

WATER (AMENDMENT) ACT.

Act No. 4, 1924.

An Act to make certain provisions as to private irrigation schemes and water and drainage trusts; to amend the Water Act, 1912, as amended by subsequent Acts: and for purposes connected therewith. [Assented to, 4th September, 1924.]

George V,
No. 4.

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:—

1. (1) This Act may be cited as the "Water (Amendment) Act, 1924."
(2)

Short title.

4 **Water (Amendment) Act.**

George V, (2) In this Act the expression "the Principal
No. 4. Act" means the Water Act, 1912, as amended by
subsequent Acts.

An amendment of
Parts I and II
of Act No. 44
of 1912.

2. The Principal Act is amended as follows:—

Sec. 4

(a) Section four: By inserting in its appropriate alphabetical order the following definition:—

"The Commission" means the Water Conservation and Irrigation Commission constituted under the Irrigation Act, 1912, as amended by the Irrigation (Amendment) Act, 1916, or any Act amending those Acts.

Sec. 5.

(b) Section five: By inserting in its appropriate alphabetical order the following new definition:—

"Private irrigation scheme" means any scheme under which lands are supplied or are proposed to be supplied by a work with water from a river or lake to be used by two or more persons for purposes of irrigation. For the purposes of this definition two or more persons holding land in the same interest to which the water is supplied or proposed to be supplied shall be deemed to be one person.

Sec. 10.

(c) Section ten: By omitting the section and substituting the following new section:—

10. (1) Any occupier of land whereon any work to which this Part extends is constructed or used, or is proposed to be constructed or used, for the purpose of—

- (a) water conservation, irrigation, water supply, or drainage; or
- (b) the prevention of inundation of land and overflow of water thereon; or
- (c) changing the course of a river,

may apply to the Commission in the form prescribed for a license to construct and use the said work, and to take and use for the purposes specified

Application
for licenses.
No. 51, 1902,
s. 10.

Amended,
Act No. 38,
1918, s. 5.

specified in the application the water, if any, conserved or obtained thereby, and to dispose of such water for the use of occupiers of land for any purpose other than irrigation. George V,
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- (d) Section seventeen: By omitting the word Sec. 17. “thereby” in the section and substituting the following words:—“or obtained thereby to the extent and in respect of the land and in the manner specified in the license.”
- (e) Division 4: By omitting the Division and Secs. 19, 20. substituting the following new Division 4:—

DIVISION 4.—*Private irrigation schemes.*

19. (1) No water shall be taken from any river or lake for the purposes of any private irrigation scheme, except under authority granted in pursuance of the provisions of this Division: Private
irrigation
schemes.

Provided that nothing in this Division shall make it unlawful to take water for the purposes of any private irrigation scheme existing at the passing of the Water (Amendment) Act, 1924, where such water is taken under a license granted in pursuance of the provisions of this Act before the passing of the Water (Amendment) Act, 1924.

(2) The Commission may, on application in the manner prescribed and on payment of the prescribed fee, grant to the person or persons by whom is owned or occupied the site of the pump or other work by means of which water is diverted from a river or lake for the purpose of a private irrigation scheme an authority for such a scheme for a period not exceeding ten years, on such terms and conditions as the Commission may consider fit, and subject to payment to the Commission of the prescribed charges for water during the currency of the authority. Application
for and grant
of authority.

(3)

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Effect of
authority.

(3) An authority shall operate and ensure at the discretion of the Commission for the benefit of the owner or occupier as the case may be for the time being of the site of the works by which the water is obtained from the river or lake; such owner or occupier shall be bound by the terms and conditions of the authority, and upon breach of any of such terms and conditions or failure in payment of the prescribed charge for water, the authority may be cancelled by the Commission. In the event of the site of the works being occupied by two or more persons they shall be jointly and severally bound by the authority and liable to payment of the said charges.

Renewal of
authority.

(4) On application by the holder of the authority and on payment of the prescribed fee, the authority shall, subject to this Act, be renewed by the Commission from time to time, for successive periods not exceeding ten years each, subject to such terms and conditions as the Commission may think fit to impose, and, further, to the payment to the Commission of the prescribed charges for water.

Penalty for
certain
alterations
to work.

(5) If during the time that an authority under this Division is in force, alterations have been made in or in connection with the work which materially and prejudicially affect the quantity or quality of water flowing in, to, or from, or being in any river or lake, without the previous consent of the Commission, the person who has made the alterations shall be liable to a penalty not exceeding one hundred pounds, and, in addition to the imposition of the said penalty, the authority may be cancelled by the Commission.

Amended
authority.

(6) The holder of an authority may, during the currency thereof, in the prescribed manner and on payment of the prescribed fee, apply for an amended authority allowing alterations to the work as originally authorised,
and

and such authority may be granted, subject to such conditions and charges as the Commission thinks fit. George V,
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No such authority shall be required for any repairs or alterations rendered necessary for maintenance or any sudden or unforeseen emergency.

(7) Notwithstanding the provisions of this section, the Commission may supply water to the occupiers of any of the lands within a private irrigation scheme by means of works under the Commission's control. Power of
Commission.

(8) In respect of any private irrigation scheme existing at the date of the passing of the Water (Amendment) Act, 1924, an application for such authority may be made to the Commission by such owner or occupier within a period of six months from such date, in which event, pending a decision of the Commission as to the granting or otherwise of such application, the Commission may permit the applicant to take water from a river or lake in connection with such scheme, subject to such conditions and for such period as it may determine. Authority for
existing
schemes.

(9) The Commission may before the granting of any permission or authority under the provisions of this section require the owner of the site of the work in respect of which permission or authority is applied for to carry out any works in connection with a private irrigation scheme existing at the time of the passing of this Act, or proposed. Commission
may require
certain works
to be carried
out.

20. (1) Any person who contravenes the provisions of section nineteen, or contravenes or fails to carry out any condition of an authority, shall be liable to a penalty not exceeding fifty pounds, and a further penalty of five pounds for each day during which the contravention continues after such conviction; and, in addition to the imposition of the said penalty, the authority may be cancelled by the Commission. Penalties.

(2)

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Cancellation
of authority.

(2) An authority under this Division may be cancelled by the Commission by notification in the Gazette, which shall be conclusive evidence of such cancellation.

Sec. 21.

(f) Section twenty-one: By inserting after the words "licensed work" the following words:—
"or any work authorised under Division 4 of this Act."

Sec. 22.

(g) Section twenty-two: By omitting the word "Minister" and substituting the word "Commission," and by omitting the word "him" and substituting the word "it."

Sec. 27.

(h) Section twenty-seven: By omitting the section and substituting the following new section:—

Regulations.
No. 51, 1902,
s. 21.

27. (1) The Governor may make regulations prescribing or relating to—

Amended,
Act No. 38,
1918, s. 5.

- (a) forms of application, notices, licenses, renewals of licenses, authorities in connection with private irrigation schemes, renewals of such authorities;
- (b) fees payable in respect of licenses, renewals of licenses, authorities in connection with private irrigation schemes, renewals of such authorities;
- (c) the prevention of the pollution of water and the obstruction or injury to or interference with works;
- (d) the furnishing by licensees, holders of authorities in respect of private irrigation schemes, or persons occupying land comprised within such schemes, of returns specifying the area of their irrigated land, crops watered, number of days on which irrigation is carried on, times of irrigation, and such other particulars as the Governor may consider fit;
- (e) the terms and conditions governing private irrigation schemes, including charges for water;

(f)

(f) the imposition of a penalty not exceeding fifty pounds for any breach of the regulations, or where the breach is a continuing one not exceeding five pounds for every day during which the breach continues;

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(g) generally for the purposes of carrying out the provisions of this Part and providing for the procedure thereunder.

(2) Such regulations shall—

- (i) be published in the Gazette;
- (ii) take effect from the date of publication, or from a later date to be specified in such regulations;
- (iii) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session. If either House of 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 regulation or part thereof, such regulation or part shall thereupon cease to have effect.

3. The Principal Act is further amended as follows:—

Amendment of
Part III of Act
No. 4 of 1912.

(a) Section thirty-one: By omitting the words “for the construction of such works and” and substituting the following:—“for—

Sec. 31.

- (a) the construction;
- (b) the acquisition;
- (c) the utilisation; or
- (d) the part construction, part acquisition, and part utilisation of such works; and
- (e).”

(b)

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Sec. 35.

Construction
of works.Act No. 93,
1902, s. 9 (3).Act No. 59,
1906, s. 7.Amended
Act No. 48,
1916, s. 2 (a).

- (b) Section thirty-five: By omitting the section and substituting the following new section:—

35. Upon such notification the conditions of the proposal with such modification, if any, as aforesaid, shall be binding on the trust and on the Crown, and the Minister may—

- (a) construct;
- (b) acquire;
- (c) utilise; or
- (d) partly construct, acquire, and utilise, the works described in the proposal.

The cost of so—

- (a) constructing;
- (b) acquiring;
- (c) utilising; or
- (d) partly constructing, acquiring, and utilising

such works may be defrayed from such loan votes as are now or may hereafter be applicable to the purpose, or out of appropriations from the Public Works Fund.

Sec. 37.

- (c) Section thirty-seven: By inserting after the word “completion” the words “acquisition or the transfer to the trust.”

Sec. 42.

- (d) Section forty-two: By omitting subsection one and substituting the following subsection:—

(1) Prior to the notification directed by section thirty-seven of this Act to be made with respect to the trust taking over works, the Minister shall, by notice in the Gazette, appoint trustees and direct the first election of trustees in pursuance of this Part.

Appointment
or election
of trustees.
No. 93, 1902,
s. 15.

Sec. 52.

- (e) Section fifty-two: By omitting the words “thereafter constructed within the trust district” and by inserting in lieu thereof the words “at any time taken over by the trust.”

Sec. 73.

- (f) Section seventy-three: By omitting the words “shall be carried out” after the words “carry out” and substituting the words “or acquire, shall be respectively carried out or acquired.”