

IRRIGATION (AMENDMENT) ACT.

Act No. 36, 1931.

George V,
No. 36, 1931.

An Act to make further provision for the reduction of indebtedness of settlers on irrigation areas; to amend the law relating to the periodical determination of annual rentals of lands within irrigation areas and the reappraisal of rentals and determination of purchase moneys of lands within irrigation areas; to validate certain reductions of indebtedness in respect of certain lands within such areas, and certain other acts of the Commission; to validate certain regulations made under the Irrigation Act, 1912-1926; to amend the Irrigation Act, 1912-1926, the Crown Lands Consolidation Act, 1913, and certain other Acts; and for purposes connected therewith. [Assented to, 14th September, 1931.]

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:—

Short title.

1. (1) This Act may be cited as the "Irrigation (Amendment) Act, 1931."

(2) The Irrigation Act, 1912-1926, as amended by this Act, may be cited as the Irrigation Act, 1912-1931.

2.

2. The Irrigation Act, 1912-1926, is amended—

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(a) (i) by inserting next after paragraph (a) of subsection one of section 19A the following new paragraph :—

Amendment of Act No. 73, 1912.
Sec. 19A.

(a1) remit either wholly or in part the payment by an occupier of any other moneys owing by him to the Crown or to the Commission;

(Power to remit rent, &c.)

(ii) by inserting next after paragraph (b) of the same subsection the following new paragraph :—

(b1) exempt an occupier from payment either wholly or in part of any other moneys to become due and payable by him to the Crown or to the Commission;

(iii) by inserting in paragraph (c) of the same subsection after the word "water" where secondly occurring the words "or payment of indebtedness of any other kind";

(iv) by inserting in the same paragraph after the word "remit" the words "the said indebtedness or";

(b) by inserting at the commencement of subsection two of the same section the words "The provisions of subsection one of";

(c) by inserting next after subsection two of the same section the following new subsections :—

(3) In any case where an occupier is indebted to the Commissioners of the Government Savings Bank of New South Wales, he may apply to the Minister for relief, and if, on the report of the Commission the Minister is satisfied that the circumstances so warrant, he may approve of a payment in reduction of the indebtedness of the occupier being made to the Commissioners of the Government Savings Bank of New South Wales by the Commission out of such money as may be provided by Parliament for that purpose, and the Commission may make such payment accordingly.

(4)

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(4) The remission of or exemption from indebtedness other than in respect of rent or charge for water or interest on rent or charge for water shall not be granted to any occupier unless—

- (a) his indebtedness has been finally revised under the provisions of section 19D or section 19E; or
- (b) he, by an instrument in the prescribed form lodged with the Commission, waives any right to a revision under those sections.

3. The Irrigation Act, 1912-1926, is further amended—

Further amendment of Act No. 73, 1912.

Sec. 11A.
(Application of ss. 11B, 11C.)

Sec. 11C.
(Conversion of leaseholds.)

New ss.
11D, 11E, 11F.

Power to apply for reappraisal of rentals.

- (a) by omitting from section 11A the words “ and 11C ” and by inserting in lieu thereof the words “ 11C, 11D, 11E, and 11F ”;
- (b) (i) by omitting paragraph (e) of subsection three of section 11C and by inserting in lieu thereof the following new paragraph :—
 - (e) the purchase money shall be determined in accordance with the provisions of section 11E of this Act;
- (ii) by inserting in paragraph (f) of the same subsection after the words “ determination of ” the words “ the board constituted under section 11E of this Act or ”;
- (iii) by omitting subsection four of the same section ;
- (c) by inserting next after section 11C the following new sections :—

11D. (1) The lessee of any irrigated lot subsisting at the commencement of the Irrigation (Amendment) Act, 1931, may, with the consent in writing of any mortgagee or person holding any security over the irrigated lot apply to the Commission in the prescribed manner not later than the thirty-first day of December, one thousand nine hundred and thirty-two, to have the annual rental of the irrigated lot determined, and such annual rental shall be determined

determined as at the date of application in accordance with the provisions of section 11E of this Act.

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(2) In this section the expression "annual rental" shall not include any water rate paid by way of additional rental.

11E. (1) The purchase money payable in respect of a purchase under the provisions of section 11C of this Act or the annual rental of an irrigated lot to be determined in pursuance of an application under the provisions of section 11D of this Act shall be determined in accordance with the provisions of this section.

Reappraisal of purchase money and rentals.

(2) The purchase money or annual rental shall be such sum as may be agreed upon by the Commission and the purchaser or the lessee, as the case may be, and failing such agreement within the time allowed by the Commission, which shall be notified by it to the purchaser or the lessee, and shall not be less than two months, such sum as shall be determined by the board constituted under this section upon the application of the Commission or of the purchaser or the lessee.

(3) (a) The Governor may, for the purposes of this section, constitute a board which may include one officer of the Commission.

(b) The members of the board shall not exceed three in number, and shall be appointed by the Governor, and shall hold their respective offices during the pleasure of the Crown.

(c) Every member of the board, except an officer of the Commission appointed as member, shall be paid such fee for each sitting as may be prescribed.

(d) The members of the board shall elect one of their number to be chairman.

(e) The board shall have such general powers and shall follow such procedure as may be prescribed, and until regulations are made and subject to any regulations

regulations and so far as such regulations do not extend, shall have the same general powers and shall follow the same procedure as a local land board constituted under the Crown Lands Consolidation Act, 1913.

(4) Any determination by the board shall be subject to appeal to the Land and Valuation Court as prescribed by rules of court.

(5) The Commission may accept the determination of the board or refer it to the Land and Valuation Court with a statement of its reasons for so doing.

Any such reference shall be made within one month after receipt of the determination if an appeal is not made, or, if an appeal is made, then within one month after receipt by the Commission of notice of the appeal.

(6) The determination of the Land and Valuation Court on any appeal or reference shall be final and conclusive.

(7) Where the purchase money or annual rental is to be determined, the board, or the Land and Valuation Court on appeal or reference to it as in this section provided, shall determine the value of the land irrespective of any improvements thereon and having regard to the productive capacity of the land under fair average seasons, prices, and conditions.

Such value shall be the purchase money and the annual rental shall be one-twentieth thereof.

Evidence of sales or leases of land similar in quality, locality, and other respects to the land in respect of which the determination is to be made shall not be deemed to be relevant unless the board or the court is satisfied that the value reflected by any such sale or lease is fair and reasonable from a productive standpoint.

(8) Where it is made to appear to the board or the Land and Valuation Court, as the case may be, that the value of the land has become

become reduced by any act, default, or neglect of the lessee thereof such value shall be determined as if such reduction in value had not taken place. No. 36, 1931.

(9) Where the annual rental of an irrigated lot has been determined under the provisions of this section no further application thereunder shall be entertained.

11F. For the purposes of sections 11C, 11D, Irrigated lot. and 11E the expression "irrigated lot" means any area of land within the irrigation areas referred to in section 11A classified by the Commission as an irrigated lot.

4. (1) The Irrigation Act, 1912-1926, is further amended— Further amendment of Act No. 73, 1912.

(a) by omitting from section six all words following the word "Gazette" where secondly occurring and by inserting in lieu thereof the words— Sec. 6. (Constitution of irrigation areas.)

Provided that—

- (i) any such land until so set apart; or
- (ii) any such land so set apart and not thereafter disposed of; or
- (iii) land which upon forfeiture and surrender under the provisions of the Crown Lands Consolidation Act, 1913, or any Act amending the same, becomes revested in the Crown,

may be used for such purposes or leased by the Commission for such terms and upon such conditions as the Minister may approve.

(b) by inserting in section 19G after the word "area" the words "constituted under this Act or under the Wentworth Irrigation Act, or the Hay Irrigation Act, 1902"; Sec. 19G. (Extinguishment of debt.)

(c) by inserting in section 23B after the word "remissions" the word "exemptions"; Sec. 23B. (Murrumbidgee Irrigation Scheme—capital cost.)

(d) (i) by omitting from subsection one of section twenty-eight the words: "The Governor may from time to time make regulations altering, modifying, amending, or suspending the provisions of the Local Government Act, 1919, for the purpose of its application" Sec. 28. (Regulations.)

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application to any municipalities or shires or portions of municipalities or shires which may be within the irrigation area ”;

- (ii) by omitting subsection two of the same section and by inserting in lieu thereof the following new subsection :—

(2) Any regulations made under this or any other section of this Act shall—

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

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

(2) The repeal enacted by paragraph (d) of subsection one of this section shall not affect the operation of any regulations made under the section and in force at the time of the commencement of this Act, and such regulations shall continue until repealed by regulations made under the Irrigation Act, 1912-1931.

Amendment
of Act No.
7, 1913.

Sec. 143.
(Rental of
perpetual
leases.)

5. The Crown Lands Consolidation Act, 1913, is amended as follows :—

- (a) (i) by omitting the short heading to section one hundred and forty-three and by inserting in lieu thereof the following short heading :—

Rent for town land leases, &c.

- (ii) by omitting from subsection three of section one hundred and forty-three all words after the words “ period shall be ”
and

- and by inserting in lieu thereof the words "determined in accordance with the provisions of section 147A of this Act";
- (iii) by omitting subsection four of the same section and by inserting in lieu thereof the following new subsection:—
- (4) The provisions of this section shall apply only to—
- (a) a town land lease; or
 - (b) a non-irrigable lease not used for farming purposes; or
 - (c) an irrigation farm lease which in the opinion of the Minister is mainly suitable for residential purposes.
- (b) (i) by omitting from subsection one of section 143A the words "for the then unexpired portion of the current period of the lease";
- (ii) by omitting from subsection two of the same section the words "for the said unexpired portion of the current period of the lease";
- (iii) by omitting subsection three of the same section and by inserting in lieu thereof the following new subsections:—
- (3) In the case of—
- (a) a town land lease; or
 - (b) a non-irrigable lease not used for farming purposes; or
 - (c) an irrigation farm lease which in the opinion of the Minister is mainly suitable for residential purposes,
- the said reduced capital value and one-twentieth thereof shall be the capital value and the annual rental respectively only for the period of the lease unexpired at the twenty-third day of December, one thousand nine hundred and twenty-four.
- (4) The occupier of any holding—
- (a) subsisting at the date of the commencement of the Irrigation (Amendment) Act, 1931, excepting a town land lease or a town land purchase
- the

the title to which commenced subsequent to the twenty-third day of December, one thousand nine hundred and twenty-four; or

- (b) granted subsequent to the said date in pursuance of the classification and determinations by the Commission under the provisions of section 19D of the Irrigation Act, 1912-1931, or upon any appeal therefrom,

may with the consent in writing of any mortgagee or person holding a security thereover apply in the prescribed manner not later than the thirty-first day of December, one thousand nine hundred and thirty-two, to have the annual rental or purchase money of the holding determined, and such annual rental or purchase money shall be determined as at the date of application in accordance with the provisions of section 147A of this Act.

(5) Where the annual rental or purchase money has been determined in pursuance of an application under this section, no further application thereunder shall be entertained.

(6) (a) Interest accrued due at the date of the application under this section upon the purchase money fixed prior to that date shall be paid by the occupier within one month after the date the purchase money is determined in accordance with this section.

(b) Interest at the prescribed rate on the purchase money determined under the provisions of this section for the period commencing from the date of the application for determination, and terminating on the thirtieth day of June, or the thirty-first day of December, whichever next follows the date of the application, shall be paid at such

such times and in accordance with such other terms and conditions as the Commission may fix.

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(7) The Commission shall apply in satisfaction or part satisfaction of the purchase money determined under the provisions of this section any moneys other than interest payments paid by the occupier in respect of the purchase money fixed prior to his application for its determination under this section.

(8) The purchase money determined under the provisions of this section shall (less any credit to be allowed in accordance with the provisions of the next preceding subsection) be paid by equal half-yearly consecutive instalments, including principal and interest at the prescribed rate, extending over the balance of the period fixed for payment of the purchase money in respect of the holding prior to such application, and the first of such instalments shall be paid on the thirtieth day of June or the thirty-first day of December next following the period referred to in paragraph (b) of subsection six of this section.

(c) (i) by omitting from subsection one of section 144B the words "or where a lease is subdivided"; Sec. 144B (Alterations of area.)

(ii) by omitting from the same subsection all words after the word "remaining" and by inserting in lieu thereof the words "shall be determined in accordance with the provisions of section 147A of this Act";

(iii) by omitting subsection two of the same section and by inserting in lieu thereof the following new subsection:—

(2) Where a lease is subdivided the annual rental of the part or parts retained by the lessee shall be at the same rate per acre as before subdivision.

(iv)

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Sec. 144c.
(Purchase
money
where area
altered.)

- (iv) by omitting subsections five, six, and seven of the same section ;
- (d) by omitting from subsection one of section 144c the words " as set out in subsection two of section one hundred and thirty-nine " and by inserting in lieu thereof the words " in accordance with the provisions of section 147A " ;

Sec. 144d.
(Increase of
irrigable
areas.)

- (e) by omitting from section 144d the words " subsection two of section one hundred and thirty-nine " and by inserting in lieu thereof the words " section 147A of this Act " ;

Sec. 144e.
(Sale by
auction or
by tender.)

- (f) (i) by inserting at the end of subsection four of section 144e the following new paragraph :—

The amount bid by a successful bidder at a sale by public auction, or offered by a successful tenderer in respect of a purchase or lease, shall respectively be the purchase money or annual rental of the holding ;

- (ii) by omitting from subsection five of the same section the word " upset " ;
- (iii) by inserting in the same subsection after the word " year " the words " bid by a successful bidder or tenderer " ;

Sec. 145.
(Conversion
of I.F.L. to
I.F.P., &c.)

- (g) (i) by omitting subsection three of section one hundred and forty-five and by inserting in lieu thereof the following new subsection :—

(3) The purchase-money shall be determined in accordance with the provisions of section 147A of this Act.

- (ii) by omitting from subsection four of the same section the words " by the Land and Valuation Court, as the case may be " and by inserting in lieu thereof the words " by the special land board if no appeal therefrom is made under this Act, or determination of the Land and Valuation Court if appeal or reference thereto is made under this Act " ;

(h)

- (h) by omitting subsection two of section 145A and by inserting in lieu thereof the following new subsection :—

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Sec. 145A.
(Restrictions on transfer of holdings.)

(2) Where a non-irrigable lease not used for farming purposes or a town land lease is transferred or otherwise dealt with within the first fifteen years of its currency, the Commission may require the annual rental for the unexpired portion of the then current period to be determined in accordance with the provisions of section 147A of this Act.

- (i) by inserting next after subsection eight of section one hundred and forty-six the following new subsection :—

Sec. 146.
(Application for sub-division of holding)

(9) Each portion of the subdivided holding shall be deemed to be a holding of the same tenure as the holding subdivided and subject to similar conditions.

This subsection shall be deemed to have been in force from the date of the commencement of the Irrigation Holdings (Freehold) Act, 1924.

- (j) by inserting next after section one hundred and forty-seven the following new short heading and section :—

New s. 147A.

Appraisalment of rental and purchase-money.

147A. (1) Subject to this Act the annual rental or purchase money of any land shall be determined in accordance with the provisions of this section.

Re-appraisalment of annual rental or of purchase money.

(2) The annual rental or purchase money shall be such sum as may be agreed upon by the Commission and the lessee or the purchaser, as the case may be, and failing such agreement within the time allowed by the Commission, which shall be notified by it to the lessee or the purchaser, and shall not be less than two months, such sum as shall be determined by the Special Land Board upon the application of the Commission or of the lessee or the purchaser.

(3)

(3) Any such determination shall be subject to appeal to the Land and Valuation Court as prescribed by rules of court.

(4) The Commission may accept the determination of the Special Land Board or refer it to the Land and Valuation Court with a statement of its reasons for so doing.

Any such reference shall be made within one month after receipt of the determination if an appeal is not made, or if an appeal is made, then within one month after receipt by the Commission of notice of the appeal.

(5) The determination of the Land and Valuation Court on any appeal or reference shall be final and conclusive.

(6) Where the annual rental or purchase money of any land other than that referred to in subsection seven of this section is to be determined, the Special Land Board or the Land and Valuation Court on appeal or reference to it as in this section provided shall fix the value of the land irrespective of any improvements thereon and having regard to the productive capacity of the land under fair average seasons, prices, and conditions.

Such value shall be the purchase money and one-twentieth thereof shall be the annual rental.

Evidence of sales or leases of land similar in quality, locality, and other respects to the land in respect of which the determination is to be made shall not be deemed to be relevant unless the board or court is satisfied that the value reflected by any such sale or lease is fair and reasonable from a productive standpoint.

(7) Where the annual rental or purchase money of—

(i) a town land lease or a town land purchase;

(ii) a non-irrigable lease or non-irrigable purchase (which in each case is not used for farming purposes); or

(iii)

- (iii) an irrigation farm lease or an irrigation farm purchase which in the opinion of the Minister is mainly suitable for residential purposes

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is to be determined, the Special Land Board or the Land and Valuation Court on appeal or reference to it as in this section provided shall fix the fair market value of the land irrespective of any improvements thereon.

Such market value shall be the purchase money and one-twentieth thereof shall be the annual rental.

(S) Where it is made to appear to the Special Land Board or the Land and Valuation Court, as the case may be, that the value of any land has become reduced by any act, default, or neglect of the holder thereof such value shall be determined as if such reduction in value had not taken place.

(9) The annual rental of—

- (i) a town land lease ;
- (ii) a non-irrigable lease not used for farming purposes ; or
- (iii) an irrigation farm lease which in the opinion of the Minister is mainly suitable for residential purposes

determined in accordance with the provisions of this section shall be the annual rental of the holding for the unexpired portion of the current period of the lease.

6. (1) There is hereby validated all actions by the **Validations Commission**—

- (a) in classifying the holdings of certain occupiers indebted to the Commissioners of the Government Savings Bank of New South Wales and making payments to the said Commissioners in reduction of the indebtedness of the said occupiers to the said Commissioners and otherwise acting as if the provisions of sections 19D, 19E, 19F, and 19I of the Irrigation Act, 1912-1926, had applied to the said occupiers ;

(b)

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- (b) in respect of the several parcels of land described in Schedule A to this Act, which although of an area not in excess of ten acres as prescribed by section 19I of the Irrigation Act, 1912-1926, were dealt with as if the provisions of sections 19D and 19F of that Act applied to the said parcels;
- (c) in respect of the parcels of lands described in Schedule B to this Act, which although the applications by the occupiers of such lands were not lodged within the period of six months prescribed in section 19D of the Irrigation Act, 1912-1926, were dealt with by the Commission as if the said applications were lodged within the said prescribed time;
- (d) in pursuance of the regulations numbered one to four, both inclusive, made under and by virtue of the provisions of the Irrigation Act, 1912-1926, and published in the Government Gazette number fifty-six of the seventh day of May, one thousand nine hundred and twenty-six.

(2) It is hereby declared that the regulations referred to in subsection one of this section have been duly made and shall be deemed to have and to have had full force and effect. Such regulations may be varied, amended, or repealed by regulations under the Irrigation Act, 1912-1931.

Further amendment of Act No. 73, 1912, s. 1. (Revision.)

7. (1) The Irrigation Act, 1912-1926, is further amended in section one—

- (a) under Part II by omitting “7” and by inserting in lieu thereof “7A”;
- (b) under Part III by omitting “11” and by inserting in lieu thereof “11F”;

Amendment of Act No. 10, 1914.

(2) The Crown Lands and Irrigation (Amendment) Act, 1914, is amended by omitting so much of section three as repealed section nineteen of the Irrigation Act, 1912, and inserted in such Act a new section nineteen.

Amendment of Act No. 22, 1916. Sec. 9. (Revision.)

(3) The Irrigation (Amendment) Act, 1916, as amended by subsequent Acts, is amended—

- (a) by omitting section nine;

(b)

- (b) by inserting at the commencement of section ten the words "The said Act is amended by inserting next after section eighteen the following new section—18A";
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Sec. 10.
(Amendment to enable more complete incorporation)
- (c) (i) by inserting at the commencement of section eleven the words "The said Act is amended by inserting next after section twenty-two the following new section—22A";
- Sec. 11.
(Amendments to enable more complete incorporation.)
- (ii) by omitting from subsection one of the same section the words "the Irrigation Act, 1912," and by inserting in lieu thereof the words "this Act";
- (iii) by omitting from subsection two of the same section the words "this Act" and inserting in lieu thereof the words "the Irrigation (Amendment) Act, 1916."
- (4) The Irrigation (Amendment) Act, 1918, is amended—
- Amendment of Act No. 38, 1918.
- (a) (i) by omitting paragraph (iv) of section five;
- (ii) by omitting paragraph (viii) of the same section;
- Sec. 5.
(Revision.)
- (b) by omitting paragraph (ii) of section six.
- Sec. 6.
(Revision.)
- (5) The Irrigation Holdings (Freehold) Act, 1924, is amended—
- Amendment of Act No. 51, 1924.
- (a) by omitting from paragraph (i) of section four the word "holdings" and by inserting in lieu thereof the word "holding";
- Sec. 4.
(Revision.)
- (b) by inserting in paragraph (a) of section five after the word "farms" the words "wherever occurring."
- Sec. 5.
(Revision.)

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SCHEDULES.

Sec. 3 (1) (b).

SCHEDULE A.

Parcel.	Portion No.	Parish.	County.	Irrigation Area.
1	515	Jondaryan ...	Cooper ...	Mirrool.
2	638	Jondaryan ...	Cooper ...	Mirrool.
3	639	Jondaryan ...	Cooper ...	Mirrool.
4	136	Willimbong ...	Cooper ...	Yanco.
5	117	Willimbong ...	Cooper ...	Yanco.
6	218	Willimbong ...	Cooper ...	Yanco.
7	84	Yarangery ...	Cooper ...	Yanco.
8	238	Yarangery ...	Cooper ...	Yanco.

Sec 5 (1) (c).

SCHEDULE B.

Parcel.	Portion No.	Parish	County.	Irrigation Area.
1	418	Jondaryan ...	Cooper ...	Mirrool.
2	49	Stanbridge ...	Cooper ...	Mirrool.
3	115, 116	Edon ...	Cooper ...	Yanco.
4	5, 93, 137	Goge'drie ...	Cooper ...	Yanco.
5	110	Tuckerbil ...	Cooper ...	Yanco.
6	279, 280, 281	Edon ...	Cooper ...	Yanco.
7	132, 131	Willimbong ...	Cooper ...	Yanco.
8	124	Tuckerbil ...	Cooper ...	Yanco.
9	175	Tenningerie ..	Cooper ...	Yanco.
10	170	Tuckerbil ..	Cooper ...	Yanco.

GOVERNMENT