

WATER (AMENDMENT) ACT.

Act No. 15, 1930.

An Act to amend the law relating to water rights, water and drainage, and artesian wells; to make better provision for the control of the waters of rivers and lakes; to provide for the granting of priority of right to appropriate such waters; to provide for the constitution of districts for purposes in connection with the supply of water for domestic and stock use and for irrigation; to validate certain remissions of payments in connection with or by certain Trusts constituted under the Water Act, 1912; to amend the said Act and certain other Acts; and for purposes connected therewith. [Assented to, 29th May, 1930.]

George V.
No. 15, 1930.

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, 1930."

Short title
and com-
mencement.

(2) The Water Act, 1912, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Water Act, 1912-1930.

(4) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

2.

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Amendment of
Act No. 44, 1912.Right to flow
of water.**2.** The Principal Act is amended as follows :—

(a) by inserting after section four new section 4A, as follows :—

4A. (1) The right to the use and flow and to the control of the water in all rivers and lakes which flow through, or past, or are situate within the land of two or more occupiers, and of the water contained in or conserved by any works shall, subject only to the restrictions hereinafter mentioned, vest and be deemed to have vested in the Commission for the benefit of the Crown. And in the exercise of that right, the Commission, by its officers and servants, may enter any land and take such measures as may be thought fit, or as may be prescribed for the conservation and supply of such water as aforesaid and its more equal distribution and beneficial use, and its protection from pollution, and for preventing the unauthorised obstruction or change of the course of rivers or the unauthorised erection or use of levee banks.

For the purposes of this subsection "occupier" includes the Crown.

(2) The said right shall be subject to the following restrictions :—

(a) It shall not be exercised in contravention of any right lawfully exercisable by—

- (i) the Metropolitan Water, Sewerage, and Drainage Board or any person by or under the authority of the Metropolitan Water, Sewerage, and Drainage Act, 1924-1928 ; or
- (ii) the Hunter District Water Supply and Sewerage Board or any person by or under the authority of the Hunter District Water Supply and Sewerage Act, 1892-1928.

(b)

(b) It shall not be exercised in contravention of any right exercisable by any municipal council, shire council, or county council, or any board or joint committee in respect of works of water supply affecting more than one of such councils jointly, by or under the authority of any Act at the commencement of the Water (Amendment) Act, 1930, so far as such right relates to—

(i) the use and maintenance of works which are in existence or are in course of construction at the said commencement; or

(ii) the taking and use of water conserved or obtained by such works.

(c) It shall be subject to such rights as are conferred by section seven of this Act, on the persons mentioned in that section.

(3) In this section, unless the context or subject-matter otherwise indicates or requires, "Works" means works connected with or affecting the quantity or use of water in any river flowing through or past or in any lake situate within the land of two or more occupiers or connected with or affecting the quantity of any water flowing in, to, or from or being in any river or lake flowing or situate as aforesaid;

(b) by omitting from section five the words "Occupier" means person in actual occupation" and by substituting in lieu thereof the words "Occupier" means a person in actual occupation of any land whatsoever, and where there is no person in actual occupation the holder under any tenure of the land";

(c) by omitting from the definition of the expression "work to which this Part extends" the words "any river or lake flowing through or past, or situate within the land of two or more occupiers or with" and by inserting in lieu thereof the words "or affecting the quantity

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Sec. 7.

Rights of
occupiers of
riparian land.

quantity or use of water in any river flowing through or past or in any lake situate within the land of two or more occupiers, or connected with or affecting the quantity of”;

- (d) after the word “drainage” in the said definition insert “or for the prevention of flooding of land by water, or for the changing or prevention of changing the course of a river”;
- (e) Section six: By omitting section six;
- (f) Section seven: By omitting the section and by inserting in lieu thereof the following section seven:—

7. (1) The occupier of land on the bank of a river or lake shall subject as hereinafter mentioned have the right to use the water in the river or lake for—

- (i) stock watering (but not by means of a work other than one pumping plant with a motive power not exceeding five brake horse-power on the land occupied by him at that site); and
- (ii) domestic purposes; and
- (iii) watering a garden not exceeding five acres in extent used solely in connection with a dwelling-house.

(2) It shall not be necessary for the occupier to apply for or obtain a license under this Part in respect of such right.

(3) The occupier shall not be entitled to use any work under the said right unless and until he has given the Commission notice of his intention to do so and particulars of the work.

(4) Any occupier using a work under the provisions of this section without first giving the said notice to the Commission shall, on conviction, be liable to a penalty not exceeding ten pounds, and to a further penalty not exceeding one pound for each day he uses the work without giving the said notice.

(5)

(5) In respect of the use of any work existing at the date of the commencement of the Water (Amendment) Act, 1930, this penalty shall not be incurred if the occupier gives the said notice within the period of twelve months from such date.

(6) This section shall not be construed so as to give an occupier the right to construct—

- (a) a work obstructing the flow of water in a river; or
- (b) a dam in a lake.

(7) Any person who at the date of the commencement of the Water (Amendment) Act, 1930, is using under the powers conferred by the Acts relating to mining, or has the right to construct and use under the said Acts any work to which this Part extends, may enjoy and exercise such right to the extent to which he would have been able to enjoy and exercise it had the said Water (Amendment) Act, 1930, not been enacted, subject to the power of the Commission in the public interest to control temporarily, stop, or regulate at any time as in its opinion the circumstances warrant, any diversion of water made by him in the exercise of the right hereby conferred, from any river or lake which flows through or past or is situate within the land of two or more occupiers:

Providing that any such person shall not make in or in connection with any such existing work any alteration which would materially and prejudicially affect the quantity or quality of water in any such river or lake, unless such person shall first have obtained in respect of such alteration a license under this Part or unless the said proposed alteration is rendered necessary for maintenance or by reason of sudden or unforeseen emergency.

- (g) Section eight: By omitting all words after the word "work" where secondly occurring and inserting in lieu thereof the words "and the water

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water contained therein or conserved or obtained thereby as against all persons whomsoever, and shall be entitled to make such charges for the supply or use of the said water as may be prescribed.”

Sec. 10.

(h) Section ten: By adding subsection two as follows:—

Deposit to be lodged with application.

(2) The application shall be accompanied by the prescribed deposit as security for the cost of investigation and inquiry in connection with the application, and such deposit may be applied by the Commission in payment or part payment of the license fee payable by the applicant. In the event of the applicant withdrawing or abandoning the application, such deposit or any part thereof may in the discretion of the Commission be retained by it.

Secs. 11, 12.

(i) Sections eleven and twelve: By omitting the sections and by inserting in lieu thereof the following new sections eleven and twelve:—

Notification of application for license.

11. (1) On application being made for a license under the last preceding section, the Commission shall cause to be advertised once in the Gazette and once in a newspaper published and circulating in the district where the work is or will be situate, a notice—

- (i) acknowledging receipt of the application; and
- (ii) requesting all persons interested to inform the Commission whether they support the application or object thereto, and if they do so object, the reasons therefor; and
- (iii) stating the last day on which such information will be received and the name or official designation and address of the person to whom it shall be sent.

(2) In the event of—

- (a) objections to the granting of the application being received by the Commission on or before the said date; or

(b)

- (b) the Commission being of opinion that the application should not be granted,

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the Commission shall, and in any other case the Commission may, direct the local land board or a police magistrate to hold a public inquiry as to the desirability of granting the application. The holding of the inquiry shall be notified once in the Gazette, and once in a newspaper published and circulating in the district where the work is or will be situate. The Commission and all persons whose interests appear to be affected by the granting of the application shall be permitted to attend at the inquiry and be heard in support of, or in opposition to, the granting of the application. The local land board or police magistrate, as the case may be, holding the inquiry shall announce its or his decision in open court, and shall thereupon report in writing upon the inquiry to the Commission.

(3) Where any inquiry is held under this section by a police magistrate as aforesaid, the Commission or the applicant or any person so interested as aforesaid shall within twenty-eight days from the announcement as provided for in the next preceding subsection of the decision have a right of appeal from the report of such police magistrate to the local land board.

12. (1) A short summary of—

License.

(a) the report of—

- (i) the police magistrate or the local land board holding the inquiry where no appeal is made as provided for in this Part; or
- (ii) the local land board or the Land and Valuation Court on appeal; or

- (b) of the decision of the Commission as to the granting or otherwise of the application when no public inquiry is held, shall

shall be published in the Gazette, and the Commission shall, where the report recommends, or the decision of the Commission, as the case may be, is in favour of the issue of a license, issue a license to the applicant in the prescribed form, subject to such terms, limitations, and conditions, if any, as may be recommended in such report or contained in such decision.

(2) Provided that—

- (a) where an inquiry is held by a police magistrate or local land board as aforesaid, no license shall be issued until after the expiration of thirty days subsequent to the said publication of such summary of the report of such police magistrate or local land board; and
- (b) no license shall be issued under this section pending any appeal or reference; and
- (c) a license shall be issued only upon payment of a fee calculated in the manner and according to the scale prescribed by regulations under this Act; and
- (d) before granting a license the Commission may require such alterations to be made to or in connection with the work, or to the plans and specifications of the work, as may be recommended in the said report or required by the said decision as the case may be.

(3) Except in the case of a license granted to a Department of the State, the Railway Commissioners of New South Wales, the Metropolitan Meat Industry Board, the Board of Fire Commissioners of New South Wales, or to a county council, or any board or joint committee in respect of works of water supply affecting more than one of such councils jointly, a municipal council, or shire council, no license shall be granted for a period exceeding ten years. (j)

- (j) Section fourteen: By omitting the section ^{No. 15, 1930.} and by inserting in lieu thereof the following ^{Sec. 14.} new sections fourteen and 14A:—

14. (1) Subject to the provisions of this Part ^{Renewal.} with regard to the renewal of licenses, a license shall, subject to such limitations and conditions as the Commission may decide, be renewed from time to time by the Commission on the application of the licensee and payment of the prescribed fee. Such application shall be made before the expiration of the period for which the license was granted or last renewed, as the case may be.

Pending consideration of the application by the Commission the license shall not lapse, but, should the required fee be not paid within the prescribed time, the license shall lapse.

No renewal, except in respect of a license granted to a Department of the State, the Railway Commissioners of New South Wales, the Metropolitan Meat Industry Board, the Board of Fire Commissioners of New South Wales, or to a county council, or any board or joint committee in respect of works of water supply affecting more than one of such councils jointly, a municipal council, or a shire council, shall be for a longer period than ten years.

(2) Where the Commission decides that the renewal of a license shall be subject to limitations and conditions differing from those which were previously attached to the license, the licensee shall, within twenty-eight days after the posting to him by the Commission of particulars of such limitations and conditions, have the right of appeal to the local land board in respect of such limitations and conditions.

14A. For the purposes of sections twelve and ^{Fees.} fourteen different fees may be prescribed differentiating according to the class of the work, the object or purpose of the work, the river or lake on which it is situate, and the benefit (if any) to the licensee received from works constructed by the Crown:

Provided

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Provided that in case of a work carried out by a public authority as prescribed with the object of conferring public benefit or securing district development a license may, in the discretion of the Commission, be issued at a nominal fee.

Sec. 15.

- (k) Section fifteen: By omitting the section and by inserting in lieu thereof the following new section fifteen:—

Separate applications.

15. A separate application for a license may be required by the Commission in respect of each work except in such cases where, in the opinion of the Commission, two or more works form a combined work; and the determination as to what works may be included as a combined work in an application for a license shall rest with the Commission.

Sec. 17.

- (l) Section seventeen:

(i) By inserting after the word "Crown" the words "and the Commission."

New ss. 17A, 17B, 17C, 17D.

- (ii) By inserting after the section the following new sections 17A, 17B, 17C, and 17D:—

Revocation or suspension of license or authority.

17A. (1) If at any time during the currency of any license, or authority for a private irrigation scheme, the Commission is satisfied that—

- (a) a licensee or the holder of the authority has conserved, diverted, taken, or used any quantity of water in excess of the quantity expressly authorised by his license or authority; or
- (b) the licensee or the holder of the authority has failed to observe and perform any of the limitations or conditions subject to which the license or authority respectively was issued and is held; or
- (c) any water diverted, taken, or used, by any licensee or the holder of the authority, is not being beneficially used or is being wasted; or

(d)

(d) beneficial use is not being made of the licensed or authorised work, No. 15, 1930.

the Commission may give the licensee or such holder, as the case may be, notice by registered letter addressed to the licensee or such person respectively at his address last known to the Commission that after the expiration of a period specified in the notice it is the intention of the Commission to revoke, suspend, or modify, the license or authority.

At the expiration of the period mentioned in the notice, the license or authority shall be revoked, suspended, or modified, as stated in the notice unless the Commission shall have annulled or withdrawn the notice in the meantime.

(2) If by reason of an actual or threatened shortage of water the Commission considers a license or authority for a private irrigation scheme should be suspended or modified, or that the quantity of water authorised by the license or authority to be taken thereunder should be reduced, the Commission may by registered letter addressed to the licensee or holder of the authority as the case may require give notice to that effect, and thereupon the license or authority shall be suspended or modified or the quantity of water reduced according to the tenor of the notice: Provided always that nothing in this subsection contained shall enable the Commission to take any action to disturb any order of priority of right conferred under and by virtue of this Part.

17B. Every person who is guilty of— Offences.

(a) constructing, erecting, or using, without a license or authority, a work to which this Part extends, and for which a license or authority should be obtained, or in contravention of any priority of right conferred under and by virtue of this Act; or

(b)

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- (b) using such a work when the license or authority therefor is suspended, or revoked, or has expired, or using such a work in contravention of any priority of right conferred under and by virtue of this Act; or
- (c) failing, when directed so to do by the Commission, to remove to the Commission's satisfaction any unlicensed or unauthorised work from lands occupied by him,

shall, upon conviction, be liable for the first offence to a penalty not exceeding twenty pounds, and for a subsequent offence to a penalty not exceeding one hundred pounds, or where the offence is a continuing one, to a penalty not exceeding five pounds for every day during which the offence is continued.

Power to enter and remove works.

17c. (1) The Commission may by any of its officers or servants enter upon any land and—

- (a) remove any dam, weir, or any other work forming an unlawful obstruction to the flow of water in a river or any unlawful levee for the prevention of the overflow of the water of a river or lake; and
- (b) by dismantling a pump, blocking the offtake of a race, or by such other means as may by the Commission be deemed necessary, stop any unlawful diversion of water from a river or lake.

(2) The Commission may recover in any court of competent jurisdiction as a debt due to it from the occupier or occupiers of the lands wherefrom the work is removed or whereon the stoppage of the diversion is effected, the costs and expense incurred by it in carrying out such removal or stopping such diversion.

Apportionment of expenses of demolition.

17D. Where a demolition order has been made against an occupier, not being the owner, or a judgment has been obtained against such occupier under the provisions of the next preceding sections 17B and 17C as the case may

may be, such occupier shall have the right to apply to the local land board to apportion the expenses incurred in such demolition, or to apportion such judgment and costs between himself and the owner in such manner as the Board in its absolute discretion may deem fit.

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(m) Section eighteen :

Sec. 18.

(i) By omitting the word "amended" and by inserting in lieu thereof the word "additional."

(ii) By omitting the word "hereinafter" and inserting in lieu thereof the word "hereinbefore."

(iii) By omitting the word "operations" and by inserting in lieu thereof the word "alterations."

(n) By inserting after section eighteen the following new Division 3A as follows :—

New ss. 18A,
18B, 18C, 18D,
18E, 18F.

DIVISION 3A.—Priority of Right to the Appropriation of Water.

18A. (1) The Governor may by proclamation in the Gazette declare that the provisions of this Division shall apply to any river or lake or section of a river from a date specified in such proclamation, and thereupon such provisions shall apply according to the tenor of the proclamation.

Classification
of river and
lake systems.

18B. (1) The purposes for which are used works to which this Part extends shall be deemed to be of the following classes :—

Order of
precedence.

Class I: domestic and town and village water supply and water supply for the New South Wales Government railways, and water supply for the generation of hydro-electric power by any county council, municipal council, or shire council.

Class II: purposes other than those mentioned in Class I or Class III.

Class III: irrigating pasture land.

All

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All rights in respect of purposes within Class I shall take precedence over those in respect of purposes within Class II and Class III. All rights in respect of purposes within Class II shall take precedence over those in respect of purposes within Class III.

(2) As between the holders of rights in the same class, priority of right shall be decided by the order in time of receipt by the Commission of the applications for licenses and for authorities for private irrigation schemes, and such rights within the same class shall take precedence within that class according to their order of priority.

(3) In determining priorities, no distinction shall be made between (a) licenses and (b) authorities for private irrigation schemes. Separate priorities shall obtain in a river or lake or section of a river proclaimed as provided in the next preceding section.

(4) Subject to this Act, and except as hereinafter provided in this section, all licenses and authorities held under this Part and all rights existing at the date specified in the proclamation under section 18A of this Act to conserve, take, and use water in the river or section of the river or lake mentioned therein shall cease and be determined at such date as may be notified by the Commission in the Gazette, and no compensation shall be payable to any person by reason of this determination.

(5) All applications for licenses and authorities for private irrigation schemes lodged within twelve months after the date specified in the notification made by the Commission under the next preceding subsection, in substitution of licenses and authorities and rights determined under the provisions of the said subsection shall be granted, and be deemed to have been received simultaneously, and the rights of the applicants shall upon the granting of their applications rank *pari passu* inter

Existing
licenses, &c.

inter se and have priority as against all other rights granted for the purposes of Class I, Class II, or Class III as the case may be.

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(6) The Commission shall credit any licensee or the holder of an authority for a private irrigation scheme whose license or authority is determined under this section, and who obtains a fresh license or authority, with payment of such proportion of the amount of the fee and charge for water paid by him in respect of the current period of the license or authority as the case may be so determined as the unexpired portion of such current period at the date of the determination of the license or authority bears to the whole of such period. The fee payable in respect of the fresh license or authority shall be reduced by the amount of such credited payment.

(7) No work to which this Part extends, and in relation to a river or lake in respect of which a proclamation has been made under section 18A of this Act, shall commence to be constructed by the Crown after the date of the said proclamation, for or on behalf of any municipal council, shire council, or county council, or any person unless such council or person shall first have obtained a license under this Part for the work: Provided that any such work in course of construction by such a council or by the Crown on behalf of such a council at the said date may be completed.

18c. (1) Any proclamation under section 18A preceding may be corrected, altered, amended, modified, or revoked by the Governor by proclamation in the Gazette. Proclamation.

(2) On revocation of a proclamation as provided in this section, the order of precedence of rights consequent upon the proclamation shall cease to have effect.

18d. Where the operation of any statute, including the Local Government Act and any Act relating to mining, but excluding the River Murray Waters Act, 1915, as amended Act to prevail over other Acts.

by

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by subsequent Acts, conflicts with the operation of the provisions of this Part, the provisions of this Part shall prevail, and such statute shall to the extent of such conflict be inoperative.

Power to determine license.

18E. The Commission may cancel at any time after giving reasonable notice a license or an authority for a private irrigation scheme on payment of compensation to the person entitled to the benefit of same. The right to the water which was vested in that person shall thereupon vest in the Commission in the order of precedence which was given to that person. Such compensation shall be assessed by the local land board of the land district in which the work licensed or authorised is situate.

Sec. 19.

(o) Section nineteen :

(i) By adding at the end of subsection four the following paragraph :—

Pending consideration of the application by the Commission the authority shall not lapse, but should the required fee be not paid within the prescribed time the authority shall lapse.

(ii) By omitting from subsection six the word "amended" and substituting the word "additional."

(p) Section twenty-one : By inserting after the word "constructed" the words "or controlled" and by inserting after the word "Crown" the words "or by the Commission on behalf of the Crown."

Further amendment of Act No. 44, 1912.
Sec. 28.

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

(a) Section twenty-eight : By inserting in the appropriate alphabetical positions the following definitions :—

"Cost of the works" and "cost of the additional works" each include expenditure incurred in construction, the cost of land proposed to be taken, the cost of existing works to be utilised and acquired, the
cost

cost of designing the work (including survey), the expense incurred in supervising the construction of the work, and in respect of the period during which Government plant is used in such construction a sum to be fixed by the Minister making due provision for the charges for interest on the original cost of the plant and for depreciation thereof.

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“ Murray Basin ” means the catchment area of the Murray River and its tributaries.

- (b) Section twenty-nine: By adding new section 29A as follows:—

New s. 29A.

29A. So far as this Part relates or is applied to—

Flood prevention in Murray Basin.

(a) water supply, water conservation, irrigation, and artesian wells; and

(b) the prevention of floods or the control of flood waters in the Murray Basin

the word “ Commission ” shall be substituted for the word “ Minister ” wherever occurring in this Part.

- (c) Section thirty: By omitting the section and by inserting in lieu thereof the following section thirty:—

New s. 30.

30. (1) With respect to matters which relate to the prevention of floods or the control of flood waters (except within the Murray Basin) and to drainage, there shall be a Board consisting of such officers of the Department of Public Works as the Governor may appoint, and including, where any work is situate in the Western Division, the Western Land Board constituted under the Western Lands Act of 1901.

Constitution of Boards.

(2) With respect to matters which relate to the prevention of floods or the control of flood waters within the Murray Basin and to water supply, water conservation, irrigation, and artesian wells, there shall be a Board consisting of such officers of the Commission as the Governor may appoint, and including where any

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any of such matters also relate to the Western Division of the State a member of the said Western Land Board or a representative of that Board.

Powers of Board.

(3) The Board shall have power to subpoena witnesses and take evidence on oath for the purpose of any inquiry under this Act and to compel persons to attend and produce documents.

Witnesses expenses.

Every person who, when required by the Board, attends as a witness, or to produce documents as aforesaid, shall be allowed such expenses as would be allowed to a witness attending on subpoena on the trial of an action in the District Court, and, in case of dispute as to the amount to be allowed, the same shall be referred to the registrar of the nearest District Court, who, on request under the hand of the chairman of the board, shall ascertain and certify the proper amount of such expenses. Such expenses if so directed by the Board shall be paid by the person at whose instance the witness or person producing documents attends.

New s. 32.

(d) Section thirty-two: By omitting section thirty-two and by inserting in lieu thereof the following section thirty-two:—

Contents of proposals.

32. Any such proposal shall contain or specify as the case may be—

- (a) a short general description of the purpose for which it is proposed to constitute the Trust;
- (b) a plan and description of the works and of the land, whether covered with water or not, proposed to be taken or acquired for the purposes of such works;
- (c) the cost or estimated cost of the works where such cost is to be repaid by the Trust by means of a sinking fund;
- (d) the rate of interest which shall be paid by the Trust on the actual cost of the works or on the estimated cost thereof plus ten per centum, whichever is the less sum;
- (e)

- (c) a statement whether the Trust shall repay the cost of the works or any part of such costs and if so a further statement of the terms upon which the Trust shall repay the cost of the works and interest, specifying whether—
- (i) the payment of the charges for water are to include the payment of the cost of the works and interest on such cost; or
 - (ii) the cost of the works and interest on such cost are to be paid by provision of a sinking fund and payment of interest.

Such interest shall be calculated on the actual cost or estimated cost, plus ten per centum, whichever is the less.

- (f) the maximum rate which may be assessed by the Trust;
 - (g) the charges, if any, to be paid by the Trust for water to be supplied by the Crown and the conditions of such supply, and where the payment of such charges is to include the payment of the cost of the works and interest on such cost, the number of years during which such charges shall be paid;
 - (h) a description of the Trust district;
 - (i) the number of trustees, being either three or five;
 - (j) the number of years within which the cost of the works shall be extinguished by a sinking fund, if such fund is required under the proposal; - (k) any other provision not being inconsistent with this Part.
- (e) Section thirty-three: By omitting subsections Sec. 33. two and three.
- (f) Section thirty-four: By inserting in lieu of Sec. 34. the word "modifications," wherever occurring, the word "amendments."

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Sec. 34 (2).

(g) Section thirty-four, subsection two: By inserting after the word "constitution" the words "and name."

Sec. 35.

(h) Section thirty-five: By omitting "the conditions of the proposal with such modification if any as aforesaid shall be binding on the Trust and on the Crown and."

New s. 37.

(i) Section thirty-seven: By omitting section thirty-seven and by inserting in lieu thereof the following section thirty-seven:—

Transfer to trust.

37. (1) The completion, acquisition, or the transfer to the Trust of any works in respect of which a trust is constituted under this Part shall be notified in the Gazette, and thereupon the Trust shall take over, administer, and manage the said works, upon the terms and conditions prescribed, and shall exercise all the powers contained in this Part except such as are conferred solely upon the Minister: Provided that the interest and charges payable by the Trust shall commence to run from a date to be set out in such notification.

(2) Where the cost of the works is to be repaid by a sinking fund, the cost of such works shall be ascertained by the Minister, and notified in the Gazette so soon as practicable after the works have been completed and taken over as aforesaid, and the cost of the works as so notified shall in such case be the cost repayable by the Trust. This subsection shall apply whether the works were completed before or after the commencement of the Water (Amendment) Act, 1930.

(3) Cost in this section means the actual cost or estimated cost plus ten per centum whichever is the less.

New s. 39.

(j) Section thirty-nine: By omitting the section and by inserting in lieu thereof the following section thirty-nine:—

Alteration of Trust districts.

39. (1) If two-thirds in number of the occupiers of Crown lands and owners of other lands within any area sign and forward to the
Minister

Minister a petition that such area be included in a Trust district, the Minister shall refer the petition to the Board with a statement—^{No. 15, 1930.}

- (a) of (i) the charge for any increased quantity of water to be supplied by the Crown and the conditions of such supply, and where the payment of such charge is to include the payment of the cost of the works and of the interest referred to in paragraph (b) following, (ii) the number of years during which the charge shall be paid; and
- (b) where the payment of the cost of the additional works, if any, required to be constructed, utilised, or acquired, in connection with the proposed alteration to the boundaries of the district, is not to be included in the payment of the charge for any increased quantity of water, (i) the estimated cost of the said works, (ii) the rate of interest to be paid on the cost of the said works, and (iii) the number of years in which the cost of the additional works is to be repaid.

Such petition and statement shall be supplied to the trustees by the Board. Upon the receipt from the trustees of an intimation that the proposed alteration and statement have been approved by a special general meeting of the voters of the Trust, of which meeting not less than fourteen days notice shall be given in the prescribed manner, the Board shall report to the Minister whether, in its opinion, the petition should be granted with or without amendments, whereupon the Minister may, by notification in the Gazette, alter the boundaries of such district accordingly and may increase the quantity of water supplied, and construct or acquire and transfer to the Trust the required works.

(2) Upon the increase of the supply of water or upon the completion, acquisition, and transfer to the Trust of the works, a notification shall be sent by the Minister to the Trustees and shall be published by him in the Gazette directing—

(a) that the Trust shall pay the charge in respect of the additional water supplied; and

(b) in the case where the repayment of the cost of the works is not included in the payment of the charge for water that the Trust shall pay—

- (i) the cost of the additional works by a sinking fund within the number of years specified in the statement referred to in the next preceding subsection; and
- (ii) interest on such cost.

(3) The charge for additional water, interest, and payments to sinking fund, shall commence to run from the date of gazettal of such notification; and such interest and payments into the sinking fund shall be calculated on a sum not exceeding the estimated cost of the additional works, plus ten per centum.

(4) Notwithstanding anything contained in this section the Trust shall, subject to the approval of the Minister, have the option of repaying the cost of the work by a lump sum or in a less number of years than the period determined for extinguishing the cost of such work by a sinking fund.

Sec 40.

(k) Section forty: By omitting the section and inserting in lieu thereof the following new sections forty, 40A and 40B:—

Construction,
acquisition,
or utilisation
of work
through
another
district.

40. (1) Where the Minister thinks it desirable that any works in respect of which a Trust is constituted should be constructed, acquired, or utilised, within the district of another Trust, he may, on giving notice to the last-mentioned Trust, construct, acquire, or utilise such works,
and

and may amend the boundaries of the respective districts so as to include such works and such lands adjacent thereto as he may think desirable in the district of the Trust in respect of which the works are constructed, acquired, or utilised.

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Such amended boundaries shall be notified by the Minister in the Gazette.

(2) In connection with any proposal for the constitution of a Trust under this Act, the Minister may include any part of an existing Trust district in the proposed Trust district, and upon the constitution of the proposed Trust such part may be excluded from the Trust district of which it had heretofore formed part, and in that event such part shall form part of the district of the newly constituted Trust.

(3) Where the cost of the works of an existing Trust is being repaid by means of a sinking fund and any of such works are utilised by the Trust into the district of which they are transferred as provided for under either of the next two preceding subsections, the Minister shall assess the amount which shall be paid in respect of the works by the Trust by which the works are so utilised. The Crown shall hold the amount so assessed for the Trust from whose district part has been excluded as aforesaid, and shall allow that Trust interest on such amount at the same rate as is payable by it to the Crown, and when such Trust has reduced its indebtedness to the Crown to an amount which is equal to the sum so assessed, with accumulated interest thereon, the Crown shall credit that Trust as having duly paid its indebtedness to it.

(4) Nothing contained in this Act shall prevent lands within one trust district being included in another or other trust districts.

This subsection shall be deemed to have been in force from the commencement of this Act.

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Union of
trusts.

40A. (1) On the joint application of trustees of any two adjoining trust districts, duly approved by a majority of the voters of each district at separate special general meetings, of which at least fourteen days notice has been given as prescribed, the Minister on the recommendation of the Board may, by notification in the Gazette, excise any part of one such trust district and include such excised part within the other trust district.

(2) Where such excision and inclusion have been effected, and the excised and included part contains trust works, the trust of the district within which the excised part has been included shall be liable in respect of such works for an amount which shall be assessed by the Minister.

The amount so assessed shall be paid by that Trust on such terms and conditions as the Minister may decide and notify to that Trust.

(3) The Crown shall hold all payments made in accordance with such notification for the Trust from whose district part has been excised as aforesaid, and shall allow that Trust interest on such payments at the same rate as is payable by it to the Crown, until that Trust has reduced its indebtedness to the Crown to the sum of the payments and accumulated interest thereon so held by the Crown, whereupon the Crown shall apply such amount in liquidation of the indebtedness to it of that Trust.

Amendment
of boundaries.

40B. On the application of the trustees of a trust district the Minister may in any case where he deems the circumstances so warrant amend by notification in the Gazette the boundaries of such district to include in the district additional land, provided such additional land is not already included in another trust district:

Provided that before any land is so included the Minister shall notify the occupier in the case of Crown land or the owner in the case of other
other

other land of the proposed inclusion, and shall consider any representation such occupier or owner may make. No. 15. 1930.

- (l) Section forty-one: By omitting section forty-one and by inserting in lieu thereof the following section forty-one:— New s. 41.

41. (1) If the trustees in writing request the Minister to increase the quantity of water supplied or to improve or extend any works under their charge the Minister may supply to the trustees a statement— Extension or improvement of works.

(a) of the charge for the increased quantity of water to be supplied and the conditions of such supply, and where the payment of such charge is to include the cost of the works and the interest referred to in paragraph (b) following the number of years during which the charge shall be paid; and

(b) where the payment of the cost of the additional works, if any, required to be constructed, utilised, or acquired, in the event of the request being granted by the Minister, is not to be included in the payment of the charge for any increased quantity of water—

- (i) the estimated cost of the said works;
- (ii) the rate of interest to be paid on the cost of such works; and
- (iii) the number of years in which the cost of the additional works is to be repaid.

(2) Upon the receipt of an intimation from the trustees that the statement has been approved by a special general meeting of the voters of the Trust, of which meeting not less than fourteen days notice shall be given in the prescribed manner, the Minister may increase the quantity of water supplied or proceed with the construction or acquisition of the proposed work, or transfer same to the Trust, as the case may require.

(3)

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(3) Upon the increased quantity of water being supplied, or upon the completion or acquisition or transfer to the Trust of the work, a notification shall be sent by the Minister to the trustees, and shall be published by him in the Gazette, directing—

(a) that the Trust shall pay the charge in respect of the additional water supplied; and

(b) in the case where the repayment of the cost of the works is not included in the payment of the charge for water: that the Trust shall pay—

(i) the cost of the additional works by a sinking fund within the number of years specified in the statement referred to in subsection one of this section; and

(ii) interest on such cost.

(4) The charge for the increase of water, interest, and payments to sinking fund shall commence to run from the date of gazettal of such notification, and such interest shall be calculated on a sum not exceeding the estimated cost, plus ten per centum.

(5) Notwithstanding anything contained in this section the trust shall, subject to the approval of the Minister, have the option of repaying the cost of the work by a lump sum or in a less number of years than the period determined for extinguishing the cost of such work by a sinking fund.

(6) The repayment by trusts by means of a sinking fund of the cost of all improvements or extensions of trust works carried out prior to the passing of the Water (Amendment) Act, 1930, is hereby validated.

New s. 42.

(m) Section forty-two: By omitting the section and inserting in lieu thereof the following section forty-two:—

Appointment
of trustees,
&c.

42. (1) After the constitution of a trust, but before the completion, acquisition, or transfer to the Trust of the works proposed to be constructed

constructed, acquired, or utilised, the Minister shall, by notification in the Gazette, appoint a trustee or trustees, as the case may require, and direct the first election of trustees in pursuance of this Part.

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(2) Where the trust district consists wholly of unoccupied lands which are the property of the Crown, all the trustees shall be appointed by the Minister, and shall, subject to the provisions of this Part, hold office until half the land in the district is occupied by persons who are liable to pay rates to the Trust.

Thereafter, and in other cases where the number of the trustees is three, one shall be appointed by the Minister, and two shall be elected; and where the number of the trustees is five, two shall be appointed by the Minister, and the remaining three shall be elected.

(3) In connection with the appointment of trustees for trusts relating to—

- (i) the prevention of floods or the control of flood-waters within the Murray Basin,
- (ii) water supply,
- (iii) water conservation,
- (iv) irrigation, and
- (v) artesian wells,

the trustee or one of the trustees appointed by the Commission shall also be appointed by it to be chairman.

(4) With respect to trusts existing at the date of commencement of the Water (Amendment) Act, 1930, other than trusts constituted in respect of works for the prevention of floods or the control of flood waters or drainage; where the number of the trustees is three, the appointed trustee shall be the chairman of the trustees, and where the number of trustees is five, the Commission shall appoint one of the appointed trustees to be the chairman.

(5)

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(5) With respect to trusts existing at the time of the commencement of the Water (Amendment) Act, 1930, and situate within the Western Division, the Commission shall by notification in the Gazette, following upon such commencement, appoint a trustee, and the Commission shall direct the first election of two trustees in pursuance of this Part for each of such trusts. Upon such appointment and election the Western Land Board shall cease to be the trustees.

Provided that in the case of the Benanee Water Trust the Commission shall appoint two trustees, and shall direct the election of three trustees.

Sec. 45.

(n) Section forty-five: By omitting the words "the police magistrate having jurisdiction in" and by inserting in lieu thereof the words "a police magistrate having jurisdiction in any part of."

Sec. 53.

(o) Section fifty-three:

- (i) By inserting at the end of paragraph (a) the following words: "and renew such works where necessary."
 - (ii) By inserting after the word "maintenance" in paragraph (b) the word "renewal."
 - (iii) By omitting the words "and make due provision for a sinking fund" and by inserting in lieu thereof the words "and where necessary make due provision for a sinking fund."
 - (iv) By adding new paragraph (f) (i), (ii), (iii), and (iv) as follows:—
- (f) (i) They may borrow money as provided in this section, but shall not have power to do so for any other purpose or in any other way whatsoever.
- (ii) A loan by way of limited overdraft may be obtained for the purpose of meeting necessary legitimate expenditure prior to the collection of rates or for the purpose of carrying out

out urgent works of renewal, or replacement, or other emergency, for which sufficient funds are not immediately available. No. 15, 1930.

- (iii) On application by the trustees the Minister may issue a certificate of limit of overdraft, in which shall be named the purpose in respect of which the loan may be obtained and the limit of amount to be borrowed thereunder. The sum to be stated in the certificate as the limit of the overdraft shall be in the discretion of the Minister, but shall not exceed the estimated amount required for the purpose mentioned therein plus ten per centum of such amount.
- (iv) The loan shall be subject to any conditions inserted by the Minister in the certificate; and the money borrowed shall be deemed to be secured upon the income of the Trust and shall be repaid within the time fixed in the certificate.

The trustees may on application by any ratepayer defer or suspend payment of rates by him for such period or periods and on such terms and conditions as the Minister may approve.

- (p) Section fifty-four: By adding new subsection Sec. 54.
two as follows:—

(2) Where a trust is constituted in respect of works of water supply or irrigation the trustees may for the more beneficial use or efficient distribution of the water supplied by such works—

- (a) cease to supply water through any portion of the works in the trust district or to any lands within such district;
- (b) deviate the course of a drain or channel or otherwise alter in any way the works in the trust district:

Provided

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Provided always that the trustees before taking any such action shall obtain the written consent of the ratepayer or ratepayers whose benefit from the trust works will be lessened or taken away by the action of the trustees or the supply of water or means of supply of water to whose lands will be affected and shall also obtain the written approval of the Commission of the trustees' proposed action.

Sec. 55.

(q) Section fifty-five, subsection three :

(i) By omitting the word "the" before the word "police" and by inserting in lieu thereof the letter "a."

(ii) By inserting after the word "in" the words "any part of."

New ss. 55A,
55B, 55C.

(iii) By adding new sections 55A, 55B, and 55C as follow :—

Enlargement
of rating
powers.

55A. If the trustees are unable to meet the cost of administration or of an extension or improvement of the works under their control or other liability they may in writing petition the Minister to sanction an increase in the maximum rate which may be assessed by them, and shall set forth in such petition the reasons for their request.

The Minister shall inform the trustees whether or not he is prepared to grant their petition, and if he is prepared to grant it shall inform them of the maximum rate which he is prepared to sanction. The trustees shall submit the proposed increase in maximum rate which the Minister is prepared to sanction to a special general meeting of the voters of the Trust, of which meeting not less than fourteen days notice shall be given in the prescribed manner.

The trustees shall report to the Minister whether an affirmative or negative vote has been carried at the meeting. If an affirmative vote has been cast the Minister shall grant the petition of the trustees by notification sent to them and published in the Gazette, and thereafter the trustees may assess rates to the maximum sanctioned by the Minister.

55B.

55B. If any rates or charges, payable to a Trust, are unpaid at the expiration of three months from the due date, the amount due shall be increased by a sum calculated at the rate of seven per centum per annum from the date of the assessment, and the increase shall be deemed to be part of the rates or charges.

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Interest on unpaid rates.

55c. If any person liable to pay rates under this Part transfers his estate or interest in, or abandons, any ratable land, he shall within thirty days of such transfer or abandonment give notice thereof to the trustees, and until such notice is given he shall remain liable for all rates which become payable in respect of such land prior to the giving of such notice.

Notice of transfer.

(r) Section fifty-seven: By adding at the end of the section the words "or if such surplus water is not required for any ratepayer, the trust may sell such water to any person."

Sec. 57.

(s) Section sixty: By omitting the second paragraph and by inserting in lieu thereof the following paragraph: "If upon such inspection the Minister is of opinion that any of such works are not kept in repair and efficient working order, or any of such works need renewing, he may cause such repairs or renewals as he may think necessary to be made at the cost of the trust, and for the purpose of effecting such repairs or renewals he shall have the powers of the trustees. Such cost shall be repaid as prescribed."

Sec. 60.

(t) Section sixty-three: By omitting section sixty-three and by inserting in lieu thereof the following section sixty-three:—

New s. 63.

63. For the purpose of the construction, or the maintenance or the repair of any channel or embankment or any works incidental thereto proposed to be constructed or constructed, utilised, or acquired under the authority of this Part or to which this Part applies the Minister or a Trust having the control of or carrying out such

Powers incidental to powers to construct or maintain works.

such construction, maintenance, or repair shall be deemed to have had and shall have power at any time—

(1) to enter—

(a) any land of a width of sixteen and a half feet on either side of the centre line of a distributing channel or proposed distributing channel; and

(b) any land

(i) being the site of a channel or proposed channel for the purposes of water conservation irrigation or drainage; and

(ii) of a width of sixty-six feet measured outwards on either side of such site or proposed site; and

(c) any land

(i) being the site of an embankment or proposed embankment; and

(ii) of a width of sixty-six feet measured outwards from such site.

(2) to use such lands or sites for the said purpose of construction, or maintenance or repair

notwithstanding an easement or right so to enter or use such lands or sites may not have been granted or acquired.

Sec 64.

(u) Section sixty-four: By omitting the word “cultivated” and by inserting in lieu thereof the words “which is at the time under cultivation.”

Sec. 73.

(v) Section seventy-three: By omitting the words “the works to be constructed for the Thule Creek Water Trust” and by inserting in lieu thereof the words “such work.”

New s. 73B.

(w) By inserting after the section the following new section 73B:—

Reduction
of ability.

73B. If by reason of the area of the land benefited by the trust works becoming, from causes over which the Trust has no control, reduced to an extent that the maximum rating under this Part by the Trust is not sufficient
to

to enable it, after providing for the cost of administration, to meet its liability in respect of payment to the Crown under this Act, whether for works, interest, or charge for water, the Governor may, on the recommendation of the Minister, reduce such liability of the Trust to such amount as the circumstances of the case warrant.

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—

(x) Section seventy-four: By inserting after paragraph (h) new paragraph (hh) as follows:—

Sec. 74.

(hh) prescribing the method or methods to be adopted to determine the quantity of water payment for which is to be made by the Trust.

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

further
amendment of
Act No. 41, 1912.
Sec. 105.

(a) Section one hundred and five:

(i) By inserting after the word "Part" the following: "unless the context or subject-matter otherwise indicates or requires."

(ii) By inserting in their appropriate alphabetical positions the following definitions:—

"Board" means the Board constituted under section thirty of this Act with respect to matters which relate to the prevention of floods or the control of flood-waters within the Murray Basin, and to water supply, water conservation, irrigation, and artesian wells.

"Bore" and "Well" each mean a bore sunk or proposed to be sunk to a depth of not less than one hundred feet and used or proposed to be used to obtain water.

(iii) By omitting the definition of "Minister."

(b) Section one hundred and seven: By omitting the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission."

Sec. 107.

(c)

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Sec. 108.

(c) Section one hundred and eight: By omitting the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission."

Sec. 109.

(d) Section one hundred and nine: By omitting the words "Minister" and "he" wherever occurring and by inserting in lieu thereof the words "Commission" and "it" respectively.

Sec. 110.

(e) Section one hundred and ten: By omitting the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission."

Sec. 111.

(f) Section one hundred and eleven: By omitting the word "Minister" and by inserting in lieu thereof the word "Commission."

(g) Division three: By inserting at the commencement of the Division new section 111A as follows:—

Boundaries.

111A. This Division shall apply only to bores within that part of the State west of direct lines drawn from Albury to Tamworth, Tamworth to Bingara, Bingara to Inverell, and Inverell to Bonshaw.

(h) Section one hundred and twelve:

(i) By omitting subsection one and by inserting in lieu thereof the following subsection one:—

(1) The sinking of a bore shall not be commenced, nor shall a bore be enlarged, deepened, or altered to increase the flow of water therefrom unless—

(a) in pursuance of a license issued under this Part; or

(b) the bore is to be sunk, enlarged, deepened, or altered by the Crown.

(ii) Subsection two: By omitting the word "well" and by inserting in lieu thereof the word "bore."

Sec. 113.

(i) Section one hundred and thirteen:

(i) By omitting in each case the words "artesian well" and "well" and by inserting in lieu thereof the word "bore." (ii)

(ii) Subsection one: By omitting the words ^{No. 15, 1930.}
“Commissioner for Water Conservation
and Irrigation” and by inserting in
lieu thereof the word “Commission.”

(iii) By omitting subsection two and by
inserting in lieu thereof the following
subsection two:—

(2) On application being so made, and if in
the opinion of the Commission the bore is or
will be an artesian bore, the Commission
shall cause to be advertised once in the Gazette
and once in a public newspaper circulating in
the neighbourhood where the bore or the site
thereof is situate a notice—

(a) acknowledging the receipt of the
application; and

(b) requesting all persons interested to
inform the Commission whether they
support the application or object thereto,
and if they do so object, the reasons
therefor; and

(c) stating the last day on which such
information will be received and the
name or official designation and address
of the person to whom it should be sent.

(j) Section one hundred and fourteen: By omit- ^{Sec. 114.}
ting subsection one and by inserting in lieu
thereof the following subsection one:—

(1) The Commission may in the case of an
application with respect to an artesian bore
where, in its opinion, the circumstances so
warrant, and after the day mentioned in para-
graph (c) of the preceding section, cause a
public inquiry to be held as to the desirability
of granting the application. The inquiry shall
be held by the Board, or by some person
authorised by the Board and approved by the
Commission. The Commission shall cause
particulars as to the time, date, and place of
the inquiry to be advertised once in the Gazette
and once in a public newspaper circulating in
the

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the neighbourhood where the bore or the site thereof is situate. The Board shall report in writing to the Commission upon the inquiry.

New s. 115.

(k) Section one hundred and fifteen : By omitting the section and by inserting in lieu thereof the following section one hundred and fifteen :—

Issue of license.

115. If the Board reports in favour of the issuing of a license, and in the case of an application with respect to an artesian bore where no inquiry has been held, and the Commission decides to grant the application, the Commission, on payment by the applicant of the prescribed fee, shall issue a license to the applicant in the prescribed form, subject to such terms, limitations, and conditions as it may deem fit and proper.

In the case of an application with respect to a bore, not an artesian bore, the Commission shall, so soon as practicable after it has investigated and considered the application, issue a license to the applicant in the prescribed form, subject to such terms, limitations, and conditions as it may deem fit and proper.

Sec. 116.

(l) Section one hundred and sixteen :

(i) By omitting the section and by inserting in lieu thereof the following section one hundred and sixteen :—

Granting of license.

116. The Commission may, if, in its opinion such a course is necessary, grant a license for a limited period, and any license so granted shall (subject to the provisions of this Part with regard to the renewal of licenses, and subject to such limitations and conditions as the Commission may think fit to make) be renewed by the Commission from time to time on the application of the person holding the license and on payment of the prescribed fee.

The Commission may limit the period of any renewal.

(ii) By adding at the end of the section the following paragraph :—

The license shall lapse if the sinking of the bore or the enlarging, deepening, or altering of

of the bore licensed be not commenced and completed within such times or extended times as may be notified by the Commission to the licensee. No. 15, 1930.
—

- (m) Section one hundred and twenty, subsection two: Sec. 120.
- (i) By omitting the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission."
 - (ii) By omitting the word "him" where first occurring and by inserting in lieu thereof the word "it."
 - (iii) By omitting the word "he" and by inserting in lieu thereof the words "the Commission."
- (n) Section one hundred and twenty-three: By Sec. 123.
omitting the words "Minister" and "he" wherever occurring and by inserting in lieu thereof the words "Commission" and "it" respectively.
- (o) Section one hundred and twenty-three: By New s. 123A.
inserting after the section new section 123A as follows:
- 123A. If a flowing supply or supplies of water is or are met with during the sinking of a bore for the purpose of testing for or obtaining petroleum, such bore shall not be abandoned, left in disuse, or any casing in the bore removed therefrom, unless the person having control of the bore shall have first notified the Commission of his intention to abandon or disuse the bore or to withdraw the casing and shall have carried out any direction that may be issued to him by the Commission for the prevention of waste of the flowing water met with. Any person contravening the provisions of this section shall be liable to a penalty not exceeding one hundred pounds and a further penalty of five pounds for each day during which the offence is continued after conviction. Casing of bore.

(p)

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Sec. 124.

- (p) Section one hundred and twenty-four :
- (i) By omitting the word "Minister" and by inserting in lieu thereof the word "Commission."
 - (ii) By omitting the word "him" wherever occurring and by inserting in lieu thereof the word "it."

Sec. 129.

- (q) Section one hundred and twenty-nine :
- (i) By inserting at the end of paragraph (d) the following words: "the fees payable in respect of licenses and renewals thereof; and."
 - (ii) By adding new paragraph (f) as follows:—
 - (f) for the prevention of waste or loss of water from any bore whether it be sunk to obtain water or petroleum or for any other purpose.
 - (iii) By adding after the section the following new Part VI :

PART VI.

DOMESTIC AND STOCK WATER SUPPLY DISTRICTS, AND DOMESTIC AND STOCK WATER SUPPLY AND IRRIGATION DISTRICTS.

Interpretation and general.

Definitions.

130. In this Part—

"Board" means the board constituted under section thirty of this Act with respect to matters which relate to the prevention of floods or the control of flood waters within the Murray Basin, and to water supply, water conservation, irrigation, and artesian wells.

"District" and "Provisional District" mean district and provisional district respectively constituted under this Part.

"Owner" means an occupier of Crown land, and an owner of any estate of freehold in land, and includes a mortgagee in possession.

"Water

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

“Work” includes any dam, levee, bank, lock, reservoir, weir, flume, race, channel (whether an artificial channel or natural channel artificially improved), cutting, drain, well, excavation, tunnel, pipe, sewer, pumping plant, machinery, and any appliance.

131. (1) In respect of any existing or proposed works of water supply the Commission may notify in the Gazette a proposal for the constitution of any lands—

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—

Proposal for
constitution
of districts.

- (i) as a domestic and stock water supply district for purposes in connection with the supply of water for domestic and stock use; or
- (ii) as a domestic and stock water supply and irrigation district for purposes in connection with the supply of water for domestic use and stock and for irrigation.

(2) Any such proposal shall embody—

- (a) a plan and description of the lands proposed to be included in the district;
- (b) the purposes in connection with which it is proposed to constitute the district;
- (c) in the case of a proposed domestic and stock water supply district, the annual rate or charge per acre to be paid for the supply of water for domestic and stock use during the period from the date of the constitution of the district to the thirtieth day of June next following the fifth anniversary of such constitution;
- (d) in the case of a proposed domestic and stock water supply and irrigation district—
 - (i) the annual rate or charge per acre to be paid for the water for domestic and stock use during the period

period from the date of the constitution of the district to the thirtieth day of June next following the fifth anniversary of such constitution ;

- (ii) the water rights to be attached to each holding within the proposed district ;
- (iii) the annual rate or charge to be paid during the said period for water for irrigation in respect of such water rights ; and
- (iv) the charges for any additional water which may be supplied for irrigation during the said period ;
- (e) the nature or class of the works ; and
- (f) any further particulars the Commission may deem fit.

The Commission shall also publish in a newspaper circulating in the proposed district a brief reference to the notification in the Gazette.

(3) If within eight weeks of such notification a petition objecting to the proposal, and signed by at least one-third in number of the owners of the land within the proposed district, is presented to the Commission, it shall refer the proposal to the Board for inquiry and report.

Constitution of provisional districts.

Constitution
of provisional
districts.

132. (1) If within the said period no such petition is received, or the Board reports in favour of the proposal (with or without amendment) the Governor, by proclamation in the Gazette, may constitute as a provisional domestic and stock water supply district or a provisional domestic and stock water supply and irrigation district, as the case may be, the lands, or any of them, described in the proposal, with such amendments (if any) of the proposal as the Commission may recommend.

(2)

(2) Upon such proclamation the Commission may in respect of the district construct, acquire, or utilise, or partly construct, acquire, or utilise, the works.

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Constitution of districts.

133. (1) Upon completion of the works in connection with a provisional domestic and stock water supply district or provisional domestic and stock water supply and irrigation district, the Commission shall notify in the Gazette—

- (a) the completion of the works ;
- (b) a plan and description of the lands benefited, and proposed to be included within the district ;
- (c) the water rights (if any) to be attached to each holding within the district ;
- (d) the rates and charges to be paid for water for domestic and stock purposes and for irrigation for the period from the date of the constitution of the district to the thirtieth day of June next following the fifth anniversary of such constitution.

The Commission shall also publish in a newspaper circulating in the district a brief reference to the notification in the Gazette.

(2) If within eight weeks after such notification a petition is presented to the Commission signed by any owner of land within the proposed district objecting to the inclusion of his land or the attaching of water rights thereto, or to the number of same, the Commission shall refer the petition to the Board for inquiry and report with respect to the inclusion of such land within the district or the attaching of water rights or the number of such water rights to such land as the case may be.

(3) If within the said period no such petition is received, or when the Board has reported upon any petitions referred to it, the Governor, by proclamation in the Gazette, may constitute

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constitute as a district the lands described in the notification by the Commission pursuant to subsection one of this section, or such of them as the Commission may recommend, and the Governor shall notify in such proclamation the water rights to be attached to each holding within the district.

(4) Any land included in the provisional district, and to which, upon survey and investigation by the Commission, it is found to be impracticable to supply water, and in respect of which means of supply have not been provided, shall not be included within the district.

Alteration of boundaries.

Alteration of
boundaries of
districts.

134. (1) The Governor may, by proclamation in the Gazette, alter a district by—

- (a) including additional lands; or
- (b) excising lands; or
- (c) transferring lands from one district to another.

(2) In connection with any proposal for any such alteration of a district, unless the owners of the lands have notified in writing their willingness to have such lands included in the district or excised therefrom, or transferred to another district, as the case may be, the Commission shall notify in the Gazette—

- (a) a plan and description of the lands proposed to be added, excised, or transferred, as the case may be; and
- (b) the purpose for which the water supply is to be given to the additional or transferred lands; and
- (c) the rates and charges within the district within which it is proposed to include the additional or transferred lands, and which will apply to such lands; and

(d)

(d) in the case of lands proposed to be added to a domestic and stock water supply and irrigation district, or to be transferred from a domestic and stock water supply district to a domestic and stock water supply and irrigation district, the number of water rights proposed to be attached to each holding.

The Commission shall also publish in a newspaper circulating in the district a brief reference to the notification in the Gazette.

(3) If within eight weeks of such notification a petition objecting to the proposal signed by at least one-third in number of the owners of the lands proposed to be added to the district or to be transferred from one district to another, or by any owner of lands proposed to be excised from the district, as the case may be, is presented to the Commission it shall refer the proposal to the Board for inquiry and report.

(4) If within the said period no such petition is received, or the Board has reported upon the petition referred to it, the Governor by proclamation in the Gazette may alter the district or districts as the Commission may recommend, and shall notify in such proclamation the water rights (if any) to be attached to each holding.

(5) Any lands which following the alteration of a district have been excised therefrom shall as from the date of such proclamation in the Gazette be exempt from rates and charges under this Part in respect of such district. All rates and charges due in respect of such lands to the date of the proclamation shall be paid.

(6) Any lands transferred from one district to another shall, as from the date of the proclamation in the Gazette of the transfer, be exempt from rates and charges in respect of the district from which such lands were transferred, and shall thereafter be subject to such

such rates and charges as apply within the district to which they have been transferred, provided that all rates and charges due in respect of such lands to the date of such proclamation of transfer shall be paid.

135. Upon the alteration of any district to include additional lands, the Commission may in respect of such additional lands construct, acquire, or utilise, works for purposes in connection with the district.

Lands within trust districts.

Lands within provisional district or district and Trust district.

136. (1) If any land which it is proposed to include in a provisional district or district or to add to or excise from a district is within the district of a Trust constituted under the provisions of Part III of this Act, or if it is proposed to excise any land from the district of a Trust so constituted and include such land within a provisional district or district the Commission shall notify the trustees of the proposal.

If within eight weeks after such notification the trustees by majority object to the proposal, the Commission shall refer it to the Board for inquiry and report.

If within the said period no such objection is made or when the Board has reported on the proposal with or without amendments, the Governor may, subject to the provisions of this Part, include the land within, or add it to, the provisional district or district or excise it from the district or excise it from the district of the Trust as the case may be.

(2) Any land which is within the district of a Trust constituted under the provisions of Part III of this Act for the purpose of water conservation, water supply, or irrigation, and which is included in a provisional district or district may be—

(i) subject to subsection one of this section excised at any time from the district of the Trust; or

(ii)

(ii) retained within the said district of the Trust if the benefit to such land from the Trust work continues, and in such case and subject to the provisions of this Act, rates and charges may be fixed and levied under the provisions of Part III and of this Part in respect of such land.

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(3) If any moneys are owing to the Crown by the Trust in respect of the works of the district of the Trust from which any lands are excised and included in a provisional district or district, the Commission shall reduce the indebtedness of the Trust to the Crown by such amount as may be agreed upon between the Commission and the trustees, or failing such agreement, by an amount in the proportion to the then total indebtedness to the Crown as the amount of the rates last fixed and levied by the Trust on the excised lands bears to the total of the rates last fixed and levied by the Trust on the lands within the Trust district.

(4) Nothing in this section shall relieve any person from any payment due by him to the Trust in respect of the excised lands at the date such lands were so excised.

(5) Any of the Trust works within the said excised lands may, without payment of compensation, be utilised by the Commission for the purposes of the district.

(6) In the event of the whole of the lands within the district of a Trust constituted for the purposes of water conservation, water supply, or irrigation, under the provisions of Part III of this Act, being included in a provisional district or a district, the Trust shall as from the date of the notification in the Gazette of such inclusion be deemed to be dissolved. The Commission may, without payment of compensation, acquire and utilise the Trust works. All rates and other moneys due, owing to, or held by the Trust at the date of its dissolution shall be paid to the Commission and

be

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be applied to the liquidation or part liquidation of the liabilities of the Trust, and the Commission shall have all the powers which the trustees of such Trust had to sue for and recover any rates and other moneys due and owing to the Trust. The Commission shall, from the rates and charges collected within the provisional district or district, discharge upon such terms and conditions as may be determined by the Minister of the Crown for the time being charged with the administration of this Part the balance, if any, of the liabilities of the Trust.

Rates and charges for water.

Rates and charges for water.

137. The Commission shall fix and levy upon the whole of the lands within provisional districts and districts the rates and impose the charges for water as hereinafter provided.

Rates and charges for various purposes.

138. (1) The rates and charges for water for domestic and stock purposes and irrigation within a provisional district shall—

- (a) be fixed and levied only in respect of holdings to which a supply of water has been made available from the works of the provisional district;
- (b) in respect of each holding commence to be payable from the date when the supply of water is first made available thereto from such works; and

The rates and charges shall not exceed the rates and charges set out in the notification made in pursuance of subsection one of section one hundred and thirty-one of this Act.

Assessment of rates and charges.

139. (1) The Commission, after the first day of July, but not later than the thirtieth day of September in each year, shall, in respect of each year commencing the first day of July, and in respect of each holding, assess in accordance with the provisions of this Part the rates and charges for water within a district or a provisional district. The rates and charges so assessed shall be notified and paid as prescribed.

(2)

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(2) If any such rates or charges are unpaid at the expiration of three months from the due date, the amount due shall be increased by a sum calculated at the rate of seven per centum per annum from the due date to date of payment, and the increase shall be deemed to be part of the rates or charges.

(3) Any person liable to pay rates under this Part who transfers his estate or interest in or abandons any land ratable under this Part shall, within thirty days of such transfer or abandonment give notice thereof to the Commission, and until such notice is given he shall remain liable for all rates which become payable in respect of such land prior to the giving of such notice.

140. Notwithstanding anything in this Part contained, the rates and charges for water in a district, or a provisional district, may be determined or varied, having regard to the benefit which, in the opinion of the Commission, is derived by the owner of the land to which the water is made available and to the purpose for which such land is suitable.

Rates and charges may be varied.

141. With respect to water supplied for irrigation—

Rating.

(a) a rate per acre on the land may be fixed and levied having regard to the number of water rights which are attached thereto and a minimum amount in respect of any holding may be fixed and levied; or

(b) a charge may be fixed and levied in respect of the water rights which are attached to each holding.

The rate or charge referred to in this section shall be paid whether the water is or is not taken by the owner unless it is established that the water was not available.

142. The charges for any water delivered for irrigation within a district, or a provisional district, over and above the water supplied in pursuance

Charges for additional water.

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Liability for rates or charges for water.

pursuance of the water rights attached to the holding in any year ending the thirtieth day of June shall be paid on or before such thirtieth day of June.

143. Rates or charges for water under this Part, including charges for additional water, shall be—

- (i) a charge upon the land ; and
- (ii) payable by the owner thereof ; and
- (iii) recoverable by the Commission in any court of competent jurisdiction.

Alteration of rates and charges for water.

144. The rates and charges for water within a district shall, for the period from the date of the constitution of the district to the thirtieth day of June next following the fifth anniversary of such constitution, be not greater than the rates and charges notified under section one hundred and thirty-one of this Act prior to the constitution of the provisional district.

Annual assessment of rates and charges.

145. After the thirtieth day of June next following the fifth anniversary of the constitution of a district, the rates and charges in respect of the district shall each year be as fixed by the Commission and be notified by it in the Gazette.

Separate rates and charges.

146. In respect of any holding to which water is made available for more than one purpose, separate rates and charges may be fixed and levied and imposed, as the case may be, having regard to the purposes for which the water is made available.

Supply of water.

Supply of water.

147. (1) The Commission shall each year, at the times and in the quantities fixed by it, supply water for domestic and stock purposes to the boundary of each holding held by any owner within a domestic and stock water supply district and a domestic and stock water supply and irrigation district, and to such other points as may be agreed upon.

(2)

(2) The Commission shall each year, at the times and in the quantities fixed by it, supply water in pursuance of the water rights under this Part for irrigation to the boundary of each holding held by any owner within a domestic and stock water supply and irrigation district, and to such other points as may be agreed upon.

(3) The Commission may, on application by the owner, deliver to any holding within a domestic and stock water supply and irrigation district, or a provisional district, water for irrigation in addition to the water supplied in pursuance of the said water rights, and may fix charges for such additional water and impose conditions in respect of the supply.

(4) The Commission may sell for any purpose, by measure or otherwise, water from the works of the district to—

(a) any owner (in addition to the quantity of water to which such owner may be entitled under this Part);

(b) any person;

(c) a county council, a municipal council, a shire council, or other public body,

and the Commission may fix the charges and conditions upon which the water shall be supplied.

(5) The Commission may require owners to provide on their holdings storages satisfactory to it in such locations and of such nature and extent as it may deem necessary for the water to be supplied for domestic and stock purposes from the works of a district or provisional district.

(6) Nothing in this Part shall render it obligatory on the Commission to supply water to any land or person if by reason of drought, accident, or other cause the Commission is of the opinion that it is impracticable to do so.

(7)

(7) The water rights attached to a holding under this Part shall not in any way whatsoever, except with the approval of the Governor on the recommendation of the Commission, be divested from the holding by the owner.

(8) The Governor, on the recommendation of the Commission and with the consent of an owner in the form prescribed, may increase or decrease the number of water rights attached to a holding within a district.

(9) Upon the subdivision of any holding to which water rights are attached, the Governor may, on the recommendation of the Commission, apportion such water rights to the several parts of the subdivision or increase the number of such water rights and apportion the increased number of water rights to the several parts of the subdivision.

(10) (a) Prior to the disposal of any part of a holding within a stock and domestic water supply district or provisional district or a stock and domestic water supply and irrigation district or provisional district by the owner of the holding to any other person the said owner shall provide at his own cost works to carry water from the point of supply to the holding, or from such other point as may be approved by the Commission, to the boundary of the part of the holding to be disposed of. All such works shall be to the approval of the Commission in respect of location, design, form, dimensions, and construction.

(b) All works constructed in pursuance of this subsection shall, upon their completion, be handed over by the said owner to and become the property of the Commission without charge.

(c) At the request of the owner of a holding who desires to dispose of any part of it, the Commission may by agreement with him undertake the construction of works required under this subsection at his cost.

(d)

(d) All land deemed by the Commission to be required for the works constructed under this subsection shall be provided by the owner and be transferred to the Commission without charge: Provided that where the Commission is satisfied that an easement over such land is sufficient, the owner shall give such easement without charge to the Commission and prior to the disposal by him of any part of the holding affected by such easement.

(e) The Commission may for the purposes of this Part authorise the construction of works on any street, road, or reserve.

Surveys and works.

148. (1) For the purpose of this Part the Commission or any person authorised by it may enter any land and take levels and make surveys and marks and fix pegs and stakes and inspect any works.

(2) Any person hindering the Commission or any such authorised person in the exercise of such power shall be liable to a penalty not exceeding twenty pounds.

(3) Any person who removes, injures, or interferes with any marks made or pegs or stakes fixed as aforesaid shall be liable to a penalty not exceeding fifty pounds.

(4) The Commission for the purposes of this Part may construct, maintain, and repair any work on any land, street, road, or reserve.

(5) Every work which the Commission is authorised by this Part to construct or acquire shall be respectively constructed or acquired under the Public Works Act, 1912, and all the powers and provisions of the said Act relating to authorised works shall be applicable to such work, and for all purposes of the said Act such work shall be deemed an "authorised work" and the Commission a "constructing authority" within the meaning

of the said Act and the provisions of sections thirty-four, thirty-five, thirty-six and thirty-seven of that Act shall not apply to any such work.

(6) For the purpose of the construction or the maintenance or the repair of any channel or embankment or any works incidental thereto proposed to be constructed, or constructed, utilised, or acquired under the authority of this Part, or to which this Part applies, the Commission shall be deemed to have had and shall have power at any time—

(1) to enter—

(a) any land of a width of sixteen and a half feet on either side of the centre line of a distributing channel or proposed distributing channel; and

(b) any land

(i) being the site of a channel or proposed channel for the purposes of water conservation, irrigation or drainage; and

(ii) of a width of sixty-six feet measured outwards on either side of such site or proposed site; and

(c) any land

(i) being the site of an embankment or proposed embankment; and

(ii) of a width of sixty-six feet measured outwards from such site; and

(2) to use such lands or sites for the said purpose of construction or maintenance or repair

notwithstanding an easement or right so to enter or use such lands or sites may not have been granted or acquired.

Regulations.

Regulations.

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149. (1) The Commission may, with the approval of the Governor, make regulations—

- (a) for the prevention of the pollution of water conserved or distributed in works constructed or used under this Part;
- (b) for the prevention of injury to such works or any works used in connection therewith;
- (c) prescribing the quantities and the times of supply of—
 - (i) water for domestic and stock purposes;
 - (ii) water for irrigation in pursuance of water rights; and
 - (iii) additional water for irrigation;
- (d) relating to the imposition of charges for water, specifying the conditions upon which water will be supplied, and for the fixing and levying of rates;
- (e) prescribing the methods of measuring water supplied in pursuance of water rights or as additional supplies;
- (f) prescribing the forms of agreement for and the conditions of the sale and disposal of water;
- (g) for the prevention of the waste of water;
- (h) prescribing the forms of any notices required under this Act and the manner of and periods for giving same;
- (i) prescribing the nature and extent of storages and the periods within which same shall be provided on holdings for water supplies from the works for domestic and stock purposes;
- (j) generally for carrying out the provisions of this Part.

(2) The regulations may prescribe a penalty not exceeding twenty pounds for any breach thereof or where the breach continues not exceeding five pounds for every day during which such breach continues.

(3)

(3) The regulations shall—

- (a) after approval by the Governor be published in the Gazette; and
- (b) take effect from the date of publication thereof, or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or part shall thereupon cease to have effect.

(5) 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 regulations and that all preliminary steps have been duly taken necessary to give full force and effect to the same.

(6) Whenever by any section of this Part or any regulations made thereunder any person is liable to a penalty or to pay any sum of money, whether as compensation or in any other way, such penalty or sum may be recovered before any stipendiary magistrate or police magistrate or two or more justices of the peace in petty sessions, in accordance with the Acts in force for the time being regulating summary proceedings before justices.

Validation.

5. There is hereby validated—

- (1) The determination of the cost of the works of the Quilbone Bore Water Trust at the sum of three thousand nine hundred and twenty-six pounds sixteen shillings and eight pence.

(2)

- (2) The reduction from two hundred and ninety-one pounds to two hundred and sixteen pounds in the annual charge which, under the Principal Act, the Dungle Ridge Bore Water Trust is liable to pay to the Crown for water supplied to such Trust from the Dungle Ridge Bore.
- (3) The reduction by seventy-eight pounds five shillings and tenpence of the amount which the Lyndhurst Water Trust is liable to repay to the Crown under the Principal Act in respect of the works for which the said Trust was originally constituted, and the reduction by thirty-five pounds twelve shillings and sixpence of the amount which the said Trust is liable to repay to the Crown under the Principal Act in respect of additional works constructed for the Trust.
- (4) The reduction to six thousand three hundred and sixty-four pounds eight shillings and ninepence of the amount which the Burren Bore Water Trust is liable to repay to the Crown.
- (5) The liability of the Yanko, Colombo, and Billabong Creeks Water Trust, to the Crown being fixed at half the cost in lieu of the whole cost of the proposed works payable by the Trust under the provisions of the Principal Act.

6. Notwithstanding anything contained in the Principal Act, the following provisions shall apply to, and have effect in respect of, the Barooga Water Trust:—

- (a) The cost of the original works repayable by the Trust is reduced by the sum of two thousand two hundred and fifty-five pounds: provided that such reduction shall not affect any provision or payment already made by the Trust in regard to such cost;
- (b) the liability of the Trust to the Crown in respect of the amount of one thousand seven hundred and ninety-six pounds three shillings and fourpence for additional protection works in connection with the syphon is extinguished;
- (c) the maximum liability of the Trust to the Crown in respect of the manufacture, supply, and installation of a new syphon is fixed at six thousand pounds;
- (d)

Special provisions in respect of Barooga Water Trust.

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(d) subject to the terms of the foregoing paragraphs (a) and (b) the arrears in the payments by the Trust to the Crown at the time of the notification in the Gazette of the completion of the new syphon are to be consolidated with the unpaid debt of the Trust to the Crown at such time. Such consolidated amount shall be extinguished by the Trust by a sinking fund as in the Principal Act provided for extinguishing the cost of the Trust's works, but within a period of fifty years from the said notification of the completion of the new syphon, and the rate of interest payable by the Trust shall be five and one-half per centum per annum. The said debt and interest shall commence to run from the date of the said notification.
