

SOUTH-WEST TABLELANDS WATER SUPPLY ADMINISTRATION ACT.

Act No. 36, 1941.

George VI. **An Act to provide for the control and adminis-**
No. 36, 1941. **tration of certain works of water supply**
for the South-west Tablelands District; to
validate certain contracts; to amend the
Local Government Act, 1919, and certain
other Acts; and for purposes connected
therewith. [Assented to, 18th September,
1941.]

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

PART I.

PRELIMINARY AND ADMINISTRATION.

Short title **1.** (1) This Act may be cited as the "South-west
and division **Tablelands Water Supply Administration Act, 1941."**
into Parts.

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY AND ADMINISTRATION—SS.
1-5.

PART II.—SUPPLY OF WATER—SS. 6-10.

PART III.—FINANCIAL—SS. 11-14.

PART IV.—GENERAL—SS. 15-20.

SCHEDULES.

Definitions. **2.** In this Act, unless the context or subject-matter
otherwise indicates or requires,—

"Administrator" means the Administrator of the
South-west Tablelands Water Supply.

"Council" has the meaning given to that expression
in the Local Government Act.

"Local

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“Local Government Act” means the Local Government Act, 1919, as amended by subsequent Acts.

“Prescribed” means prescribed by this Act or by the regulations.

“Regulations” means regulations made under this Act.

“Works” means the works referred to in section four of this Act.

3. (1) This Act shall be administered for and on behalf of the Crown by the Administrator, who shall be the permanent head of the Department of Public Works, and who shall have and may exercise and perform the powers, authorities, duties and functions by this Act conferred or imposed on the Administrator.

Administration.
cf. Act No. 59, 1915, s. 3.

(2) In case of the illness, suspension, or absence of the Administrator, the person for the time being acting in the office of the permanent head of the Department of Public Works shall have and may exercise and perform the powers, authorities, duties and functions of the Administrator.

Deputy Administrator.

(3) The Administrator may, with the consent of the Minister and of the Public Service Board, by writing under his hand delegate to any officer in the Public Service any of the powers, authorities, duties and functions conferred or imposed upon him by this Act other than the power of delegation.

Delegation of powers, etc.

(4) The Administrator shall, for the purposes of this Act, be a corporation sole with perpetual succession and a seal of office under the name of the “Administrator of the South-west Tablelands Water Supply” and in that name may sue and be sued.

Corporation sole.

(5) Where any property, real or personal, or any interest therein or charge thereon is vested in or is acquired by the corporation sole the same shall, unless otherwise disposed of by the corporation sole, pass to and devolve on and vest in its successors.

Devolution of property.

4. The following works shall be controlled and administered by the Administrator, that is to say—

Works controlled by the Administrator.
cf. *Ibid.* s. 5.

(a) the works constructed (whether before or after the commencement of this Act) pursuant to the South-west Tablelands Water Supply Act, 1924;

(b)

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- (b) the works described in the Schedules to this Act;
- (c) any additions, amplifications, improvements or extensions of any such works.

Care and
management
of certain
works.

5. (1) Upon the completion or the partial completion of such part of the works as is used for or in connection with the reticulation of the supply to a council, or for or in connection with the supply of water to any person upon premises situated within the area of a council, or at any time thereafter, the Governor may by proclamation published in the Gazette charge such council with the care and management of such portion of the works as are described in the proclamation.

(2) The council of the Municipality of Cootamundra shall, as from the commencement of this Act, be charged with the care and management of the part of the works described in the Third Schedule to this Act.

(3) The part of the works described in any proclamation published pursuant to subsection one of this section, and the part of the works referred to in subsection two of this section, and the part of the works with the care and management of which the council has become charged under or in pursuance of any contract validated by this Act, shall be deemed to be works with the care and management of which the council is charged under Part XIV of the Local Government Act, and the provisions of that Part of that Act, other than the provisions relating to the repayment of the capital debt, shall mutatis mutandis apply to and in respect of any such part of the works.

(4) Each such council shall make and levy rates and charges under the Local Government Act, to return an amount sufficient to meet all sums which become due to the Administrator for water supplied or under any contract made between the Administrator and the council, and to meet such of the costs of administration of the council as may be prescribed.

(5) The limitations contained in sections one hundred and twenty-nine and one hundred and thirty of the Local Government Act, as to the amount of rates

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rates shall not apply to or in respect of any water supply local rate made and levied in pursuance of subsection four of this section.

(6) For the purposes of making and levying any such rate, a water pipe being part of any works with the care and management of which the council is, by or under this Act, charged, shall be deemed to be a water pipe of the council.

(7) (a) Where before the publication of any proclamation pursuant to subsection one of this section the Administrator had entered into contracts with any persons to supply water from the works to any premises within the area of the council, the Governor may, by the proclamation charging the council with the care and management of the part of the works from which the supply is made, or by a subsequent proclamation published in the Gazette, transfer to the council as from a date specified in the proclamation, all the rights and liabilities of the Administrator under such contracts or any specified contracts or all such contracts other than specified contracts.

(b) On and from the date so specified the following provisions shall have effect:—

- (i) all contracts so transferred shall be deemed to be contracts entered into by the council;
- (ii) any securities given to or by the Administrator in relation to any contract so transferred and in force immediately before the specified date shall be deemed to be securities given to or by the council;
- (iii) the council may enforce and realise any such security as if such security were existing in favour of the council.

(8) Subsection seven of this section shall extend to any contracts which under section nineteen of this Act are deemed to be contracts made with the Administrator.

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PART II.

SUPPLY OF WATER.

Adminis-
trator may
supply
water.

6. The Administrator may supply water from the works to any person who enters into a contract with him to accept a supply of water. Any such contract may contain such terms and conditions as the Administrator thinks fit.

Supply for
railway
purposes.

7. For the purpose of supplying the Commissioner for Railways or any other person with water pursuant to this Act, the Administrator may at all times use and repair any portion of the works notwithstanding that a council may be charged with the care and management thereof.

Power of
council to
enter into
contracts.

8. Any council may enter into a contract with the Administrator for the supply of water to such council upon such terms and conditions as may be agreed upon.

Council not to
supply outside
area without
consent.

9. A council which is taking a supply of water from the Administrator shall not, except with the consent of the Administrator, supply water to any person upon premises situated outside the area of such council.

No compen-
sation for
failure of
supply.
cf. Act No.
59, 1915,
s. 15.

10. (1) The Administrator shall not under any circumstances be liable to make any payments in compensation or for damages should the water supplied be at any time unfit for dietetic purposes, nor for total or partial failure or cessation of the supply arising from any cause whatsoever.

(2) The Administrator shall at all times be entitled to discontinue the supply to a council or other person whenever he deems it necessary in the interests of public health or for the purpose of ensuring a proper supply.

PART III.

FINANCIAL.

Capital debt.

11. (1) The capital debt in respect of the South-west Tablelands Water Supply is hereby declared to be the sum of eight hundred and seventeen thousand seven hundred

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hundred and nineteen pounds three shillings and fourpence as at the thirty-first day of December, one thousand nine hundred and thirty-nine, but may be added to or reduced as in this section provided.

Of such capital debt the sum of eight hundred and four thousand nine hundred and twenty-two pounds five shillings and tenpence shall bear interest and the balance amounting to twelve thousand seven hundred and ninety-six pounds seventeen shillings and sixpence shall not bear interest.

(2) The Minister shall, as soon as practicable after the commencement of this Act, determine the amount by which the capital debt should be increased by reason of expenditure during the period of twelve months ending on the thirty-first day of December, one thousand nine hundred and forty, and thereafter as soon as practicable after the first day of January, one thousand nine hundred and forty-two, and after the same day in each succeeding year, determine the amount by which the capital debt should be increased or decreased by reason of expenditure or receipts during the period of twelve months immediately preceding.

The Minister shall notify in the Gazette the amount of such increase or decrease, and shall, in such notification, state that the amount is to be added to or taken from that part of the capital debt which bears interest or that part of the capital debt which does not bear interest, or that the amount is to be apportioned between such parts. Upon publication of such notification the capital debt shall be deemed to be altered accordingly, and such alteration shall take effect as from the date specified in the notification.

12. (1) An account shall be kept in the Special Deposits Account in the Treasury to be called the "South-west Tablelands Water Supply Working Account," hereinafter referred to as the "Working Account." Allocation of moneys.

(2) (a) There shall be credited to the Working Account all revenue received by the Administrator in pursuance of this Act and such amounts as may from time to time be appropriated by Parliament for the purpose.

(b)

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(b) There shall be debited to the Working Account the following charges, in the order set out hereunder:—

Firstly, the cost of administration, operation, repair and minor renewal of the works by the Administrator;

Secondly, interest on the interest bearing part of the capital debt referred to in section eleven of this Act for any year at a rate or rates to be determined by the Colonial Treasurer but not exceeding the average rate payable during such year by the Government for loan moneys;

Thirdly, contributions to the South-west Tablelands Water Supply Renewal Reserve Account referred to in section thirteen;

Fourthly, such contributions to a sinking fund as the Colonial Treasurer may direct.

(c) Any balance shall be applied in reduction of the capital debt or towards the cost of constructing the works or otherwise for any purpose connected with the administration of this Act as the Minister may direct.

The Minister shall notify in the Gazette the amount of any such reduction of the capital debt, and shall, in such notification, state that such reduction is to be made from that part of the capital debt which bears interest or from that part of the capital debt which does not bear interest, or that such reduction is to be apportioned between such parts. Upon publication of such notification the capital debt shall be deemed to be altered accordingly and such alteration shall take effect as from the date specified in the notification.

South-west
Tablelands
Water
Supply
Renewal
Reserve
Account.

13. (1) An account shall be kept in the Special Deposits Account in the Treasury to be called the "South-west Tablelands Water Supply Renewal Reserve Account," hereinafter referred to as the "Renewal Reserve Account."

(2) There shall be credited to the Renewal Reserve Account as soon as practicable after the first day of January in each year an amount calculated at a rate determined by the Colonial Treasurer on the interest bearing part of the capital debt as at the thirty-first day
of

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of December immediately preceding. For the purposes of this subsection the capital debt shall be deemed exclusive of any sinking fund contributions.

(3) The Renewal Reserve Account shall be credited half-yearly with interest on the daily credit balance at such rate as the Colonial Treasurer may from time to time direct.

(4) The Minister may invest the whole or part of the balance at credit of the Renewal Reserve Account in Commonwealth Government securities or on fixed deposit with the Colonial Treasurer. cf. Act No. 20, 1938, s. 94 (2).

Interest accruing from such investments or such deposit shall be regularly added to the account and invested in like manner.

(5) The Renewal Reserve Account shall be drawn upon only for purposes of investment or reinvestment or for renewing or replacing capital assets:

Provided that the Minister may authorise the expenditure of any balance at credit of such account in excess of eighty thousand pounds towards extending the works, but subject to such conditions of repayment as the Colonial Treasurer may direct. Interest on any such expenditure shall be credited to the account at the rate of four per centum per annum.

(6) If the Minister considers the amount at credit of the Working Account insufficient to meet the contribution referred to in subsection two of this section, having regard to the charges referred to in subsection two of section twelve of this Act, such contribution or portion thereof may be allowed to remain a charge on the Working Account.

Interest on the amount of the deferred contribution at a rate to be approved by the Colonial Treasurer shall be credited to the Renewal Reserve Account and debited to the Working Account for the period during which such contribution so remains a charge; provided that if any such contribution be made on or before the thirty-first day of August in the year in which it becomes payable in accordance with subsection two of this section no interest shall be credited or debited as aforesaid.

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Payments
by Colonial
Treasurer.
cf. Act No.
20, 1938,
s. 96 (1).

14. When in any year the revenue received by the Administrator is insufficient to meet the charges referred to in subsection two of section twelve of this Act, the Colonial Treasurer may, out of moneys provided by Parliament, pay to the Working Account the amount of such deficiency.

PART IV.

GENERAL.

Default by
council.

15. (1) In the event of a council making default for three months in the payment of any amount due to the Administrator or to the Crown pursuant to this Act or under a contract made or deemed to have been made with such council pursuant to this Act, the Governor may by proclamation published in the Gazette divest the council of the care and management of any portion of the works and vest the same in the Administrator.

(2) In the event of a council making default as aforesaid and such default continuing for a period of three months after written notice requiring the council to remedy the same has been given to the council by the Administrator, then and in any such case such default shall be deemed to be a default within the meaning of section three hundred and seventy-six of the Local Government Act, and a receiver may be appointed accordingly by the Supreme Court on the application of the Minister, and such receiver shall have the powers and duties of a receiver appointed by virtue of that section.

Vesting of
care and
management
of works in
Adminis-
trator.

16. (1) The Governor may by proclamation published in the Gazette vest in the Administrator the care and management of any portion of the works.

(2) The Administrator shall, in respect of any works the care and management of which are vested in him pursuant to this Act, have all the powers of making, levying and collecting rates and charges as are conferred upon a council under the Local Government Act.

(3) The limitations contained in sections one hundred and twenty-nine and one hundred and thirty of the

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the Local Government Act, as to the amount of rates, shall not apply to or in respect of any water supply local rate made and levied in pursuance of this section.

(4) For the purpose of making and levying any such rate, a water pipe being portion of the works the care and management of which are vested in the Administrator, shall be deemed to be a water pipe of the Administrator.

17. (1) The respective liabilities of the councils of the Municipalities of Cootamundra and Temora to the Colonial Treasurer in respect of works of water supply with the care and management of which such councils were charged under the Local Government Act before the commencement of this Act are hereby extinguished.

Liability of certain councils extinguished.

(2) The care and management of the works mentioned in the First and Second Schedules to this Act are hereby divested from the councils of the Municipalities of Cootamundra and Temora.

18. (1) All contracts made before the commencement of this Act between the Minister for Public Works and any person (including a council) relating to the supply of water from the works are hereby validated.

Validation of certain contracts.

(2) The validation of such contracts by subsection one of this section shall be deemed to have taken effect as from the respective dates of execution of the said contracts, and any act, instrument, matter or thing made, done or executed under or in pursuance of any such contract is hereby validated.

(3) Without prejudice to the generality of subsections one and two of this section, the action of any council in making and levying a water supply local rate in respect of any works with the care and management of which the council has become charged under or in pursuance of any such contract, is hereby validated.

19. Where before the commencement of this Act the Minister for Public Works had entered into a contract with any person for the supply of water from the works, and such contract was still in force immediately before such commencement, the following provisions shall, as from such commencement, have effect:—

Transfer of certain contracts.

- (a) all such contracts shall be deemed to be contracts entered into by the Administrator pursuant to this Act;
- (b)

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- (b) all suits, actions and proceedings pending immediately before such commencement at the suit of the Minister for Public Works under or in relation to any such contract shall be suits, actions and proceedings of the Administrator;
- (c) all moneys and liquidated or unliquidated claims which immediately before such commencement were payable to or recoverable by the Minister for Public Works under or in relation to any such contract shall be moneys and liquidated or unliquidated claims payable to or recoverable by the Administrator;
- (d) any securities given to or by the Minister for Public Works in relation to any such contract, and in force immediately before such commencement shall be deemed to be securities given to or by the Administrator;
- (e) the Administrator may pursue the like remedies for the recovery of any such moneys and claims and for the prosecution of any such suits, actions and proceedings as the Minister for Public Works might have done but for this Act;
- (f) the Administrator may enforce and realise any such security as if the same were existing in favour of the Administrator;
- (g) all debts due and moneys payable by and all claims liquidated and unliquidated, recoverable against the Minister for Public Works under or in relation to any such contract, shall be debts due and moneys payable by and claims recoverable against the Administrator.

Regula-
tions.

20. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out the provisions of this Act.

(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of such publication or from a later date to be specified in the regulations; and
- (c)

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(c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

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

SCHEDULES.

FIRST SCHEDULE.

Secs. 4,
17 (2).

Works the care and management of which are divested from the Council of the Municipality of Cootamundra.

The following works constructed for purposes of Cootamundra Water Supply:—

All those works (excepting the town service reservoir and reticulation mains within the Municipality) the completion of which was notified in Gazette No. 814 of 22nd November, 1892.

All those works (excepting the additions to the said service reservoir and extensions to the said reticulation mains) the completion of which was notified in Gazette No. 44 of 23rd January, 1906.

The submerged weir, the completion of which was notified in Gazette No. 36 of 22nd March, 1911.

All those works the completion of which was notified in Gazette No. 181 of 12th November, 1913.

SECOND SCHEDULE.

Secs. 4, 17 (2).

Works the care and management of which are divested from the Council of the Municipality of Temora.

The following works constructed for the purposes of Temora Water Supply:—

All those works, the completion of which was notified in Gazette No. 54 of 4th May, 1923.

THIRD

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5 (2).**

Works with the care and management of which the Council of the Municipality of Cootamundra is charged.

The following works constructed for purposes of Cootamundra Water Supply:—

The town service reservoir and reticulation mains within the Municipality, the completion of which was notified in Gazette No. 814 of 22nd November, 1892.

The additions to the said service reservoir and extensions to the said reticulation mains, the completion of which was notified in Gazette No. 44 of 23rd January, 1906.

The extensions to the said reticulation mains, the completion of which was notified in Gazette No. 120 of 11th August, 1922.
