

WATER (AMENDMENT) ACT.

Act No. 31, 1936.

**Edward VIII,
No. 31, 1936.**

An Act to make further provisions in relation to licenses granted under Part II of the Water Act, 1912-1930; to reduce the rate of interest payable on certain overdue rates; to exempt certain Trusts from payment of charges for water; to alter the charges for water payable by certain other Trusts; to validate certain matters; to amend the Water Act, 1912-1930, and certain other Acts; and for purposes connected therewith. [Assented to, 10th July, 1936.]

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
and citation.**

1. (1) This Act may be cited as the "Water (Amendment) Act, 1936," and shall be read and construed with the Water Act, 1912-1930, as amended by subsequent Acts.

The Water Act, 1912-1930, as so amended, is in this Act referred to as the Principal Act.

(2) The Principal Act, as amended by this Act, may be cited as the Water Act, 1912-1936.

**Amendment
of Act No. 44,
1912.
Sec. 12 (3).
(Period of
license.)**

2. (1) The Principal Act is amended as follows :—

(a) by omitting from subsection three of section twelve the words "Railway Commissioners of New South Wales, the Metropolitan Meat Industry Board," and by inserting in lieu thereof the words "Commissioner for Railways, the Metropolitan Meat Industry Commissioner";

(b)

- (b) (i) by omitting from subsection one of section fourteen the words "shall subject to such limitations and conditions as the Commission may decide" and by inserting in lieu thereof the word "may";
- (ii) by inserting in the same subsection after the word "Commission" where lastly occurring the words "or the decision of the Land and Valuation Court on appeal";
- (iii) by inserting in the same subsection after the words "prescribed time" the words "or the application be not granted";
- (iv) by omitting from the same subsection the words "Railway Commissioners of New South Wales, the Metropolitan Meat Industry Board" and by inserting in lieu thereof the words "Commissioner for Railways, the Metropolitan Meat Industry Commissioner";
- (v) by omitting subsection two of the same section, and by inserting in lieu thereof the following subsections:—

(2) Where the Commission decides that the application for the renewal of a license shall not be granted, or that the renewal of a license shall be subject to a period, terms, limitations and conditions differing from those which were previously attached to the license, the applicant shall within twenty-eight days after the posting to him by the Commission of a notification of the refusal of the application, or of particulars of such period, terms, limitations and conditions, as the case may be, have the right of appeal to the Land and Valuation Court against the decision of the Commission. The decision of the said Court shall be final.

The appeal shall be made as prescribed by rules of Court and be accompanied by a fee of five pounds as security for the costs

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costs of the appeal. Notice in the prescribed form of appeal shall be given by the appellant to the Commission with the lodging of the appeal in the court.

(3) Subject to the said right of appeal a renewal of a license may be subject to such terms, limitations and conditions as the Commission deems expedient in the public interest; and, without prejudice to the generality of the foregoing provisions of this subsection, such terms, limitations and conditions may include—

- (a) a limitation or reduction of the area of land which may be irrigated by water obtained by the licensed work;
- (b) a provision allowing any alteration in the licensed work which does not increase the quantity of the water conserved or obtained thereby.

(4) This section shall apply to and in respect of licenses granted or renewed before the commencement of the Water (Amendment) Act, 1936, as well as to licenses granted or renewed after such commencement.

(5) Unless the appellant and the Commission otherwise agree any appeal under this section shall (subject to the concurrence of the judge of the Land and Valuation Court) be heard at such venue as in the opinion of the judge is as near as conveniently may be to the site of the work in respect of which such appeal has been lodged as aforesaid.

- (c) by omitting section 55B and by inserting in lieu thereof the following section:—

55B. (1) Overdue rates and charges payable to a trust shall be increased in accordance with this section.

(2) If the rates or charges are unpaid at the expiration of three months after the due date of payment the amount due shall be increased by a sum calculated at the rate of seven per

Substituted
Sec. 55B.
(Interest on
overdue rates
and charges.)

per centum per annum in respect of any period prior to the first day of July one thousand nine hundred and thirty-six and at the rate of five per centum per annum in respect of any period after the thirtieth day of June one thousand nine hundred and thirty-six. The increase shall be deemed to be part of the rates or charges as the case may be.

(3) The calculation under subsection two of this section shall be made in respect only of as many complete months as have expired between the date on which the payment became due and the date of payment excluding any remaining portion of a month.

(4) If in any case the percentage is less than threepence the increase shall be threepence.

(5) The increase in the rates or charges under this section shall continue to apply to all unpaid rates or charges notwithstanding that judgment for same may have been obtained in any Court including the District Court.

- (d) (i) by omitting from subsection one of section one hundred and thirty-nine the words "after the first day of July, but not later than the thirtieth day of September in each year";
- (ii) by inserting in the same subsection after the word "assess" the words "during that year";
- (iii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection:—

(2) (a) Overdue rates and charges for water assessed under subsection one of this section or under section 139A of this Act shall be increased in accordance with this subsection.

(b) If the rates or charges so assessed are unpaid at the expiration of three months after the due date of payment the amount due shall be increased by a sum calculated at the rate of seven per centum per

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per annum in respect of any period prior to the first day of July one thousand nine hundred and thirty-six and at the rate of five per centum per annum in respect of any period after the thirtieth day of June one thousand nine hundred and thirty-six.

Any increase under this paragraph shall be deemed to be part of the rates or charges as the case may be.

(c) The calculation under paragraph (b) of this subsection shall be made in respect only of as many complete months as have expired between the date on which the payment became due and the date of payment excluding any remaining portion of a month.

(d) If in any case the percentage is less than threepence the increase shall be threepence.

(e) The increase in the rates or charges under this subsection shall continue to apply to all unpaid rates or charges notwithstanding that judgment for same may have been obtained in any Court including the District Court.

New s. 139A.

(e) by inserting next after section one hundred and thirty-nine the following new section:—

Provisional
assessments.

139A. (1) Before fixing the rates or charges for water in respect of any year the Commission may, in respect of that year and in respect of each holding, make a provisional assessment in accordance with the provisions of this Part of the rates or charges for water within a district or provisional district.

(2) Such provisional assessment shall be made on the basis of an amount by way of rate or charge to be determined by the Commission which amount shall not exceed—

(a) where the provisional assessment is made in respect of any year during the period from the date of the constitution of the provisional

provisional district to the thirtieth day of June next following the fifth anniversary of the constitution of the district—one half of the rates and charges notified under 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; or

- (b) where the provisional assessment is made in respect of any year after the expiration of the said period—one half the rates and charges fixed in respect of the next preceding year.

(3) The rates and charges so provisionally assessed shall be notified and paid as prescribed.

(4) The provisions of subsections two and three of section one hundred and thirty-nine and of section one hundred and forty-three of this Act shall apply to and in respect of the rates and charges so provisionally assessed in like manner and to the same extent as they apply to rates and charges assessed under subsection one of section one hundred and thirty-nine of this Act.

(5) Where provisional assessments have been made under this section in respect of any year, and any amount has been paid in or towards satisfaction of the rates and charges so provisionally assessed in respect of any holding, such amount shall, when the rates and charges have been assessed for that year, pursuant to subsection one of section one hundred and thirty-nine of this Act, be credited against the rates and charges so assessed in respect of that holding.

- (f) (i) by omitting from the matter relating to Part **Sec. 1.**
I in section one the symbols “ss. 1-4” and (Correc-
by inserting in lieu thereof the symbols “ss. tions.)
1-4A”;

(ii)

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- (ii) by inserting in the same section after the words and symbols "DIVISION 3.—*Licenses*—ss. 10-18," the words and symbols—

DIVISION 3A.—*Priority of right to the appropriation of water*—ss. 18A-18E.

DIVISION 3B.—*Permits*—ss. 18F-18Q.

- (iii) by omitting from the same section the words "*Works constructed by the Crown*" and by inserting in lieu thereof the words "*Private irrigation schemes*";
- (iv) by omitting from the matter under Part IV in the same section the word "Interpretation" and by inserting in lieu thereof the word "Preliminary";
- (v) by omitting from the matter under Part V in the same section the figures "112-118" and by inserting in lieu thereof the figures "111A-118";
- (vi) by inserting at the end of the same section the following words and symbols:—

PART VI.—DOMESTIC AND STOCK WATER SUPPLY DISTRICTS AND DOMESTIC AND STOCK WATER SUPPLY AND IRRIGATION DISTRICTS.—ss. 130-149.

SCHEDULES.

Sec. 74.
(Correc-
tion.)

- (vii) by omitting from paragraph (k) of subsection one of section seventy-four the word "proceeds" and by inserting in lieu thereof the word "proceedings."

Amendment of
Act No. 48,
1916, s. 2.
(Statute law
revision.)

- (2) The Water (Amendment) Act, 1916, is amended by omitting paragraph (a) of section two.

Benerembah
and Tabbita.

- (3) The Commission may reduce the charges or rates fixed by it under the provisions of Part VI of the Principal Act for the year commencing on the first day of July, one thousand nine hundred and thirty-five, in respect of the Benerembah Provisional Domestic and Stock Water Supply and Irrigation District and the Tabbita Domestic and Stock Water Supply and Irrigation District.

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In the event of the Commission making the reduction the difference between the reduced amount and the amount originally fixed by the Commission paid by any owner shall be set off against any further sum to become payable by him under the provisions of Part VI of the Principal Act.

3. (1) (a) The Walgett Bore Water Trust is relieved of its obligation to pay any charge for water supplied to it by the Crown other than charges which became due and payable by that Trust on or before the twentieth day of June, one thousand nine hundred and thirty-five. Validations, exemptions, alterations, etc.

(b) This subsection shall be deemed to have commenced upon the twentieth day of June, one thousand nine hundred and thirty-five.

(2) (a) The Youendah Bore Water Trust is relieved of its obligation to pay any charge for water supplied to it by the Crown other than charges which became due and payable by that Trust on or before the sixteenth day of July, one thousand nine hundred and thirty-five.

(b) This subsection shall be deemed to have commenced upon the sixteenth day of July, one thousand nine hundred and thirty-five.

(3) (a) The Brewon Bore Water Trust is relieved of its obligation to pay any charge for water supplied to it by the Crown other than charges which became due and payable by that Trust on or before the sixteenth day of January, one thousand nine hundred and thirty-three.

(b) This subsection shall be deemed to have commenced upon the sixteenth day of January, one thousand nine hundred and thirty-three.

(4) (a) The Uranbah Bore Water Trust is relieved of its obligation to pay any charge for water supplied to it by the Crown other than charges which became due and payable by that Trust on or before the sixteenth day of October, one thousand nine hundred and thirty-four.

(b) This subsection shall be deemed to have commenced upon the sixteenth day of October, one thousand nine hundred and thirty-four.

(5)

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(5) (a) Notwithstanding anything contained in the Principal Act, the following provisions shall apply to, and have effect in respect of the Bungunyah-Koraleigh Irrigation Trust:—

The arrears at the twenty-third day of May, one thousand nine hundred and thirty-five, in the payments by the Trust to the Crown in respect of the extensions of the works of the Trust shall be consolidated with the total amount of the costs of the said extensions of the work remaining after the said date to be repaid to the Crown.

The consolidated sum shall be paid to the Crown by the Trust with interest at the rate of four per centum per annum by equal quarterly payments in advance over a period of nineteen years from the twenty-third day of May, one thousand nine hundred and thirty-five.

(b) This subsection shall be deemed to have commenced upon the twenty-third day of May, one thousand nine hundred and thirty-five.

(6) The substitution of the charge made by the Crown to the Milroy Bore Water Trust at the rate of one pound four shillings and ninepence in lieu of one pound seven shillings eightpence and three-tenths of a penny per one thousand gallons of daily flow of the bore as ascertained by an annual measurement for water supplied by the Crown to the said Trust is hereby validated.

(7) The yearly charge to be paid by the Gil Gil Bore Water Trust for water to be supplied by the Crown shall on and after the twenty-eighth day of January, one thousand nine hundred and thirty-seven, be thirteen shillings and eleven pence for every thousand gallons or part thereof in the flow of water from the bore per day as ascertained by the Water Conservation and Irrigation Commission by measurement and notified by it to the said Trust.

The first measurement of the flow shall be made on or as near as practicable to the first day of December, one thousand nine hundred and thirty-six, and subsequent measurements of such flow shall be made on or as near as practicable to the first day of December in each year.

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The said yearly charge shall be paid by the said Trust whilst a natural flow continues from the bore outlet.

(8) (a) The yearly charge to be paid by the Boomi Bore Water Trust for water supplied and to be supplied by the Crown shall for the year commencing the second day of October, one thousand nine hundred and thirty-five, be one hundred and sixty-eight pounds thirteen shillings and four pence and thereafter shall be three shillings and ten pence for every thousand gallons or part thereof in the flow of water from the bore per day as ascertained by the Water Conservation and Irrigation Commission by measurement and notified by it to the said Trust.

The first measurement of the flow shall be made on or as near as practicable to the first day of August, one thousand nine hundred and thirty-six, and subsequent measurements of such flow shall be made on or as near as practicable to the first day of August in each year.

The said yearly charge shall be paid by the said Trust whilst a natural flow continues from the bore outlet.

(b) This subsection shall be deemed to have commenced upon the second day of October, one thousand nine hundred and thirty-five.

(9) (a) The yearly charge to be paid by the Tullona Bore Water Trust for water supplied and to be supplied by the Crown shall for the year commencing the second day of October, one thousand nine hundred and thirty-five, be one hundred and sixty-eight pounds and thereafter twelve shillings for every thousand gallons or part thereof in the flow of water from the bore per day as ascertained by the Water Conservation and Irrigation Commission by measurement and notified by it to the said Trust.

The first measurement of the flow shall be made on or as near as practicable to the first day of August, one thousand nine hundred and thirty-six, and subsequent measurements of such flow shall be made on or as near as practicable to the first day of August in each year.

The said yearly charge shall be paid by the said Trust whilst a natural flow continues from the bore outlet.

(b) This subsection shall be deemed to have commenced upon the second day of October, one thousand nine hundred and thirty-five.

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(10) (a) The yearly charge to be paid by the Euraba Bore Water Trust for water supplied and to be supplied by the Crown shall for the year commencing on the twenty-ninth day of August, one thousand nine hundred and thirty-five, be one hundred and sixty-seven pounds fifteen shillings and thereafter five shillings and one penny for every thousand gallons or part thereof in the flow of water from the bore per day as ascertained by the Water Conservation and Irrigation Commission by measurement and notified by it to the said Trust.

The first measurement of the flow shall be made on or as near as practicable to the first day of August, one thousand nine hundred and thirty-six, and subsequent measurements of such flow shall be made on or as near as practicable to the first day of August in each year.

The said yearly charge shall be paid by the said Trust whilst a natural flow continues from the bore outlet.

(b) This subsection shall be deemed to have commenced upon the twenty-ninth day of August, one thousand nine hundred and thirty-five.

(11) (a) The yearly charge to be paid by the Lower Quambone Bore Water Trust for water supplied and to be supplied by the Crown shall for the year commencing on the seventh day of May, one thousand nine hundred and thirty-six, be eighty-seven pounds nine shillings and thereafter at the rate of eleven shillings and five pence for every thousand gallons or part thereof in the flow of water from the bore per day as ascertained by the Water Conservation and Irrigation Commission by measurement and notified by it to the said Trust.

The first measurement of the flow shall be made on or as near as practicable to the first day of April, one thousand nine hundred and thirty-seven, and subsequent measurements of such flow shall be made on or as near as practicable to the first day of April in each year.

The said yearly charge shall be paid by the said Trust whilst a natural flow continues from the bore outlet.

(b) This subsection shall be deemed to have commenced upon the seventh day of May, one thousand nine hundred and thirty-six.

(12) (a) The yearly charge to be paid by the Moomin Bore Water Trust for water supplied by the Crown is, from the twelfth day of February, one thousand nine hundred and thirty-six, reduced to the rate of seventeen shillings and threepence for every thousand gallons or part thereof in the flow per day of water from the bore as ascertained by the Water Conservation and Irrigation Commission by measurement and notified by it to the said Trust. The measurement of the flow shall be made on or as near as practicable to the first day of February in each year.

The said yearly charge shall be paid by the said Trust whilst a natural flow continues from the bore outlet.

(b) This subsection shall be deemed to have commenced upon the first day of February, one thousand nine hundred and thirty-six.

(13) (a) The Gilgooma Bore Water Trust is authorised in lieu of repayment by means of a sinking fund of its debt to the Crown to pay to the Crown for water supplied and to be supplied from the bore a yearly charge of one pound four shillings and threepence for every thousand gallons or part thereof in the flow of water from the bore per day, the said charge for the year commencing on the sixteenth day of January, one thousand nine hundred and thirty-four, to be based on the flow of one hundred and twelve thousand six hundred and seventy-seven gallons per day and thereafter on the flow as ascertained by the Water Conservation and Irrigation Commission by measurement and notified by it to the said Trust.

The first measurement of the flow shall be made on or as near as practicable to the sixteenth day of December, one thousand nine hundred and thirty-four; and subsequent measurements of such flow to be made on or near as practicable to the sixteenth day of December in each year.

The said yearly charge shall be paid by the said Trust whilst the natural flow continues from the bore outlet.

(b) This subsection shall be deemed to have commenced upon the sixteenth day of January, one thousand nine hundred and thirty-four.