

MURRUMBIDGEE IRRIGATION
AREAS OCCUPIERS RELIEF ACT.

Act No. 52, 1934.

An Act to provide for the reduction of certain indebtedness to the Crown and to the Water Conservation and Irrigation Commission, and for the reduction of the annual rental of certain lands within the Murrumbidgee Irrigation Areas; to make further provisions with respect to water rights; to provide for review of the capital cost of the Murrumbidgee Irrigation Scheme; to validate certain matters; to amend the Irrigation Act, 1912-1931, the Water Act, 1912-1930, the Crown Lands Consolidation Act, 1913, and certain other Acts; and for purposes connected therewith. [Assented to, 28th December, 1934.]

George V.
No. 52, 1934.

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

PART I.

PRELIMINARY.

1. This Act may be cited as the "Murrumbidgee Irrigation Areas Occupiers Relief Act, 1934," and shall be read and construed with the Irrigation Act, 1912-1931, and the Crown Lands Consolidation Act, 1913.

2.

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Division
into Parts.

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

PART I.—PRELIMINARY—ss. 1-3.

PART II.—REDUCTION OF INDEBTEDNESS—ss. 4-8.

PART III.—REDUCTION OF RENT—ss. 9-11.

PART IV.—WATER RIGHTS—ss. 12-14.

PART V.—MISCELLANEOUS—ss. 15-21.

SCHEDULE.

Definitions.

3. In this Act, unless the context or subject matter otherwise indicates or requires—

“Arrears of indebtedness” means so much of the indebtedness of an occupier to the Crown or the Water Conservation and Irrigation Commission, whether for instalments, interest, rent, water charges, goods supplied to the occupier or his predecessors in title or otherwise, as had become payable before but was not actually paid on or before the first day of January, one thousand nine hundred and thirty-three.

“Crown” includes the Rural Bank of New South Wales but only in respect of the Irrigation Agency of that Bank.

“Current indebtedness” means so much of the indebtedness of an occupier to the Crown or the Water Conservation and Irrigation Commission, whether for instalments, interest, rent, water charges, goods supplied to the occupier or his predecessors in title or otherwise, as was owing but had not become payable on the first day of January, one thousand nine hundred and thirty-three.

“Occupier” means the person holding under any tenure any land within the Yanco No. 1 Irrigation Area or the Mirrool No. 1 Irrigation Area.

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PART II.

REDUCTION OF INDEBTEDNESS.

4. (1) (a) Subject to this section the current indebtedness to the Crown or to the Commission of each occupier of—

- (i) any irrigation farm lease or irrigation farm purchase held by him; or
- (ii) any non-irrigable lease or non-irrigable purchase held by him and used for farming purposes,

which is of an area exceeding five acres and is within the Yanco No. 1 Irrigation Area or the Mirrool No. 1 Irrigation Area is hereby reduced by an amount equal to one-third of such current indebtedness.

(b) Where the current indebtedness of an occupier is reduced by the operation of paragraph (a) of this subsection, and in the case of such occupier there are special circumstances which, in the opinion of the Minister warrant a greater reduction than that provided for by such paragraph, the Minister may reduce the said current indebtedness by an amount greater than that so provided for.

The power conferred by paragraph (b) of this subsection shall be deemed to have become exercisable on the first day of July, one thousand nine hundred and thirty-four, and shall be exercisable for a period of one year from that date.

(2) Subject to this section the current indebtedness to the Crown or to the Commission (other than indebtedness for or in connection with the sinking of a bore) of each holder of one of the parcels of land described in the Schedule to this Act is hereby reduced by an amount equal to one-third of such current indebtedness.

(3) Where the current indebtedness of any occupier or holder is reduced by or under subsection one or subsection two of this section the amount thereof remaining owing after such reduction shall, except as to so much thereof as represents the balance of purchase money on an irrigation farm purchase or a non-irrigable purchase, be paid by fifty-four regular half-yearly instalments (including both principal and interest at the rate of four per centum per annum) calculated on the principle of equalised payments.

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The first instalment shall be deemed to have become payable on the thirtieth day of June, one thousand nine hundred and thirty-three:

Provided that the Minister may, in any particular case, determine that the first instalment shall be deemed to have become payable on any later date and thereupon the first instalment shall be deemed to have become payable on the date so determined. The power to make any such determination shall be deemed to have become exercisable on the first day of July, one thousand nine hundred and thirty-four, and shall be exercisable for a period of one year from that date.

If an instalment is not paid on or before the due date for payment interest shall accrue in respect thereof as from such due date at the rate of four pounds per centum per annum.

As to so much of the current indebtedness remaining owing after such reduction, as represents the balance of purchase money on an irrigation farm purchase or a non-irrigable purchase, the same shall be paid, in accordance with the provisions of the Crown Lands Consolidation Act, 1913, over the balance of the period remaining after the thirty-first day of December, one thousand nine hundred and thirty-two, fixed for payment of such purchase money; and the instalments shall be adjusted in accordance with such reduction.

(4) (a) Subject to this section the Minister may, in any case where, in his opinion, the circumstances so warrant, reduce the current indebtedness to the Crown or to the Commission of any occupier of any holding or tenure held by him within the Yanco No. 1 Irrigation Area or the Mirrool No. 1 Irrigation Area (other than a holding or tenure of one of the classes referred to in subsection one of this section), which is of an area exceeding five acres and is used for farming purposes, by an amount equal to or greater than one-third of such current indebtedness.

(b) So much of the current indebtedness as remains owing after such reduction shall be paid by regular half-yearly instalments (including both principal and interest at the rate of four per centum per annum) calculated on the principle of equalised payments payable over a period to be fixed by the Minister. The

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The first instalment shall become payable on such date as the Minister may determine. The powers conferred by this subsection shall be deemed to have become exercisable on the first day of July, one thousand nine hundred and thirty-four and shall be exercisable for a period of one year from that date.

If any instalment is not paid on the due date for payment, interest shall accrue in respect thereof as from such due date at the rate of four pounds per centum per annum.

5. Where the only indebtedness to the Crown or to the Commission of an occupier of any holding or tenure of any of the classes referred to in subsection one or subsection four of section four of this Act is arrears of indebtedness the Minister may, in any case where, in his opinion, the circumstances so warrant, determine that a specified part or proportion of such indebtedness shall for the purposes of this Act be deemed to be current indebtedness and the remaining part arrears of indebtedness. The power to make any such determination shall be deemed to have become exercisable on the first day of July, one thousand nine hundred and thirty-four, and shall be exercisable for a period of one year from that date.

Special provision where only indebtedness is arrears of indebtedness.

Where any such determination is made the provisions of section four of this Act shall apply to and in respect of such part as is deemed to be current indebtedness, and the provisions of section six and section seven of this Act shall apply to such part as is deemed to be arrears of indebtedness.

6. (1) The Minister may in any case where in his opinion the circumstances so warrant, reduce the arrears of indebtedness to the Crown or to the Commission of the occupier of any holding or tenure of any of the classes referred to in subsection one or subsection four of section four of this Act by such an amount or by such proportion of the arrears of indebtedness, as he thinks fit.

Power to reduce arrears of indebtedness.

The power conferred by this subsection shall be deemed to have become exercisable on the first day of July, one thousand nine hundred and thirty-four, and shall be exercisable for a period of one year from that date.

(2)

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(2) Every remission granted in respect of payments due during the year ended on the thirtieth day of June, one thousand nine hundred and thirty, by an occupier to the Crown or to the Commission, shall, where the Minister deems the circumstances so warrant, be null and void.

Postpone-
ment of
payments.

7. (1) This section shall commence on the day upon which Division 8 of Part VI_B of the Government Savings Bank Act, 1906, commences.

(2) In respect of arrears of indebtedness (or of such part thereof as remains owing after any reduction thereof is made pursuant to section six of this Act) of any occupier of any holding or tenure of any of the classes referred to in subsection one or subsection four of section four of this Act, if the Rural Bank of New South Wales is satisfied that the occupier is unable to pay the whole of such arrears of indebtedness immediately interest on such arrears of indebtedness shall not be charged until a date to be appointed by such bank not being later than the thirty-first day of December, one thousand nine hundred and forty-seven.

(3) After the date so appointed interest upon such arrears of indebtedness or such part thereof as remains unpaid shall accrue at the rate of four pounds per centum per annum and shall be paid by the occupier, at the times directed by the Rural Bank of New South Wales.

(4) The arrears of indebtedness so postponed shall be paid in six regular half-yearly instalments, the first of which shall become payable on the thirtieth day of June, one thousand nine hundred and sixty.

(5) If any interest or instalment is not paid on the due date for payment interest shall accrue thereon at the rate of four pounds per centum per annum.

Cases in
which no
reduction is
to be made.

8. No reduction of current indebtedness or of arrears of indebtedness shall be made by or under this Act—

(a) in any case where a determination of the Commission under section 19_D of the Irrigation Act, 1912-1931, which is not subject to appeal under section 19_E of that Act, has not been accepted by the occupier—unless and until the determination is accepted by the occupier.

(b)

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- (b) in any case where a determination of the Commission under section 19D of the Irrigation Act, 1912-1931, is subject to an appeal under section 19E of that Act, and a decision of the Land and Valuation Court on the appeal has not been given before the commencement of this Act—unless and until the appeal is withdrawn by the occupier;
- (c) in any case where, in the opinion of the Minister, an equitable adjustment of the indebtedness of the occupier having regard to economic conditions and the value of farm products has been made before the commencement of this Act;
- (d) in any case where such indebtedness was incurred on condition that no reduction thereof would be granted: Provided that, in any case where the Minister deems the circumstances so warrant, he may exempt such indebtedness from the operation of this paragraph.

PART III.

REDUCTION OF RENTS.

9. (1) Where an application made under section 143A of the Crown Lands Consolidation Act, 1913, for the determination of the capital value of—

Determina-
tion of
capital
value in
certain
cases.

- (a) an irrigation farm lease of an area exceeding five acres; or
 - (b) a non-irrigable lease used for farming purposes of an area exceeding five acres,
- within Yanco No. 1 Irrigation Area or Mirrool No. 1 Irrigation Area, before the commencement of the Irrigation (Amendment) Act, 1931, was, after such commencement, withdrawn by an occupier at the instance of the Commission the Minister may determine the capital value of the holding as at the date of the said application.

(2) In determining the capital value the Minister shall have regard to the following provisions—

- (a) the capital value of the holding shall be the fair market value of the land at the date of the application irrespective of any improvements thereon;
- (b)

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(b) where the value of the holding has become reduced by any acts, defaults or neglects of the lessee thereof, the capital value shall be determined as if such reduction in value had not taken place.

(3) Where the Minister determines the capital value of any such holding, one-twentieth of the same shall be deemed to be the annual rental of the holding as from the date of the said application.

Reduction
of rents.

10. (1) The annual rental in respect of—

(a) each irrigation farm lease of an area exceeding five acres; and

(b) each non-irrigable lease used for farming purposes of an area exceeding five acres, within the Yanco No. 1 Irrigation Area or the Mirrool No. 1 Irrigation Area is hereby reduced by one-third as on and from the first day of January, one thousand nine hundred and thirty-three.

(2) The Minister may, in any case where in his opinion the circumstances so warrant, determine, in the case of any holding or tenure of an area exceeding five acres used for farming purposes (other than a holding or tenure referred to in subsection one of this section), that the annual rental of such holding or tenure shall be reduced by one-third as on and from the first day of January, one thousand nine hundred and thirty-three. The power conferred on the Minister by this subsection shall be deemed to have become exercisable on the first day of July, one thousand nine hundred and thirty-four, and shall be exercisable for a period of one year from that date.

(3) In any case where the annual rental of a holding has been determined in pursuance of an application made after the commencement of the Irrigation (Amendment) Act, 1931, under the provisions of section 143A of the Crown Lands Consolidation Act, 1913, then—

(a) where the reduction consequent upon any such determination exceeds one-third of the rental obtaining immediately prior to the date of the said application, no reduction under subsection one or subsection two of this section shall be made; and

(b)

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(b) where the reduction consequent upon any such determination does not exceed one-third of the rental obtaining immediately prior to the date of the said application then the annual rental as at the first day of January, one thousand nine hundred and thirty-three, shall be further reduced so that the total reduction made shall be one-third of the said annual rental obtaining immediately prior to the date of the said application.

(4) In addition to the reduction of rental provided for in subsections one, two and three of this section the Minister in any case where he deems the circumstances so warrant may reduce the annual rental of a lease holding or tenure referred to in those subsections to a greater extent than one-third, and any such reduction may be made to take effect on or after the first day of January, one thousand nine hundred and thirty-three.

The provisions of this subsection shall be deemed to have been in force from the first day of July, one thousand nine hundred and thirty-four, and shall be exercisable within a period of one year after that date.

(5) Where in any case the reduction referred to in subsections one, two and three of this section is applied the reduction in rental provided by the Crown Lands (Amendment) Act, 1932, shall not apply.

(6) Where the rental of any holding has been reduced under subsection one or subsection two of this section and an application in respect of that holding made after the commencement of the Irrigation (Amendment) Act, 1931, under section 143A of the Crown Lands Consolidation Act, 1913, has not been disposed of at the commencement of this Act no further proceedings upon such application shall be taken.

11. Notwithstanding anything contained in any Act the Commission when so directed by the Minister shall exercise any power conferred upon the Commission by section nineteen or section 19G of the Irrigation Act, 1912-1931, and the Commission shall give effect to any direction by the Minister in respect of any of the matters referred to in those sections.

Power of
Minister.

The

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The Minister may exercise the powers conferred upon him by section 19A of the said Act notwithstanding that a report has not been made by the Commission.

This section shall be deemed to have been in force from the first day of July, one thousand nine hundred and thirty-four, and shall continue in force for a period of one year from that date.

PART IV.

WATER RIGHTS.

Determina-
tion of
water
rights
attached to
holdings
and the
prices
thereof.

12. (1) In the case of every irrigation farm lease and irrigation farm purchase held at the first day of July, one thousand nine hundred and thirty-three, which is of an area exceeding five acres and is within the Yanco No. 1 Irrigation Area or the Mirrool No. 1 Irrigation Area the Minister shall determine:

- (a) the number of water rights to attach to such lease or any part thereof or to such purchase or any part thereof; and
- (b) the price for each of the said water rights; and
- (c) the number of the said water rights which are to be a fixed charge on such lease or any part thereof or on such purchase or any part thereof.

The numbers and price so determined by the Minister shall be notified in the Gazette and shall be deemed to have taken effect as from the first day of July, one thousand nine hundred and thirty-three, and shall be in lieu of the numbers and price applying in respect of the water rights which before the said date were a fixed charge on such lease or any part thereof or on such purchase or any part thereof as the case may be.

(2) In the case of every irrigation farm lease and irrigation farm purchase held at the commencement of this Act which is of an area exceeding five acres and is within the Yanco No. 1 Irrigation Area or the Mirrool No. 1 Irrigation Area, and was granted after the first day of July, one thousand nine hundred and thirty-three, or in respect of which action under section 7A of the Irrigation Act, 1912-1931, took effect after the first day
of

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of July, one thousand nine hundred and thirty-three, and before the commencement of this Act, the Minister shall determine—

- (a) the number of water rights to attach to such lease or any part thereof or to such purchase or any part thereof;
- (b) the price for each of the said water rights;
- (c) the number of the said water rights which are to be a fixed charge on such lease or any part thereof or on such purchase or any part thereof.

The numbers and price so determined by the Minister shall be notified in the Gazette.

Such notification shall specify the date as from which the determination of the Minister shall take effect, and the numbers and price so determined shall be in lieu of the numbers and price applying in respect of the water rights which before the said date were a fixed charge on such lease or any part thereof or on such purchase or any part thereof as the case may be.

(3) The power to determine the price for water rights shall include power to determine a different price for water rights attached to different parts of a lease or purchase.

13. The Irrigation Act, 1912-1931, is amended as follows:—

- (a) by omitting sections seven and 7A and inserting in lieu thereof the following sections:—

7. (1) The Minister shall in every notification setting land apart for disposal as an irrigation farm purchase or an irrigation farm lease under the provisions of the Crown Lands Consolidation Act, 1913—

- (a) state the number of water rights which are attached to the lease or any part thereof or to the purchase or any part thereof; and
- (b) fix the prices for the water rights attached to the whole or to any part, or fix different prices for the water rights attached to different parts of any such irrigation farm lease or irrigation farm purchase;
- (c)

Amendment of Act No. 73, 1912.

Substituted secs. 7, 7A.

Setting land apart as irrigation farms.

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- (c) specify the number of the said water rights which are to be a fixed charge on the lease or any part thereof or on the purchase or any part thereof; and
- (d) specify such provisions and conditions not inconsistent with this Act as according to the facts and circumstances the Minister thinks fit.

(2) Any notification as aforesaid setting land apart for disposal as an irrigation farm purchase or an irrigation farm lease under the provisions of the Crown Lands Consolidation Act, 1913, shall have the effect of revoking any previous notification regarding such land in respect of the particulars referred to in subsection one of this section.

(3) Any notification under this section may be corrected, amended, modified or revoked whether as to the whole of any part thereof by notification in the Gazette.

(4) The Minister may by notification in the Gazette with the consent of the occupier alter the number of water rights which attach to or are a fixed charge on any land.

7A. (1) Where in respect of an irrigation farm lease or an irrigation farm purchase—

- (a) an occupier lawfully subdivides his holding; or
- (b) an occupier surrenders part of his holding; or
- (c) land has been added to the holding of an occupier; or
- (d) the irrigable area of his holding has been increased or additional facilities for watering are provided by the Commission,

under the provisions of the Crown Land Consolidation Act, 1913, or of the Irrigation Act, 1912-1931, as the case may be, the Minister shall by notification in the Gazette state

Number and price of water rights where farm subdivided, part surrendered, or area added to.

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state the number of water rights which shall attach to, fix the price for each of the said water rights, and specify the number of the said water rights which are to be a fixed charge on—

- (i) each part of the holding as so subdivided;
or
- (ii) the part of the holding not surrendered;
or
- (iii) the holding as added to; or
- (iv) the holding with such increased irrigable area or additional facilities for watering.

(2) Where in consequence of action taken under subsection one of this section holdings of the nature referred to in paragraphs (i), (ii), (iii) and (iv) of that subsection have been constituted the Minister may in the notification—

- (a) state the number of water rights which attach to the holding or to any part thereof;
- (b) fix the prices for each of the said water rights attached to the whole or any part of the holding or fix different prices for water rights attached to different parts of the holding;

- (b) by omitting section 8A and by inserting in lieu thereof the following section:—

Substituted
sec. 8A.

8A. (1) (a) The Commission may by writing under its common seal declare that any acts of a specified class performed by any one Commissioner and any documents of a specified class signed by one Commissioner and/or sealed by him with the said common seal shall be of the same effect as if performed, signed or sealed by the Commission.

Acts done
by one
Commis-
sioner.
cf. Act No.
63, 1932,
s. 10.

(b) Any such declaration shall have the force of law.

(c)

(c) Any such declaration shall be revocable by the Commission by writing under the said common seal and no such declaration shall prevent the exercise of any power by the Commission.

Secretary to
Commission or
other prescribed
officer may
deal with
certain mat-
ters on behalf
of Commission.
cf. Act No. 7,
1913, s. 17A.

(2) The secretary to the Commission and any other prescribed officer shall have power on behalf of the Commission to deal with such matters as may from time to time be prescribed, and where in pursuance of this subsection a decision is given by the Secretary or such other officer on behalf of the Commission it shall have the same effect as if given by the Commission.

Sec. 12.
(Water
rights.)

- (c) (i) by omitting from subsection one of section twelve the words "a fixed charge on" and by inserting in lieu thereof the words "attached to";
- (ii) by inserting in subsection two of the same section after the words "water rights" the words "as are a fixed charge on the land";
- (iii) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection:—

(4) The charge for water supplied in respect of such water rights as are attached to but are not a fixed charge on the land shall be paid at the times and in the manner prescribed.

Sec. 13.
(Additional
water
rights.)

- (d) (i) by omitting from subsection one of section thirteen the words "a fixed charge" wherever occurring and by inserting in lieu thereof the words "attached to land";
- (ii) by omitting subsection four of the same section;

Sec 15.
(Payment of
charges.)

- (e) by omitting from subsection three of section fifteen the words "The amount due for any such rate or charge" and by inserting in lieu thereof the words "So much of the amount due for any such rate or charge as is due in respect of water rights which are a fixed charge or for water supplied in respect of water rights attached to the land which are not a fixed charge."

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14. (1) The prices of water rights which attach to or are a fixed charge on any land and which are notified by the Minister in the Gazette in pursuance of section twelve of this Act or section seven or section 7A of the Irrigation Act, 1912-1931 (as inserted by section thirteen of this Act), shall not be altered except in accordance with section 7A of the Irrigation Act, 1912-1931 (as so inserted).

Numbers and prices not to be altered, etc.

(2) The numbers of water rights which attach to or are a fixed charge on any land, and which are notified by the Minister in the Gazette in pursuance of section twelve of this Act, or of section seven or section 7A of the Irrigation Act, 1912-1931 (as inserted by section thirteen of this Act), shall not be altered except in accordance with section 7A or subsection four of section seven of the Irrigation Act, 1912-1931 (as so inserted).

PART V.

MISCELLANEOUS.

15. The Wentworth Irrigation Act is amended by omitting from section thirty-one the words "so irrigated as aforesaid" and by inserting in lieu thereof the words "which is irrigable and capable of being irrigated."

Amendment of Act 54 Vict. No. 7. Sec. 31. (Fixation of rates.)

16. The Hay Irrigation Act, 1902, is amended by omitting subsection two of section seventeen.

Amendment of Act No. 57, 1902, s. 17 (2). (Limitation of area which may be acquired.)

17. The following provisions shall apply in any case where land within the irrigation area constituted under the Wentworth Irrigation Act is held under lease as an irrigated lot from the Commission and such lease is, immediately prior to the expiration thereof, subject to any mortgage charge or lien in favour of the Rural Bank of New South Wales:—

Leases of irrigated lots subject to mortgage, etc., to Rural Bank.

(a) on the expiration of the said lease the Commission shall grant to the lessee thereunder a further lease of the said irrigated lot on such conditions as the said Commission may determine;

(b)

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- (b) the further lease so granted shall be subject to such mortgages, charges or liens as were existing in respect of the expired lease immediately prior to its expiry to the like extent to which the expired lease was subject to the same, and the Rural Bank of New South Wales or other person entitled to the benefit of any such mortgage, charge or lien may exercise its rights under such mortgage, charge or lien as if the same had been given or executed in respect of the further lease.

Amendment of
Act No. 44,
1912.
Sec. 5.
(Interpre-
tation.)

18. The Water Act, 1912-1930, is amended—

- (a) by inserting in section five at the end of the definition of "Occupier" the words "and, in any case where a work to which this Part of this Act extends is proposed to be or is being constructed under Part XIV of the Local Government Act, 1919, on behalf of any council, or where a council has been charged with the care and management of a work to which this Part of this Act extends, includes the council."

New sec.
14b.

- (b) by inserting next after section 14A the following new section:—

Flow assured
by a work of
the Crown.

14b. (1) The Governor may by proclamation in the Gazette declare that the flow or supply of water in any river or lake or section of a river has been augmented, stabilised or assured by a work of the Crown.

(2) In respect of a license, authority for a private irrigation scheme, or permit under this Part for a work used for the purpose of irrigation or water supply for stock or for the carrying on of any industrial operation and which work is connected with a river or lake or section of a river in respect of which a proclamation as aforesaid has been made, a charge for the right to take and use the water shall, subject to the provisions of this section, be paid by the licensee or holder of the authority or of the permit as the case may be, in addition to the fee payable by him for the license or authority or permit.

Such

Such charge shall be—

- (a) fixed by the Commission when issuing or renewing a license, authority or permit, but shall be not greater than maximum amounts which shall be prescribed by regulation under this Act according to the purpose or purposes for which the water is to be taken and used, the nature of the work, and the method of obtaining the water;
- (b) paid each year during the currency of the license, authority or permit at the times and in the manner prescribed by regulations made under this Act;
- (c) to the extent of a minimum annual amount to be fixed by the Commission in each case, payable irrespective of whether the work covered by the license or authority or permit is used or not;
- (d) on the basis of either—
 - (i) the quantity of water taken and used by means of the work during the year; or
 - (ii) the area of land irrigated with the water taken and used by means of the work during the year.

The Commission shall set out in the license, authority or permit, as the case may be, which of the said alternative charges shall be paid.

(3) The Commission when fixing the amount of the charge to be paid in pursuance of the provisions of subsection two of this section shall have regard to—

- (a) the benefits received by the licensee or holder of the authority or of the permit by reason of the said work of the Crown; and
- (b) the augmentation, stabilisation or assurance of a water supply given by such work; and
- (c) the priority of right to the appropriation of water under the provisions of this Act.

(4)

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(4) If in the opinion of the Commission a benefit is not received by reason of the work of the Crown by the licensee or holder of the authority or permit the said charge shall not be made.

(5) Any proclamation made under this section may be corrected, altered, amended, modified or revoked by the Governor by proclamation in the Gazette.

Sec. 14A.
(Fees.)
(Conse-
quential.)

(c) (i) by omitting from section 14A the words "the river or lake on which it is situate and the benefit (if any) to the licensee received from works constructed by the Crown," and by inserting in lieu thereof the words "and the river or lake on which it is situate";

(ii) by inserting in section 14A after the word "issued" the words "and renewed."

New Divi-
sion 3B.

(d) by inserting next after Division 3A of Part II the following new Division:—

DIVISION 3B.—*Permits.*

Permits.

18F. Notwithstanding anything contained in Division 3 of this Part, an occupier or owner of land whereon any work to which this Part extends is constructed or used or is proposed to be constructed or used for the purpose of—

(a) water conservation, irrigation of an area not exceeding ten acres, water supply or drainage; or

(b) the prevention of inundation of land and overflow of water thereon; or

(c) changing the course of a river;

may apply to the Commission in the form prescribed for a permit to construct and use the said work and to take and use, for the purposes specified in the application, the water, if any, conserved or obtained thereby, and to dispose of such water for the use of occupiers of land for any purpose other than irrigation.

18G.

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No. 52, 1934.

18g. On application being made for a permit the Commission shall decide whether the permit shall be granted or refused, and before such decision is arrived at the Commission may, should it consider it desirable so to do, cause to be advertised, once in the Gazette and once in a newspaper circulating in the district where the work is or will be situate, a notice—

Application
for permit.

- (a) acknowledging 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 persons to whom it shall be sent.

18h. If the Commission considers that the granting of a permit will for the time being better meet the circumstances of the case than will the issue of the license under Division 3 of this Part the Commission may grant a permit accordingly and may impose such limitations and conditions in connection therewith as it may deem fit provided that no permit shall be granted for a period exceeding one year.

Power to
grant per-
mit instead
of license.

18i. A permit 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 before granting a permit 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 it may deem necessary.

Issue of
permits.

18j. A permit may, subject to such limitations and conditions as the Commission may impose, be renewed by the Commission on the application of the occupier and payment of the prescribed fee: Provided that the Commission shall

Renewal of
permits.

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shall not renew a permit for any period which will extend its currency beyond two years from the date when it was first issued.

An application for renewal of a permit shall be made before the expiration of the period for which it was granted or last renewed as the case may be.

Permit not to lapse pending consideration of application for renewal.

18k. Pending consideration of the application by the Commission for renewal of a permit the permit shall not lapse but should the prescribed fee be not paid within the prescribed time the permit shall lapse.

Power to require application to be made for license.

18l. The Commission may, as a condition under which a permit is issued, specify that the holder thereof shall, if called upon by the Commission so to do, apply under the provisions of Division 3 of this Part for a license for the work in respect of which the permit is issued, provided that the holder of the permit shall desire to continue to use the work.

Power to charge different fees.

18m. For the purpose of sections 18i and 18j different fees may be prescribed, differentiating according to the class of work, the object or purpose of the work, the river or lake on which it is situate, and the benefit (if any) to the permittee received from works constructed by the Crown: Provided that in the case of a work carried out by a public authority as prescribed with the object of conferring public benefit or securing district development a permit may in the discretion of the Commission be issued at a nominal fee.

Separate application for each work.

18n. A separate application for a permit may be required by the Commission in respect of each work except in 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 permit shall rest with the Commission.

18o.

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No. 52, 1931.

18o. If by reason of an actual or threatened shortage of water or for other sufficient cause the Commission considers a permit should be suspended, modified or withdrawn, or that the quantity of water authorised by the permit to be taken thereunder should be reduced, the Commission may give the permittee notice by letter served on him personally or sent by post to him 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 suspend, modify or withdraw the permit or to reduce the quantity of water to be taken and thereupon the permit shall be suspended, modified or withdrawn or the quantity of water reduced according to the tenor of the notice.

Power to suspend permit, etc.

18p. A permit issued for any work to which this Part extends on a river or lake or section of a river to which the provisions of Division 3A of this Part have been declared, in pursuance of section 18A of this Act, to apply, shall not convey to the holder of the permit any priority of right as against the holders of licenses and authorities for private irrigation schemes, whether the application for a permit be received by the Commission before or after the application for a license or an authority for a private irrigation scheme.

Permit not to confer priority.

18q. Subject to the provisions of this Division a permit shall operate and enure for the benefit of the owner or occupier for the time being of the land whereon any work is constructed or used or is proposed to be constructed or used.

Permit to pass with land.

For the purpose of this Division "occupier" includes a person who has been granted an authority to enter under the provisions of the Acts relating to mining.

- (c) by inserting in section 17B after the word "authority" wherever occurring the words "or permit";

Sec. 17B.
(Offences.)
(Consequential.)

(f)

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Sec. 18B.
(Order of
precedence.)

- (f) by omitting subsections four, five, six and seven of section 18B and by inserting in lieu thereof the following subsection:—

(4) Subject to this Act the rights of the holders of all licenses and authorities held under this Part existing at the date specified in the proclamation under section 18A of this Act to conserve, take and use water in a river or section of a river or lake mentioned in such proclamation shall rank *pari passu* inter se and have priority as against all other rights granted subsequently to the said date for the purposes of Class I, Class II or Class III as the case may be.

Sec. 21.

- (g) by omitting from section twenty-one the words “authorised under Division 4 of this Part of this Act” and by inserting in lieu thereof the words “permitted under Division 3B of this Part or authorised under Division 4 of this Part.”

Sec. 27.
(Regulations.)

- (h) (i) by inserting at the end of paragraph (a) of subsection one of section twenty-seven the words “permits and renewals of permits”;
- (ii) by inserting at the end of paragraph (b) of the same subsection the words “permits and renewals of permits”;
- (iii) by inserting in paragraph (d) of the same subsection after the word “licensees” the words “holders of permits”;

Sec. 30.
(Constitution of boards.)

- (i) by omitting from subsection two of section thirty the words “such officers of the Commission as the Governor may appoint, and including, where 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,” and by inserting in lieu thereof the words “an officer of the Water Conservation and Irrigation Commission, an officer of the Department of Agriculture, and an officer of the Department of Lands to be appointed by the Governor”;

(j)

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- (j) by inserting next after section 73B the following new section:—

New sec.
73c.

73c. (1) Notwithstanding anything elsewhere contained in this Part, on application (previously approved at a general meeting of the voters of the trust) by the trustees of any trust relating to a work of water supply from an artesian bore or bores, the Commission may, with the approval of the Governor, permit the trustees to abandon the provision of a sinking fund for the payment of the cost of the trust works and interest and/or to cease the payment to the Crown of any existing charges for water, and, in lieu of such provision and/or charges, to pay to the Treasury such charges for the water obtained by the trust from the bore or bores as may be fixed with like approval by the Commission to meet the balance of the cost of the said works and interest not repaid by the trust at the time of the granting of such permission and/or the existing charges for water before mentioned.

Application
by trustees
of trust.

(2) The said charges so fixed shall be paid by the trustees at the times fixed by the permission and may, if so permitted, extend beyond the period within which the cost of the trust works is under the constitution of the trust to be extinguished by a sinking fund.

(3) The provisions of this section shall be deemed to have applied in respect of the Quilbone No. 1 Bore Water Trust on and from the seventh day of February, one thousand nine hundred and twenty-nine, and in respect of the Quilbone No. 2 Bore Water Trust on and from the twenty-first day of September, one thousand nine hundred and twenty-eight.

- (k) by omitting from subsection two of section one hundred and thirty-one the words "district to the thirtieth day of June next following the fifth anniversary of such constitution" whenever occurring, and by inserting in lieu thereof

Sec. 131.
(Proposal
for consti-
tution of
districts.)

the

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the words "provisional district to the thirtieth day of June next following the fifth anniversary of the constitution of the district";

Sec. 138.
(Rates and charges for various purposes.)

- (l) by omitting from section one hundred and thirty-eight the words "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" and by inserting in lieu thereof the words—

"The rates and charges shall—

- (i) not exceed, but may be less than, 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 or any amended rates and charges fixed by a proclamation under the provisions of section one hundred and thirty-two of this Act; and
- (ii) during any period that a less quantity of water is made available than the total quantity allocated to the holding under the constitution of the provisional district, be proportionately reduced.

Sec. 144.
(Alteration of rates and charges for water.)

- (m) (i) by inserting in section one hundred and forty-four after the word "greater" the words "but may be less";
- (ii) by omitting from section one hundred and forty-four the words "prior to the constitution of the provisional district" and by inserting in lieu thereof the words "or any amended rates and charges fixed by a proclamation under the provisions of section one hundred and thirty-two of this Act";

Sec. 147.
(Supply of water.)

- (n) (i) by inserting in subsection four of section one hundred and forty-seven after the word "district" the words "or provisional district";
- (ii) by inserting in subsection eight of the same section after the word "district" the words "or provisional district."

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19. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is amended—

Amendment of Act No. 7, 1913.

- (a) by omitting from subsection two of section one hundred and forty-four the words “such special conditions as have been duly notified in the Gazette making the land available for disposal” and by inserting in lieu thereof the words “such of the special conditions and reservations attached to the lease as are applicable after the issue of the grant”;
- (b) by omitting from subsection four of section 144A the words “the conditions specified in the Gazette notifying the addition” and by inserting in lieu thereof the words “such of the conditions and reservations specified in the Gazette notifying the addition as are applicable after the issue of the grant”;
- (c) (i) by inserting next after subsection three of section one hundred and forty-five the following new subsection:—
- (3A) Where a holder notifies his intention to convert an irrigation farm lease of an area exceeding five acres into an irrigation farm purchase, or to convert a non-irrigable lease used for farming purposes which is of an area exceeding five acres into a non-irrigable purchase the conversion shall take effect upon the date of receipt by the Commission of the notification of intention to convert.
- (ii) by inserting at the commencement of subsection four of the same section the words “In any case not provided for by subsection (3A) of this section”;
- (d) (i) by inserting at the end of subsection one of section 145A the words “This subsection shall not apply to a mortgage or release of mortgage or a transfer by way of mortgage or release of mortgage or a transfer of mortgage of any holding, and any such mortgage

Sec. 144.

(Perpetual lease grant.)

Sec. 144A.

(Additions to holdings.)

Sec. 145.

(Conversion.)
(Consequential.)

Sec. 145A.

(Restrictions on transfer.)

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mortgage, release of mortgage or transfer may be effected without the consent of the Commission having been obtained”;

- (ii) by omitting from subsection (6A) of the same section the words “and the provisions of subsection one of this section shall apply thereto”;
- (iii) by omitting from the same subsection the word “section” wherever occurring and by inserting in lieu thereof the word “Act”;
- (iv) by omitting from subsection (6B) of the same section the word “section” wherever occurring and by inserting in lieu thereof the word “Act”;

Sec. 145B.
(Suspension
etc., of
conditions.)

- (e) by inserting at the end of section 145B the following new subsections:—

(3) The following provisions shall apply in respect of every lease or purchase existing at the commencement of the Murrumbidgee Irrigation Areas Occupiers Relief Act, 1934:—

- (a) the Minister may review the special conditions and reservations attaching to any such lease or purchase, and may, by notification published in the Gazette, declare the special conditions and reservations which shall attach to the lease or purchase;
- (b) in making such declaration the Minister shall not declare special conditions or reservations inconsistent with any Act or regulation applicable to the lease or purchase;
- (c) the notification shall take effect from the date of publication or from a later date to be specified in the notification;
- (d) as from the date upon which any such notification takes effect, the special conditions and reservations thereby declared to attach to the lease or purchase shall so attach in lieu of the special conditions and reservations which before such date had been notified as attaching to such lease or purchase.

(4)

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(4) Where a perpetual lease grant has issued in respect of any lease or a Crown grant has issued in respect of any purchase, and

(a) the Commission has, pursuant to subsection one of this section, granted any alteration, modification or cancellation of any special or other condition attaching to the lease or purchase; or

(b) the Minister has, pursuant to subsection three of this section, declared the special conditions and reservations which shall attach to any lease or purchase in lieu of the special conditions and reservations, previously notified,

the Registrar-General shall, upon production of a certificate in the prescribed form by the Commission as to the alterations, modifications or cancellations of special or other conditions, or as to the reservations or to the substituted special conditions, as the case may be, make such entries and notifications in the register book as are necessary to show the reservations or special or other conditions attaching to the lease or purchase at the date of the certificate.

(f) by inserting next after section 145B the following short heading and new section:—

New sec.
145c.

Special provisions as to dealings by holders of purchases within irrigation areas.

145c. (1) The holder of an irrigation farm purchase or a non-irrigable purchase used for farming purposes may acquire by transfer by way of sale any other irrigation farm purchase or non-irrigable purchase used for farming purposes which in either case is of an area exceeding five acres—

Holder of irrigation farm, etc., may acquire by transfer by way of sale any other irrigation farm, etc.

(a) where neither he nor the holder of such other purchase is indebted to the Crown or to the Commission—without the consent of the Commission;

(b)

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(b) where either he or the holder of such other purchase is indebted to the Crown or to the Commission—with the consent of the Commission.

(2) The holder of an irrigation farm purchase or a non-irrigable purchase used for farming purposes may with the consent of the Commission acquire by transfer by way of sale an irrigation farm lease or a non-irrigable lease used for farming purposes which in either case is of an area exceeding five acres.

(3) Application for the consent of the Commission under this section shall be made in the prescribed form and shall be accompanied by the prescribed fee.

(4) The granting or refusing of any application under this section shall be entirely at the discretion of the Commission.

(5) Where consent is given under this section to the acquisition of an irrigation farm lease or non-irrigable lease, it shall be a condition of such consent that the person acquiring the lease should, not later than one month after the date of the transfer of the lease, notify his intention to convert the same.

A breach of such condition shall render the lease liable to forfeiture.

(6) The requirements of this section shall be a condition attaching to every irrigation farm purchase, and non-irrigable purchase used for farming purposes, which in either case is of an area exceeding five acres, and the acquisition of any such purchase in breach of such condition shall render the purchase liable to forfeiture.

(7) Where the consent of the Commission to any transfer is given under this section no consent to such transfer under section 145A of this Act shall be necessary.

In any case in which it is, in this section, expressly provided that a transfer may be effected

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effected without the consent of the Commission no consent to such transfer under section 145A of this Act shall be necessary.

(8) The provisions of subsections five and eight of section 145A of this Act shall not apply to the acquisition of land in accordance with the provisions of this section or to the land so acquired.

(9) The provisions of this section shall apply whether or not the Crown grant or perpetual lease grant has issued.

(g) (i) by inserting next after subsection one of section 147A the following new subsection:—

Sec. 147A.
(Re-appraisal of annual rental or of purchase money.)

(1A) Where an irrigation farm lease of an area exceeding five acres is converted into an irrigation farm purchase, or a non-irrigable lease used for farming purposes which is of an area exceeding five acres is converted into a non-irrigable purchase, the purchase money shall be determined at twenty times the annual rental of the lease at the date of conversion.

(ii) by inserting at the commencement of subsection two of the same section the words "In any case not provided for by subsection (1A) of this section."

20. The Irrigation Act, 1912-1931, is further amended—

Further amendment of Act No. 73, 1912.
Sec. 23B.
Murrumbidgee Irrigation Scheme capital cost.)

(a) by omitting from section 23B the words "sections 19A, 19F and 19H and debts extinguished in accordance with section 19G" and by inserting in lieu thereof the words "the Murrumbidgee Irrigation Areas Occupiers Relief Act, 1934, or in pursuance of sections 19A, 19F and 19H and debts extinguished in accordance with section 19G of this Act";

(b) by inserting at the end of section 23B the following new subsections:—

(2) Notwithstanding anything contained in the Special Deposits (Industrial Undertakings) Act, 1912, the Auditor-General, the Under-Secretary to the

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the Treasury, and a member of the Commission shall be a committee to review and report upon the financial position of the Murrumbidgee Irrigation Areas Industrial Undertaking. Any member of the committee may with the approval of the Colonial Treasurer appoint a representative to act from time to time on such member's behalf.

(3) The committee shall so soon as practicable report to the Minister at what sum in the opinion of the committee or a majority thereof the capital indebtedness of the said industrial undertaking shall be fixed.

(4) In reviewing the amount of the said capital indebtedness the committee may exclude—

- (a) all accumulated losses;
- (b) all costs of and pertaining to the Dam constructed across the Murrumbidgee River at Burrinjuck under the provisions of the Barren Jack Dam and Murrumbidgee Canals Construction Act, 1906;
- (c) all or part of the cost of and pertaining to the construction of the diversion weir across the said river at Berembed;
- (d) all or part of the cost of and pertaining to the construction and enlargement of the main canal from such weir;
- (e) all or part of the cost of and pertaining to land acquisition for the purposes of construction referred to in paragraphs (b), (c) and (d) of this subsection;
- (f) the whole or part of any other expenditure in respect of the said industrial undertaking.

(5) The committee may take into consideration the stage of progress in the development of the Murrumbidgee Irrigation Areas, the financial competency of the occupiers of farming lands within the said areas to meet payments due to the Crown and the Commission and any other factor which in the opinion of the committee might have effect upon the ability of the said industrial undertaking to meet interest charges on its capital cost.

(6)

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(6) The committee may recommend to the Colonial Treasurer from time to time the amount of interest on the said capital indebtedness to be paid by the Commission to the Colonial Treasurer as payment in whole or in part of the interest on the said capital indebtedness provided that the sum to be so paid as such interest shall not exceed the interest on the said capital indebtedness as recommended to be fixed by the committee.

(7) The committee may further recommend that no interest shall be payable by the Commission to the Colonial Treasurer until such time as the Commission has extinguished its overdraft in respect of the said industrial undertaking.

(8) The committee shall recommend as to how the capital indebtedness of the said industrial undertaking is to be allotted to each of its various branches.

(9) A report by the committee shall 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 both Houses of Parliament pass resolutions adopting such report the recommendations of the committee made therein shall be given effect to.

The Minister shall cause a notification of the passing of such resolutions and of their tenor to be notified in the Gazette and such notification shall also state the date from which the recommendation is to be effective.

21. There is hereby validated:---

Validation.

(1) The alteration made on and after the fifteenth day of July, one thousand nine hundred and thirty-three, in the charge for water supplied by the Crown to the Bulyeroi Bore Water Trust from one hundred and forty-three pounds per annum to fifteen shillings and three pence per one thousand gallons of daily flow of the bore as ascertained by an annual measurement.

(2)

- (2) The consolidation of the debt amounting to one thousand four hundred and thirty-nine pounds two shillings and eleven pence of the Bama Irrigation Trust to the Crown at the first day of May, one thousand nine hundred and thirty-four, in respect of original and additional works and the authorisation to the trust to pay the said consolidated debt by quarterly instalments in advance over a period of sixteen years commencing on the said date.

SCHEDULE.

Parcel.	Portion No.	Parish.	County.	Land District.
H.F. 34/14 ...	11	Munro ...	Sturt ..	Hay.
H.F. 33/14 ...	12	Munro ...	Sturt ...	Hay.
H.F. 33/1 ...	36	Denny ...	Sturt ...	Hay.