

## IRRIGATION (AMENDMENT) ACT.

Act No. 54, 1941.

George VI.  
No. 54, 1941.

An Act to make provision for the imposition of rates for certain purposes on certain lands within the Coomealla Irrigation Area; to make provision for the repayment of part of the capital cost of certain works of drainage within that Irrigation Area; to repeal section 145c of the Crown Lands Consolidation Act, 1913; to amend the Irrigation Act, 1912-1931, the Crown Lands Consolidation Act, 1913, the Water Act, 1912-1940, the Public Works Act, 1912, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 13th November, 1941.]

**B**E 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.** (1) This Act may be cited as the "Irrigation (Amendment) Act, 1941."

(2)

Short title,  
division  
into Parts  
and citation.

(2) This Act is divided into Parts as follows:— No. 54, 1941.

PART I.—PRELIMINARY.

PART II.—RATES AND CONTRIBUTIONS IN RESPECT OF THE COOMEALLA IRRIGATION AREA DEEP DRAINAGE WORKS.

PART III.—AMENDMENT OF THE IRRIGATION ACT, 1912-1931.

PART IV.—AMENDMENT OF THE CROWN LANDS CONSOLIDATION ACT, 1913.

PART V.—AMENDMENT OF THE WATER ACT, 1912-1940.

PART VI.—AMENDMENT OF THE PUBLIC WORKS ACT, 1912.

(3) The Irrigation Act, 1912-1931, as amended by subsequent Acts and by this Act, may be cited as the Irrigation Act, 1912-1941.

(4) The Water Act, 1912-1940, as amended by this Act, may be cited as the Water Act, 1912-1941.

---

PART II.

RATES AND CONTRIBUTIONS IN RESPECT OF THE COOMEALLA IRRIGATION AREA DEEP DRAINAGE WORKS.

2. In this Part—

Definitions.

“Bank” means the Rural Bank of New South Wales.

“Commission” means the Water Conservation and Irrigation Commission constituted under the Irrigation Act, 1912, as amended by subsequent Acts.

“Irrigation area” means the Coomealla Irrigation Area constituted under the Irrigation Act, 1912, as amended by subsequent Acts.

“Owner” in relation to land, includes every person who jointly or severally, whether at law or in equity—

(a) is entitled to the land for an estate of freehold in possession; or

(b) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Acts or any other Act relating to the alienation of lands of the Crown; or

(c)

No. 54, 1941.

(c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession or otherwise:

Provided that the Crown shall be deemed to be the owner of—

- (i) all lands of the Crown; and
- (ii) all lands vested in a statutory body representing the Crown as defined in the Local Government Act, 1919.

“Owned,” “owning” and similar expressions have a meaning corresponding with that of owner.

“Ratable person,” “person ratable” and similar expressions include the Crown in respect of ratable land owned by the Crown and mean—

- (a) an owner in any case where this Part provides that a rate of contribution shall be paid by the owner;
- (b) the holder of a lease in any case where this Part provides that a rate of contribution shall be paid by the holder of the lease.

“Rating year” means the period from the first day of July in one year to the thirtieth day of June in the next following year.

“Works of drainage” mean the works of drainage constructed under the authority of the Coomealla Irrigation Area Deep Drainage Act, 1939.

Benefited  
lands.

**3.** (1) Where the Commission is satisfied that any land within the irrigation area (not being land within the boundaries of a city, town or village as defined in the Crown Lands Consolidation Act, 1913) is benefited or is capable of being benefited by the works of drainage, the Commission may, by notification in the Gazette, declare such land to be benefited land for the purposes of this Part, and shall, in any such notification, define the land thereby declared to be benefited land.

(2) Where the Commission is satisfied that by reason of any alteration or extension of or addition to the

the

the works of drainage, or by reason of any other circumstance whatsoever, any other land within the irrigation area (not being land within the boundaries of a city, town or village as defined in the Crown Lands Consolidation Act, 1913) is benefited or is capable of being benefited, the Commission may, by notification in the Gazette, declare such other land to be benefited land for the purposes of this Part, and shall, in any such notification, define the land thereby declared to be benefited land. No. 54, 1941.

(3) Where the Commission is satisfied that any land which has been declared to be benefited land for the purposes of this Part has ceased to benefit or to be capable of being benefited by the works of drainage, the Commission may, by notification in the Gazette, declare that such land is no longer benefited land, and shall, in any such notification, define the land thereby declared to be no longer benefited land.

(4) Any notification under subsection one, subsection two or subsection three of this section may define the land therein referred to by reference to a map or plan sealed with the seal of the Commission and filed in the office of the Commission.

(5) Any notification under subsection two or subsection three of this section shall have and take effect as from the commencement of the rating year next after the date of publication of the notification. Such notification shall not affect the operation of any charge of rates on the land existing at the date the notification takes effect nor shall it exempt any person from liability to pay such rates.

4. (1) All benefited land (whether the property of the Crown or not) shall be ratable except— Ratable land.

- (a) land which is vested in the Crown or in a public body or in trustees and is used for a public cemetery; and
- (b) land which is vested in the Crown or in a public body or in trustees and is used for a common; and
- (c) land which is vested in the Crown or in a public body or in trustees and is used for a public reserve; and

(d)

No. 54, 1941.

- (d) land owned by the Crown not being land held under a lease from the Crown for private purposes; and
- (e) land which is a public place; and
- (f) land leased to trustees for charitable purposes for the promotion and encouragement of education at the public school at Dareton and for the benefit and advantage and welfare of the said school and the scholars thereof.

In this subsection the expressions "public reserve" and "public place" have the meanings ascribed thereto respectively in the Local Government Act, 1919.

(2) Where ratable land is owned by the Crown and is held by any person under a lease therefrom, the rates and the contributions fixed and levied under this Part in respect of that land shall be paid by the holder of the lease:

Provided that where a Crown lease is transferred by way of mortgage rates or contributions may not be recovered by the bank from the mortgagee unless and until the bank has failed to recover them from the mortgagor.

(3) Where ratable land is held under a lease from the Crown by two or more persons successively in the same rating year, whether with or without any interval between their holding, the Commission may, if it thinks fit—

- (a) make such adjustment (if any) of the rate and of the contribution whether paid or unpaid as it thinks proper between such persons;
- (b) direct the bank to make any refund in accordance with the adjustment;
- (c) direct the bank to write off any amount in respect of the interval between the holding of such persons.

The bank may recover from each of such persons his proportion of the rate and of the contribution as fixed by the adjustment.

Rates and  
contribu-  
tions.

**5.** (1) (a) Rates and contributions under this Part shall be payable in respect of all ratable land.

(b) Rates under this Part shall be fixed for the purpose of defraying the cost of the control, maintenance, management

management and repair of the works of drainage, and shall be fixed in respect of the area of benefited land owned by each ratable person. No. 54, 1941.

(2) A contribution towards the capital cost of the works of drainage at the rate of eight pounds per acre of benefited land shall be payable in respect of all ratable land.

(3) All rates under this Part shall be fixed by the Commission and shall be paid to the bank.

(4) All contributions under this Part shall be paid to the bank.

**6.** Every rate and contribution shall, except where this Part otherwise provides, be paid to the bank by the owner of the benefited land. Liability  
for rates  
and con-  
tributions.

**7.** Rates under this Part shall be fixed by the Commission for and during each rating year, and the first rating year shall be deemed to have commenced on the first day of July, one thousand nine hundred and forty-one. Rates.

**8.** (1) Every rate shall be levied by the service of a rate notice and every contribution shall be levied by the service of a contribution notice. Levy of  
rates and  
contribu-  
tions.

(2) Every rate and every contribution shall be levied in respect of a separate parcel of land, but the rate or contribution in respect of any parcel of land may be included in the rate notice or contribution notice in respect of any other parcel of land.

(3) Every rate and every contribution in respect of any land shall be levied upon the person ratable in respect of the land, that is to say—

(a) upon the owner, in any case where this Part provides that the rate or the contribution shall be paid by the owner; and

(b) upon the holder of a lease, in any case where this Part provides that the rate or the contribution shall be paid by the holder of the lease.

(4) In any case where more than one person is an owner or holder of the land within the meaning of this Part, the rate or contribution may be levied upon any one or more of such persons, and the bank may recover the rate

**No. 51, 1941.** rate or the contribution as against any person upon whom the rate or the contribution, as the case may be, is so levied:

Provided that nothing in this subsection shall entitle the bank to recover more than the full amount of the rate or the contribution as the case may be.

(5) Where land which was not ratable has become ratable, the rate in respect thereof shall be proportionate to the portion of the year during which the land is ratable.

(6) Where land which was ratable becomes not ratable, part of the rate paid in respect thereof proportionate to the period of the year during which the land is not ratable shall be refunded by the bank.

(7) Rates and contributions shall be payable by the person ratable in respect of any land, whether or not he uses the works of drainage.

Contributions.

**9.** Every contribution payable under this Part shall be paid by fifteen equal consecutive annual instalments, and the first instalment shall be payable on the thirtieth day of June or the thirty-first day of December whichever first follows the date of service by the bank of the contribution notice. Interest at the rate of four per centum per annum shall be payable on so much of the contribution as is for the time being unpaid, such interest to be paid on the same days as the instalments of contribution.

Charge of rates and contributions on land.

**10.** (1) Every rate and every contribution under this Part shall be a charge on the land in respect of which the rate or contribution is levied, in priority to all sales, conveyances, transfers, mortgages, charges, liens and encumbrances whatsoever:

Provided that—

- (a) no such charge for any rate or contribution shall be of any effect as against a bona-fide purchaser for value who at the time of purchase made due inquiry but had no notice of the liability; and
- (b) a purchaser shall be deemed to have made due inquiry who has obtained a written statement from the bank as to the amount (if any) of rates and contributions which are still unpaid.

(2) Where the land is owned by the Crown the charge shall not affect or extend to the estate or interest of the Crown in the land.

(3)

(3) The charge shall rank *pari passu* with any other charge on the land under any other Act. No. 54, 1941.

**11.** Every ratable person shall become liable to the payment of rates fixed under this Part on the thirtieth day of June or the thirty-first day of December whichever first follows the service upon him by the bank of a rate notice. Rate notices.

**12.** A rate notice or a contribution notice under this Part may be served upon the ratable person— Service of notices.

- (a) personally; or
- (b) by delivering the same at or on the premises at which the ratable person lives or carries on business or by leaving the same with any person apparently above the age of fourteen years resident or employed thereat; or
- (c) by posting the same to the ratable person by prepaid letter addressed to the ratable person at his place of abode or business last known to the bank.

**13.** (1) The amount due for any rate under this Part shall be increased by a sum calculated at the rate of five per centum per annum from the due date of payment until payment is made and the increase shall be deemed to be part of the rate. Overdue rates, extra charge.

(2) The increase in the rates under this section shall continue to apply to all unpaid rates notwithstanding that judgment may have been obtained in any court, including the district court.

**14.** Any rate or instalment of contribution under this Part may be recovered by the bank as a debt in any court of competent jurisdiction. Recovery of rates and instalments of contributions.

**15.** (1) Where the land is owned or held jointly by two or more ratable persons, such persons shall be jointly and severally liable for payment of the rate and the contribution to the bank, but as between themselves each shall only be liable for such part of the rate or the contribution as is proportionate to his interest in the land and in the improvements thereon. Liability where land is owned or held jointly.

(2) If any such person pays to the bank more than his proportionate part he may recover the excess by way of contribution from the others.



No. 54, 1941.

Notice of  
transfer  
to be given.

Liability  
where  
estate or  
interest is  
transferred.

**16.** If a ratable person transfers his estate or interest in ratable land he shall within thirty days of such transfer give notice thereof to the Commission.

**17.** (1) Where any ratable person disposes of his estate or interest in ratable land he shall nevertheless remain liable for the rate to the same extent as if he had not disposed of his estate or interest, provided the rate is levied, either—

- (a) before he disposes of his estate or interest; or
- (b) before he has given notice to the Commission of the transfer of his estate or interest.

(2) Where any ratable person disposes of his estate or interest in ratable land, he shall nevertheless remain liable for all instalments of contribution which become due for payment either—

- (a) before he disposes of his estate or interest; or
- (b) before he has given notice to the Commission of the transfer of his estate or interest.

(3) If any ratable person who disposes of his estate or interest in ratable land pays to the bank any rate which is levied after he disposes of his estate or interest and before the notice of transfer is given to the Commission he may recover the amount from the person to whom he disposes of his estate or interest.

(4) If any ratable person who disposes of his estate or interest in ratable land pays to the bank any instalment of contribution which becomes due for payment after he disposes of his estate or interest, and before the notice of transfer is given to the Commission, he may recover the amount from the person to whom he disposes of his estate or interest.

(5) As between a ratable person and any other person from whom he derives or to whom he disposes of his estate or interest in ratable land every rate and every instalment of contribution shall be considered as accruing from day to day and shall be apportionable in respect of time accordingly.

Liability  
where a  
person  
becomes  
entitled to  
an estate  
or interest.

**18.** (1) Where a person by becoming entitled to an estate or interest in the land becomes a ratable person, he shall be liable to pay to the bank the current rate and all arrears of the rate owing by any previous owner

in

in respect of the land, notwithstanding the fact that he became entitled to the estate or interest after the rate was levied. No. 54, 1941.

(2) Where a person by becoming entitled to an estate or interest in the land becomes a ratable person, he shall be liable to pay to the bank all instalments of contribution then due and unpaid in respect of the land, and all instalments of contribution thereafter becoming due in respect of the land.

(3) If any ratable person who becomes entitled to an estate or interest in the land pays to the bank any rate in respect thereof which was levied before he became entitled to the estate or interest, he may recover a proportion of the amount from the person who was liable for the rate at the time when the same was levied.

(4) If any ratable person who becomes entitled to an estate or interest in the land pays to the bank any instalment of contribution which became due before he became entitled to the estate or interest, he may recover the amount from the person who was liable for the instalment of contribution at the time when the same became due.

(5) The proviso to subsection one of section ten of this Act relating to a charge for rates or contributions shall apply mutatis mutandis to the liability for rates or instalments of contribution under this section.

**19.** (1) The powers, authorities, duties and functions conferred or imposed upon the bank by this Part shall be exercised and performed by the bank through its irrigation agency.

Provisions  
relating to  
the bank.

(2) Moneys which by virtue of this Part become payable to or recoverable by or which may be received by the bank shall be treated in account by the bank and disposed of by it when received as if such moneys were revenue moneys as defined in Division 1 of Part VI<sub>B</sub> of the Government Savings Bank Act, 1906, as amended by subsequent Acts.

(3) To the extent that the same are applicable and are not inconsistent with this Part, the provisions of Division 1 of Part VI<sub>B</sub> of the Government Savings Bank Act, 1906, as amended by subsequent Acts, shall apply

**No. 54, 1941.** apply to all moneys which become payable to or recoverable by or which are received by the bank in pursuance of this Part.

---

PART III.

AMENDMENT OF THE IRRIGATION ACT, 1912-1931.

Amendment  
of Act No.  
73, 1912.  
Sec. 7.  
(Setting  
land apart.)  
New secs.  
7B and 7C.

**20.** (1) The Irrigation Act, 1912-1931, as amended by subsequent Acts, is amended—

(a) by omitting subsection four of section seven;

(b) by inserting next after section 7A the following new sections:—

7B. (1) Where an irrigation farm lease is converted into an irrigation farm purchase, the number of water rights which were attached to the lease or any part thereof, the prices which were fixed therefor, and the number of the said water rights which were a fixed charge on the lease or any part thereof and which were applicable in relation to the lease immediately before the date upon which the conversion took effect shall as from that date continue to apply to the purchase.

(2) Upon the issue of a grant in fee-simple of land acquired by virtue of an irrigation farm purchase, the number of water rights which were attached to the purchase or any part thereof, the prices which were fixed therefor, and the number of the said water rights which were a fixed charge on the purchase or any part thereof and which were applicable in relation to the purchase immediately before the date of issue of the grant shall as from that date continue to apply to the grant.

(3) Where a grant in fee-simple of land acquired by virtue of an irrigation farm purchase has been issued and such land is lawfully subdivided into two or more portions, the Minister by notification in the Gazette—

(a) shall state the number of water rights (if any) which are to attach to each portion or to any part thereof;

(b)

Water  
rights, etc.,  
upon con-  
version,  
grant or  
subdivision.

- (b) shall fix the prices for the water rights attached to each portion or to any part thereof, or fix different prices for the water rights attached to different parts of each portion; No. 54, 1941.
- (c) shall specify the number of the said water rights which are to be a fixed charge on each portion or any part thereof, and
- (d) may specify such provisions and conditions, not inconsistent with this Act, as according to the facts and circumstances the Minister thinks fit.

(4) The provisions of this section shall be deemed to have been in force from the date of commencement of the Irrigation Holdings (Freehold) Act, 1924.

7c. (1) 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 within an irrigation area, or with the like consent alter the price for all or any of the said water rights. Alteration  
of number  
of water  
rights, etc.

(2) Where in the opinion of the Minister the number of water rights which attach to any land within an irrigation area and the prices therefor have been determined or fixed having regard to—

- (a) the fact that no fruit trees or vines were planted on the land; or
- (b) the area of fruit trees or vines planted on the land; or
- (c) the maximum area of fruit trees or vines which may at the date of such determination or fixation be planted on the land in accordance with any condition attaching to the land in pursuance of the provisions of the Crown Lands Consolidation Act, 1913,

and since the date on which the attaching of the said water rights took effect fruit trees or vines

No. 54, 1941.

vines have been planted on land of the class referred to in paragraph (a) of this subsection or an area of fruit trees or vines in excess of the area referred to in paragraph (b) or paragraph (c) of this subsection has been planted on the land, the Minister may, if in his opinion the circumstances so warrant, determine—

- (i) the number of water rights to attach to such land or any part thereof;
- (ii) the price for each of the said water rights;
- (iii) the number of the said water rights which are to be a fixed charge on such land or any part thereof.

The numbers and prices so determined by the Minister shall be notified in the Gazette. Such notification shall specify the date on and from which the determination of the Minister shall take effect and the numbers and prices so determined shall be in lieu of the numbers and prices applying in respect of the water rights which before the date so specified were attached to such land or any part thereof.

The power to determine the price for water rights shall include power to determine the different price for water rights to attach to different parts of the land.

(3) The powers conferred by this section may be exercised from time to time as occasion may require.

Sec. 9.  
(Construction of works, etc.)

(c) by inserting at the end of section nine the following new subsections:—

(2) (a) Every work which the Commission is authorised by this section to construct shall be constructed under the Public Works Act, 1912, as amended by subsequent Acts.

(b) Any such work shall be deemed to be an authorised work within the meaning of the Public Works Act, 1912, as amended by subsequent Acts, and the provisions of the said Act as so amended, sections thirty-four, thirty-five, thirty-six and thirty-seven excepted, shall apply to and in respect of any such work.

(c)

(c) The Commission shall be the constructing authority for any such work within the meaning of the said Act as so amended, and shall enter into such contracts and take all such necessary steps for the proper execution thereof as such authority may think proper. **No. 54, 1941.**

(3) Without prejudice to the generality of subsections one and two of this section the provisions of section thirty-eight of the Public Works Act, 1912, as amended by subsequent Acts, shall apply to and in respect of any of the contracts referred to in paragraph (c) of subsection two of this section.

(4) In the exercise by the Commission of its powers, authorities, duties and functions under this Act, and in the exercise of its control and administration of any irrigation area, the Commission may, by its officers or servants, enter any lands for the purpose of making and carrying out inspections, tests, investigations, experiments and surveys, and for constructing, maintaining and altering any works, and for any other purpose in the exercise of its powers and duties.

(2) The Irrigation Act, 1912-1931, as amended by subsequent Acts, is further amended by omitting from the matter relating to Part II in section one the figure and letter "7A" and by inserting in lieu thereof the figure and letter "7c." **Further amendment of Act No. 73, 1912. (Revision.)**

(3) The Murrumbidgee Irrigation Areas Occupiers Relief Act, 1934, is amended— **Amendment of Act No. 52, 1934, s. 14. (Consequential.)**

(a) by inserting in subsection one of section fourteen after the words "(as inserted by section thirteen of this Act)" the words "or section 7B or section 7c of the Irrigation Act, 1912-1941."

(b) by inserting at the end of the same subsection the words "or in accordance with section 7B or 7c of the Irrigation Act, 1912-1941";

(c) by inserting in subsection two of the same section after the words "(as inserted by section thirteen

**Irrigation (Amendment) Act.**

No. 54, 1941.

thirteen of this Act)" the words "or section 7B or section 7c of the Irrigation Act, 1912-1941";

(d) by omitting from the same subsection the words "or subsection four of section seven";

(e) by inserting at the end of the same subsection the words "or in accordance with section 7B or section 7c of the Irrigation Act, 1912-1941."

Revision  
of  
accounting  
provisions.

**21.** (1) This section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Further  
amendment of  
Act No. 73,  
1912.

(2) The Irrigation Act, 1912-1931, as amended by subsequent Acts, is further amended—

Sec. 18.  
(Collection  
of rents,  
etc.)

(a) (i) by omitting from section eighteen the words "All moneys received by the Commission shall, subject to this subsection, be paid into the Treasury and carried to the Consolidated Revenue Fund, and credited as the revenue of the Commission: Provided that any part of such moneys may be paid into any special deposit account established under the Special Deposits (Industrial Undertakings) Act, 1912."

(ii) by inserting at the end of the same section the following new subsection:—

(3) All moneys received by the Commission in connection with the Murrumbidgee Irrigation Scheme, the Coomealla Irrigation Area, the Hay Irrigation Area, the Wentworth Irrigation Area, and Districts and Provisional Districts constituted under Part VI and Part VII of the Water Act, 1912, as amended by subsequent Acts shall, subject to the provisions of subsection two of this section, be paid into the Treasury and carried to an account to be opened in the Special Deposits Account of the Treasury entitled the Water Conservation and Irrigation Commission Working Account and from which account so opened all payments may be

be made in connection with the said Murrumbidgee Irrigation Scheme, the said Irrigation Areas and the said Districts and Provisional Districts, and into which account shall be transferred the balances remaining in the Special Deposits Accounts entitled Domestic and Stock Water Supply Districts and Domestic and Stock Water Supply and Irrigation Districts Account and Murrumbidgee Irrigation Areas Working Account.

- (b) (i) by omitting from subsection one of section 23B the words "under the Special Deposits (Industrial Undertakings) Act, 1912"; (Murrumbidgee Irrigation Scheme capital cost.)
- (ii) by omitting subsections two, three, four, five, six, seven, eight and nine of the same section.

(3) The provisions of the Special Deposits (Industrial Undertakings) Act, 1912, and of any Act amending that Act shall cease to apply to the Murrumbidgee Irrigation Areas Industrial Undertaking on the day appointed by the Governor for the commencement of this section.

---

#### PART IV.

#### AMENDMENT OF THE CROWN LANDS CONSOLIDATION ACT, 1913.

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

- (a) by omitting from subsection six of section 142B the word "ten" and by inserting in lieu thereof the word "twenty"; (Amendment of Act No. 7, 1913. Sec. 142B. (Conditions, etc., of town land purchases.)
- (b) by inserting at the end of paragraph (a) of subsection five of section one hundred and forty-five the words "Where in the case of a conversion, whether made before or after the commencement of the Irrigation (Amendment) Act, 1941, no such notification is made the conditions which attached to the lease before conversion shall apply to the purchase"; (Sec. 145. (Conversion of I.F.L. to I.F.P., etc.)

(c)



**Irrigation (Amendment) Act.**

No. 54, 1941.

Sec. 145B.  
(Conditions.)

(e) (i) by omitting subsection three of section 145B and by inserting in lieu thereof the following subsection:—

(3) The following provisions shall apply in respect of every lease or purchase existing at the commencement of the Irrigation (Amendment) Act, 1941:—

(a) The Minister may, by notification published in the Gazette declare that any special condition or reservation in or to the effect of the form specified in the notification shall cease to attach to any specified lease or purchase, or to any specified class of leases or purchases, or to all leases or purchases

(b) The notification shall take effect from the date of publication or from a later date to be specified in the notification.

(c) As from the date upon which any such notification takes effect the special conditions or reservations to which the notification relates shall, as provided in the notification, cease to apply.

(ii) by omitting from paragraph (b) of subsection four of the same section the words “the special conditions and reservations which shall attach to any lease or purchase in lieu of the special conditions and reservation previously notified” and by inserting in lieu thereof the words “that any special condition or reservation attaching to the lease or purchase shall cease to attach thereto”;

(iii) by omitting from the same subsection the words “or to the substituted special conditions”;

(d) by omitting section 145c;

Sec. 145c.  
(Holder of irrigation farm, etc., may acquire by transfer by way of sale any other irrigation farm, etc.)

(e)

- (e) by inserting next after section 146A the following new short heading and section:—

No. 54, 1941.  
New sec.  
146B.

*Subdivision of land in respect of which grant in fee-simple has been issued.*

146B. (1) Land in respect of which a grant in fee-simple has been issued, either before or after the date of the commencement of the Irrigation (Amendment) Act, 1941, shall not be subdivided into two or more portions unless the consent of the Commission has been given to the proposed subdivision and the secretary to the Commission has certified that any works required to be carried out pursuant to subsection five of this section have been completed to the satisfaction of the Commission and that any moneys payable to the Commission pursuant to that subsection have been paid.

Subdivision of land in respect of which grant in fee-simple has been issued.

(2) Application for the consent of the Commission shall be made in the prescribed manner and shall be accompanied by the prescribed deposit, which deposit shall be applied towards cost of any survey, inspections or reports, which may be required.

(3) The Commission may grant any application under this section and may do so, with or without modification thereof, and on such terms and conditions as it may deem fit to impose.

(4) Such land as may be deemed necessary by the Commission, to provide roads of access to the subdivided portions and for channels and drainage, shall be surrendered, and upon surrender shall become Crown land, free from any claim thereto by any person, and no person shall be entitled to any compensation in respect of the land or any improvements thereon.

(5) Such works as the Commission may deem necessary for the purpose of, or incidental to, a subdivision may be carried out by either the owner of the land subdivided, or the Commission, as the Commission may decide. If carried out by the owner, all such works shall be

No. 54, 1941.

be to the approval of the Commission in respect of location, design, form, dimensions and construction. If carried out by the Commission, the total cost of all works shall be paid by the owner to the Commission and until payment shall be a charge upon the land.

(6) All works constructed pursuant to subsection five of this section shall become the property of the Commission without charge.

(7) The consent of the Commission required by this section shall be in addition to any approval required by the Local Government Act, 1919.

## PART V.

## AMENDMENT OF THE WATER ACT, 1912-1940.

Amendment of  
Act No. 44,  
1912.  
New  
Division 6A.

**23.** The Water Act, 1912-1940, is amended—

(a) by inserting next after Division 6 of Part III the following new Division:—

*DIVISION 6A.—Works of drainage within districts of trusts constituted in respect of works of irrigation.*

Construc-  
tion or  
acquisition  
of works of  
drainage.

65A. (1) If the trustees of a trust, constituted in respect of any work of irrigation, request the Commission in writing to construct or acquire works of subsoil drainage or surface drainage (in this Division hereinafter referred to as "works of drainage") for the purpose of draining any lands within the trust district, the Commission may supply to the trustees a statement of—

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

(2)

(2) Upon the receipt of an intimation No. 54, 1941. from the trustees that the statement has been approved by a special general meeting of the voters of the trust, of which meeting not less than fourteen days' notice shall be given in the prescribed manner, the Commission may proceed with the construction or acquisition as the case may be of the works of drainage.

(3) The completion or acquisition and transfer to the trust of the works of drainage shall be notified by the Commission in the Gazette, and in such notification the Commission shall direct that the trust shall pay the cost of the works of drainage by a sinking fund within the number of years specified in the statement referred to in subsection one of this section and interest on such cost.

A copy of such notification shall be sent to the trustees by the Commission.

(4) Cost in this section shall mean the actual cost or the estimated cost plus ten per centum whichever is the less.

(5) Interest and payments to the sinking fund shall commence to run from a date to be set out in the notification referred to in subsection three of this section.

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

(7) The trustees, in addition to the rate or rates which they are empowered under this Part of this Act to fix and levy for the supply of water, may, for the purpose of providing money for the maintenance and management of the works of drainage and for interest and payments to the sinking fund, fix and levy a rate per acre upon the lands within the trust district which are benefited by the works of drainage

No. 54, 1941.

drainage, and this rate may vary according to the distance of the land from the drains, and in proportion to the benefit received as aforesaid.

(8) The provisions of this Part of this Act which relate to rates and rating shall mutatis mutandis, extend to the rate mentioned in this section.

Sec. 130.  
(Definitions.)

(b) by omitting the definition of "Owner" in section one hundred and thirty and by inserting in lieu thereof the following new definition:—

"Owner," in relation to land, includes every person who jointly or severally, whether at law or in equity—

- (a) is entitled to the land for any estate of freehold in possession; or
- (b) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Acts or any other Act relating to the alienation of lands of the Crown; or
- (c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof whether as beneficial owner, trustee, mortgagee in possession, or otherwise; or
- (d) is the holder of a lease from the Crown or any statutory body representing the Crown.

Sec. 150.  
(Definitions.)

(c) by omitting the definition of "Owner" in section one hundred and fifty and by inserting in lieu thereof the following new definition:—

"Owner," in relation to land, includes every person who jointly or severally, whether at law or in equity—

- (a) is entitled to the land for any estate of freehold in possession; or
- (b) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Acts or any other Act relating to the alienation of lands of the Crown; or

(c)

- (c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise; or
- (d) is the holder of a lease from the Crown or any statutory body representing the Crown.
- (d) by inserting in section one next after the matter relating to Division 6 of Part III the following new matter:—

DIVISION 6A.—*Works of drainage within districts of trusts constituted in respect of works of irrigation—s. 65A.*

## PART VI.

### AMENDMENT OF THE PUBLIC WORKS ACT, 1912.

**24.** The Public Works Act, 1912, as amended by subsequent Acts, is amended—

- (a) by inserting at the end of the definition of “Constructing Authority” in section three the words “and also includes the Water Conservation and Irrigation Commission for the purpose of enabling the said Commission to carry out any authorised work which it is empowered to carry out”;
- (b) by inserting in subsection two of section thirty-four after the word “Minister” the words “or the Water Conservation and Irrigation Commission”;
- (c) (i) by inserting in paragraph (a) of subsection two of section forty after the word “schools” the words “or the carrying out of works which the Water Conservation and Irrigation Commission is, pursuant to a direction given under this Act, required to carry out”;

No. 54, 1941.

Sec. 1.  
(Revision.)

Amendment  
of Act No.  
45, 1912.

Sec. 3.  
(Definitions.)

Sec. 34 (2).  
(Work costing  
less than  
twenty thou-  
sand pounds.)

Sec. 40.  
(Taking of  
lands.)

(ii)

**No. 54, 1941.**

(ii) by inserting at the end of paragraph (b) of the same subsection the following words and new paragraph:—

“with relation to lands acquired or resumed for the establishment of public or other schools; or

(c) the Water Conservation and Irrigation Commission with relation to lands acquired for works which the said Commission is, pursuant to a direction given under this Act, required to carry out.”

**Sec. 41.**  
(Definition  
of public  
works.)

(d) by inserting next after paragraph (aa) of section forty-one the following new paragraph:—

(ab) works for the prevention of floods or the control of flood waters.

---