehaviour or incapacity, or upon resolutions passed by both Houses of Parliament.
- (3) The Commissioner shall be paid a salary at the rate of one thousand two hundred and fifty pounds per annum, and such salary is hereby charged upon the Consolidated Revenue Fund, and such fund, to the extent required for the payment of such salary, is hereby permanently appropriated. (4)

*Irrigation (No. 2).*

(4) If the Commissioner is absent from his duties the Governor may appoint a Deputy Commissioner who during such absence shall have the powers and perform the duties of the Commissioner.

(5) The Commissioner shall devote the whole of his time and attention to his duties under this Act, and shall not be engaged in any other business for gain.

*Appointment of officers.*

5. (1) The Governor may, on the recommendation of the Commissioner, appoint such officers as he thinks necessary for the purposes of this Act, provided that the yearly salary of any such officer is over five hundred pounds. The Commissioner may suspend any officer so appointed, and shall thereupon refer the matter to the Minister. Appointment of officers.

(2) The Commissioner may appoint officers, servants, and workmen, provided that the yearly salary of any such officer or servant is not over five hundred pounds.

(3) The provisions of the Public Service Act, 1902, or of any Act amending it, shall not apply to officers and servants so appointed: Provided that nothing herein contained shall affect the rights accrued or accruing under the said Acts or any Acts thereby repealed to any such officer or servant whose services are transferred by appointment under this section; and such officers and servants may continue to contribute to any account and shall be entitled to receive any payment, pension, or gratuity as if they were officers within the meaning of the said Acts.

*Constitution of irrigation areas.*

6. The Governor may, by proclamation published in the Gazette, constitute any specified area of land of the Crown as an irrigation area, and vary the boundaries of any area so constituted; such proclamation shall also be published in some newspaper circulating in or in the neighbourhood of the area. Constitution of irrigation areas.

On such proclamation being made such land shall, whether such land is situate within the Eastern, Central, or Western Division, 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 thereunder until set apart for disposal by the Minister for Lands:

Provided that until any such lands are so set apart the Commissioner may use them for depasturing stock, or may lease them for that purpose.

*Irrigation (No. 2).*

Proclamation  
constituting  
irrigation area.

**7.** (1) Every proclamation constituting an irrigation area shall—

- (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 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;
- (d) fix the price for each such water right;
- (e) contain such provisions not inconsistent with this Act as, according to the facts and circumstances of each case, the Governor thinks fit.

---

PART III.

POWERS AND DUTIES OF COMMISSIONER.

Powers of  
commissioner.

**8.** (1) The Commissioner shall have and exercise the powers conferred expressly on him by this Act, and shall, subject to this Act and any regulations thereunder—

- (a) have control of any irrigation area and any works thereon or used in connection therewith;
- (b) may in the manner prescribed dispose of lands in irrigation areas under the Crown Lands (Amendment) Act, 1912;
- (c) have exclusively the powers of the Minister under the Water Rights Act, 1902;
- (d) have exclusively, so far as relates to water supply, water conservation, irrigation, and artesian wells, the powers of the Minister under the Artesian Wells Act, 1897, the Water and Drainage Act, 1902, and the Water and Drainage and Artesian Wells (Amending) Act, 1906; and shall exclusively be the constructing authority for the purpose of constructing any works of water supply, water conservation or irrigation, or any artesian wells under those Acts.

(2) For the purpose of carrying out the above provisions, the Acts referred to in paragraphs (c) and (d) of the last preceding section shall be read as if in place of "the Minister" were read "the Commissioner appointed under the Irrigation Act, 1912"; and the said Acts shall be read with such other amendments as are necessary to bring those Acts into conformity with this Act: And in the Crown Lands (Amendment) Act, 1912, "the Commissioner appointed under the Irrigation Act, 1912," shall be read instead of "the Trust."

(3)

*Irrigation (No. 2).*

(3) Provided that the following matters of policy shall be submitted by the Commissioner to the Minister, and shall be subject to his approval—that is to say:—

Matters of policy submitted to Minister.

- (a) The disposal of lands within irrigation areas under the provisions of the Crown Lands (Amendment) Act, 1912, and all matters arising out of such disposal.
- (b) The periods for the repayment for improvements effected by the Commissioner.
- (c) The construction of works under this Act.

**9.** The Commissioner may, in or in connection with any irrigation area—

Commissioner to construct works, &c.

- (a) construct works for storage or diversion of water;
- (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) subject to the provisions of the Public Works Act, construct roads, railways, and tramways, and may construct any such railway or tramway across, over, or along any roads;
- (e) provide or effect improvements.

**10.** The Commissioner may on any railway or tramway vested in him, including the railway between Goondah and Barren Jack, use any motive power, and draw or propel carriages and waggons for passenger and goods traffic, and may charge such fares and rates as may on his recommendation be prescribed in respect of such traffic.

Fares and rates charged on railways, &c., vested in Commissioner.

**11.** (1) All lands and rights of way, and all buildings, improvements, works, machinery, plant, water, and property of whatever nature, and all moneys held or used in connection with any irrigation scheme or area, and all powers, rights, remedies, and capacities in respect thereof which now are vested in any trust, person, or authority constituted in pursuance of the Wentworth Irrigation Act, the Hay Irrigation Act, 1902, or the Balranald Irrigation Act, 1902, are hereby vested in the Commissioner.

Lands, buildings, plant, &c., vested in Commissioner.

(2) All moneys owing by or to or on account of any such trust, person, or authority are hereby made recoverable by or from the Commissioner, and all contracts, agreements, leases, mortgages, bonds, covenants, or securities made and entered into with or in favour of, or by or for any such trust, person, or authority, or any person on his or its behalf, shall take effect and may be proceeded on and enforced by and against and with reference to and in the name of the Commissioner as fully in all respects as they might have been enforced by, against, and with reference to such trust, person, or authority, if this Act had not passed.

Moneys owing.

(3)

*Irrigation (No. 2).*

Dissolution of trusts.

- (3) For the purpose of carrying out the above provisions—
- (a) all trusts constituted under the said Acts are dissolved ;
  - (b) the enactments in the said Acts defining the words “ the trust ” and providing for the constitution of the trust, particularly Part II of each of the said Acts, are repealed ;
  - (c) the said Acts shall be read as if in place of the expression “ the trust ” were read “ the Commissioner appointed under the Irrigation Act, 1912 ” ; and
  - (d) the said Acts shall be read with such other amendments as are necessary to bring those Acts into conformity with this Act.

## PART IV.

## SUPPLY OF WATER.

Allotment of water rights which are a fixed charge.

**12.** (1) The Commissioner 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.

(2) The Commissioner shall, at the times and in the quantities fixed by him, 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.

Payment for such water-rights.

(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 Commissioner to the occupier that water is available, and shall be paid by the occupier whether the water is or is not taken by him, unless he proves that the water was not available.

Other water-rights for irrigation and other purposes.

**13.** After providing for the water-rights, which are a fixed charge, the Commissioner, on application by the occupiers of any lands, may, by agreement with such occupiers, allot to them 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.

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.

Supply of water under pressure.

**14.** The Commissioner may supply water through pipes under pressure, and make the prescribed charge for such supply.

*Payment*

*Irrigation (No. 2).**Payment of charges.*

**15.** (1) Every charge for water made in respect of any land under this Act shall be paid to the Commissioner by the occupier of the land as and when prescribed, and shall, when so prescribed, be paid in advance. Payment of charges.

(2) The amount due for any such charge shall bear interest at the rate of five per centum per annum from the due date until payment is made. Interest on overdue charges.

(3) The amount due for any such charge shall be a charge upon the land, and may be recovered from and shall bind the occupier of the land for the time being. Charges for water, how recoverable.

**16.** When charges for water made under this Act, or any interest thereon, have been unpaid for four years, or where the holding has been abandoned, the Commissioner may take possession of the land in respect of which they are due, which thereupon shall revert to the Crown, and shall 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 until specifically set apart under the Crown Lands (Amendment) Act, 1912. Possession may be taken for arrears of charges.

## PART V.

## MISCELLANEOUS AND SUPPLEMENTAL.

**17.** The expense of carrying out the provisions of this Act shall be defrayed from such moneys as may be appropriated by Parliament for the purpose. Expense—how defrayed.

**18.** The Commissioner shall, subject to this Act, collect on behalf of the Minister for Lands all rents due to the Crown in respect of holdings in an irrigation area. All moneys received by the Commissioner, including rents, shall be paid into the Treasury and carried to the Consolidated Revenue Fund and credited as the revenue of the Commissioner. Rents due to the Crown.

**19.** The Commissioner may, for the first year of a tenancy, in his discretion, suspend for a period not exceeding five years the payment by the occupier of any part of the rent and the charges for the supply of water not exceeding sixty per centum of the value of the unencumbered permanent improvements effected by the occupier on the land leased. The amount of rent and charges so suspended shall while unpaid bear interest at the rate of five per centum per annum. Rent and charges may be suspended.

**20.** Any land—

- (a) occupied by works vested in the Commissioner; or
- (b) within an irrigation area; or
- (c) covered by water which is used or intended to be used for the purposes of this Act; or
- (d)

Certain land exempted from rates.

*Irrigation (No. 2).*

(d) used for the purposes of the railway from Goondah to Barren Jack ; or

(e) purchased, resumed, or appropriated under the Murrumbidgee Irrigation Resumption Act, 1910, or the Murrumbidgee Irrigation Act, 1910,

shall be exempted from all rates under the Local Government Act, 1906, or any Act amending the same, and the provisions of the said Acts and of the Country Towns Water and Sewerage Act of 1880, or any Act amending it, shall not, except as hereinafter provided, apply within an irrigation area, and thereupon such exemption shall, as to the Local Government Act, 1906, and the Acts amending it, be of no effect :

Provided that the Governor may constitute an irrigation area as a shire under the Local Government Act, 1906.

Proviso.

Amendment of s. 27  
(1) of Crown Lands  
(Amendment) Act,  
1912.

**21.** The Crown Lands (Amendment) Act, 1912, is amended by inserting in the first paragraph of section twenty-seven, after " within the area " the words " or by auction."

Vesting of railways  
or tramways in the  
Railway  
Commissioner.

**22.** Any railway or tramway constructed under the Murrumbidgee Irrigation Act, 1910, or this Act may be vested by the Minister in the Chief Commissioner for Railways and Tramways, and shall thereupon be subject to the provisions of the Government Railways Act, 1912, and any Acts amending the same.

Commissioner not  
bound to supply  
water.

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

Catchment areas.

**24.** The Governor, by proclamation in the Gazette, may constitute catchment areas for the works constructed under the Construction Act or the Murrumbidgee Irrigation Act, 1910, or this Act, and define the boundaries of such areas.

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

*Regulations.*

Regulations for  
preventing pollution  
of catchment areas.

**25.** 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 Commissioner may, with the approval of the Governor, make regulations to prevent the pollution of any river, stream, or lake flowing through or being in any such 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.

**26.**



*Irrigation (No. 2).*

**26.** The Commissioner may, with the approval of the Governor, General regulations. make regulations—

- (a) for the prevention of the pollution of water conserved or distributed in works constructed under the Construction Act, or the Murrumbidgee Irrigation Act, 1910, 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 Commissioner ;
- (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 any trust, person, or authority, or by the Commissioner ;
- (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 Commissioner, would be likely to spread disease ;
- (o) regulating the working and control of demonstration farms established under this Act ;
- (p) regulating the width of tires of vehicles used on roads in an irrigation area ;
- (q) prescribing the powers and duties of local government bodies established for the local government of irrigation areas or portions thereof ;
- (r) for the regulation and control of the Commissioner's officers and servants ;
- (s) generally for carrying out the provisions of this Act.

**27.** 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.

**28.**

---

*Closer Settlement (Amendment) (No. 2).*

---

Regulations.

**28.** (1) The Governor may make regulations for the purpose of giving effect to this Act, and may by such regulations impose a penalty not exceeding ten pounds for any breach thereof.

Publication.

(2) All such regulations on being gazetted shall be laid before both Houses of Parliament within fourteen days after the next meeting of Parliament. But if either House of the Parliament passes a resolution of which notice has been given, at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulations, such regulations shall thereupon cease to have effect.

Production of  
Gazette to be  
evidence of validity  
of regulations.

**29.** The production of a copy of the Gazette containing any 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.

---