

IRRIGATION AND WATER (AMENDMENT) ACT.

Act No. 2, 1943.

An Act to amend the Irrigation Act, 1912-1941, the Wentworth Irrigation Act, the Hay Irrigation Act, 1902, the Water Act, 1912-1941, the Crown Lands Consolidation Act, 1913, the Western Lands Act of 1901, and certain other Acts in certain respects; to validate certain matters; and for purposes connected therewith. [Assented to, 31st March, 1943.]

George VI.
No. 2, 1943.

BE

Irrigation and Water (Amendment) Act.

No. 2, 1943.

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.

Short title
division into
Parts and
citation.

1. (1) This Act may be cited as the "Irrigation and Water (Amendment) Act, 1943."

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

PART I.—PRELIMINARY.

PART II.—AMENDMENT OF THE IRRIGATION ACT, 1912-1941.

PART III.—AMENDMENT OF THE WENTWORTH IRRIGATION ACT.

PART IV.—AMENDMENT OF THE HAY IRRIGATION ACT, 1902.

PART V.—AMENDMENT OF THE WATER ACT, 1912-1941.

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

PART VII.—AMENDMENT OF THE WESTERN LANDS ACT OF 1901.

PART VIII.—MISCELLANEOUS.

(3) The Irrigation Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Irrigation Act, 1912-1943.

(4) The Water Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Water Act, 1912-1943.

PART II.

AMENDMENT OF THE IRRIGATION ACT, 1912-1941.

Amendment
of Act No. 73,
1912.

Sec. 3.
(Defini-
tions.)

2. The Irrigation Act, 1912-1941, is amended—

(a) by inserting in the definition of "The Construction Act" in section three after the word "Jack" the word "Dam";

(b)

Irrigation and Water (Amendment) Act.

7

(b) by inserting at the end of section four the following new subsection:—

No. 2, 1943.

Sec. 4.

(Appoint-
ment of
Commis-
sion.)

(8) (a) Notwithstanding anything contained in any Act nothing contained in this Act shall affect the rights accrued or accruing under this Act, or the Public Service Act, 1902, or the Superannuation Act, 1916, or any Act amending such Acts, to any person appointed a commissioner under this Act who is, at the time of his appointment, an officer of the Public Service or an officer within the meaning of this Act or of the Government Savings Bank Act, 1906, or any Act amending those Acts, or an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof.

(b) Any officer of the Public Service or any officer within the meaning of this Act or of the Government Savings Bank Act, 1906, or any Act amending those Acts, or any employee within the meaning of the Superannuation Act, 1916, or any amendment thereof, appointed a commissioner under this Act shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension, or gratuity, as if he were an officer within the meaning of this Act, the Public Service Act, 1902, or the Government Savings Bank Act, 1906, or any Act amending such Acts, or an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof, as the case may be, and for such purpose his service as a commissioner shall be deemed to be service for the purposes of such Acts.

(c) Any person appointed a commissioner under this Act shall have the same rights of leave of absence and payment of a cash allowance in lieu thereof as are granted to officers in the service of the Commission under the regulations made under this Act or under any award of the Industrial Commission of New South Wales or any industrial agreement having the force of an award.

(d)

Irrigation and Water (Amendment) Act.

No. 2, 1943.

(d) Each of the commissioners appointed under this Act holding office immediately before the commencement of the Irrigation and Water (Amendment) Act, 1943, shall have the rights and privileges conferred and be subject to the obligations imposed by this subsection in all respects as if this subsection had been in force at the date of his appointment.

New secs.
5A-5E.

(e) by inserting next after section five the following new sections:—

Officers between sixty and sixty-five years of age entitled or may be called upon to retire.
cf. Act No. 31, 1902, s. 66.

5A. (1) Every officer in the service of the Commission, whether appointed before or after the commencement of the Irrigation and Water (Amendment) Act, 1943, and whether he has attained the age of sixty years before or after such commencement, shall be entitled, if he desires so to do, having attained the age of sixty years, to retire from the service of the Commission.

(2) Any such officer may, unless called upon to retire as hereinafter provided, continue in the service of the Commission until he attains the age of sixty-five years.

(3) If any such officer continues in the service of the Commission after he has attained the age of sixty years, he may at any time before he attains the age of sixty-five years if he is an officer appointed by the Governor be called upon by the Governor, on the recommendation of the Commission, to retire, or if he is an officer appointed by the Commission be called upon by the Commission to retire; and every such officer so called upon to retire shall retire accordingly.

Officers on attaining the age of sixty-five to retire unless called upon to continue.
cf. *Ibid.* s. 67.

5B. (1) Every officer, whether appointed before or after the commencement of the Irrigation and Water (Amendment) Act, 1943, if he attains the age of sixty-five years after such commencement, shall retire immediately on attaining that age, unless he is required, notwithstanding his age, to continue to perform his duty in the service of the Commission as hereinafter provided and is willing so to do.

(2)

Irrigation and Water (Amendment) Act.

9

(2) (a) Notwithstanding that any officer appointed by the Governor has attained the age of sixty-five years (if the Commission certifies that in the interests of its service it is desirable that such officer should continue in the performance of the duties of his office, or of any office in the service of the Commission to which he may be appointed, and if such officer is able and willing to do so) the Governor may from time to time direct such officer to continue in the service of the Commission for such fixed time not exceeding twelve months as the Governor may direct or during pleasure. No. 2, 1943.

(b) Notwithstanding that any officer appointed by the Commission has attained the age of sixty-five years (if he is able and willing to continue in the performance of the duties of his office or of any office in the service of the Commission to which he may be appointed) the Commission may from time to time direct such officer to continue in its service for such fixed time not exceeding twelve months as the Commission in each case directs.

5c. Every officer who has had fifteen years service shall be entitled to three months leave on full pay or six months on half pay, and on the completion of twenty years service shall be entitled to a further three months leave on full pay or six months on half pay. After completion of further service after twenty years and up to a total service of forty years in all, he shall be entitled to a further proportionate amount of leave on full pay or half pay calculated on the basis of six months or twelve months respectively for twenty years service. Leave of absence after years of service.
cf. Act No. 43. 1919,
s. 13.

Where an officer appointed to the service of the Commission was, immediately before such appointment, an officer of the Public Service or an officer in the employment of the Rural Bank of New South Wales or of any statutory body representing the Crown, the service of such officer in the Public Service or in the employment of such Bank or of such statutory body shall be

No. 2, 1943.

Dependent
relative
to receive
money
value of
leave not
taken or
completed.
cf. Act No.
43, 1919,
s. 14.

be deemed to be service with the Commission for the purposes of this section; but no person shall be entitled to claim benefits under this section as well as under any other provision of this Act or under any other Act in respect of the same period of service.

5D. Where a commissioner (other than the Minister for Agriculture) or an officer has acquired a right under this Act to extended leave with pay and dies before entering upon it, or after entering upon it dies before its termination, his widow, or in the case of a widower leaving children, his children, or their guardian, or other dependent relative, or their legal representative, shall be entitled to receive the money value of the leave not taken, or not completed, computed at the rate of salary the commissioner or officer, as the case may be, received at the time of his death. Such payment shall be in addition to any payment due under the provisions of the Superannuation Act, 1916, as amended by subsequent Acts:

Provided that where payment of the money value of leave has been made under this Act, no action may be brought against the Crown or the Commission for payment of any amount in respect of such leave.

Gratuity
in lieu of
extended
leave.
cf. *Ibid.*
s. 13A.

5E. (1) An officer who has acquired a right to extended leave with pay and—

(a) retires from the service of the Commission under the provisions of section 5B of this Act, or

(b) is called upon to so retire under the provisions of subsection three of section 5A of this Act,

shall be paid forthwith in lieu of such leave the money value thereof as a gratuity in addition to any gratuity to which he may be otherwise entitled. Any pension to which any such officer is entitled under the Superannuation Act, 1916, as amended by subsequent Acts, shall commence from the date upon which his extended leave, if taken, would have commenced.

(2)

Irrigation and Water (Amendment) Act.

11

(2) An officer who has acquired a right to extended leave with pay and retires from the service of the Commission under the provisions of subsection one of section 5A of this Act shall be paid forthwith in lieu of such leave the money value thereof as a gratuity in addition to any gratuity to which he may otherwise be entitled.

No. 2, 1943.

Any pension to which any such officer is entitled under the Superannuation Act, 1916, as amended by subsequent Acts, shall commence from the date following that upon which his extended leave, if taken, would have terminated.

- (d) (i) by omitting from section six the words "and vary the boundaries of any area so constituted; such proclamation shall also be published in some newspaper circulating in or in the neighbourhood of the area," and by inserting in lieu thereof the following words:—

Sec. 6.
(Constitution of irrigation areas.)

The Governor may by proclamation published in the Gazette alter an irrigation area constituted or deemed to be constituted under this section by including additional lands of the Crown.

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

(2) The Governor may by proclamation published in the Gazette alter an irrigation area constituted or deemed to be constituted under this section by—

- (a) excising lands; or
(b) transferring lands from one irrigation area to another.

(3) Any proclamation made under the Murrumbidgee Irrigation Act, 1910, and any proclamation made under this section may be corrected, amended, modified or revoked whether as to the whole or any part thereof by the Governor by proclamation in the Gazette.

The

No. 2, 1943.

The provisions of this subsection shall be deemed to have been in force from the commencement of the Irrigation (Amendment) Act, 1918.

(4) For the purposes of this section the expression "land of the Crown" shall include and shall be deemed always to have included land vested in the Commission and land vested pursuant to section six of the Murrumbidgee Irrigation Act, 1910, in the Minister of the Crown administering the Acts relating to irrigation.

New sec. 6B.

(e) by inserting next after section 6A the following new section:—

Validation.

6B. The irrigation areas known as Yanco Number One and Mirrool Number One shall be deemed to have been validly constituted under section six of this Act, and any variations of the boundaries of either of such areas shall be deemed to have been validly made.

Further
amendment
of Act No. 73,
1912.

3. (1) The Irrigation Act, 1912-1941, is further amended—

Sec. 7.
(Setting
land
apart as
irrigation
farms.)

(a) by inserting at the end of subsection one of section seven the following new paragraph:—

Any notification under this subsection which relates to land within the Coomealla Irrigation Area may specify the year (not being later than the fifth year after the date of the granting of the application for the lease or purchase) during and after which the water rights shall respectively attach to and be a fixed charge on the lease or purchase or part of the lease or purchase, as the case may be, and in such case shall also specify what proportion of such water rights or what number of water rights shall respectively attach to and be a fixed charge on the lease or purchase, or part of the lease or purchase, as the case may be, during each year of the period between the date of the granting of the application for the lease or purchase and the commencement of the year so specified.

Where

Where no year is so specified the water rights shall respectively attach to and be a fixed charge on the lease or purchase or part of the lease or purchase, as the case may be, as from the date of the granting of the application for the purchase or lease.

No. 2, 1943.

(b) by inserting at the end of section 7A the following new subsection:—

Sec. 7A.
(Number and price of water rights where farm subdivided, etc.)

(3) Any notification under this section which relates to land within the Coomealla Irrigation Area may specify the year (not being later than the fifth year after the date upon which the occupier lawfully subdivides his holding, or surrenders part of his holding, or land is added to a holding, or the irrigable area of a holding is increased or additional facilities for watering are provided by the Commission as the case may be) during and after which the water rights shall respectively attach to and 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;

and in such case shall also specify what proportion of such water rights or what number of water rights shall respectively attach to and be a fixed charge during each year of the period between the date of subdivision or surrender, or the addition of land to the holding, or the date upon which the irrigable area of the holding was increased or additional facilities for watering were provided by the Commission, as the case may be, and the commencement of the year so specified.

Where no year is so specified the water rights shall respectively attach to and be a fixed charge on the holding or part thereof, as the case may be,

Irrigation and Water (Amendment) Act.**No. 2, 1943.**

be, as from the date of subdivision, or surrender, or addition of land to the holding, or the date upon which the irrigable area of the holding was increased or additional facilities for watering were provided by the Commission, as the case may be.

(2) Subsection one of this section shall be deemed to have commenced on the twenty-eighth day of December, one thousand nine hundred and thirty-four.

(3) All procedure and action taken after the commencement of the Irrigation (Amendment) Act, 1918, and before the commencement of the Murrumbidgee Irrigation Areas Occupiers Relief Act, 1934, under section seven of the Irrigation Act, 1912 (as inserted by the Irrigation (Amendment) Act, 1918), or under that section as amended by the Irrigation Holdings (Freehold) Act, 1924, or under section 7A of the Irrigation Act, 1912 (as inserted by the Irrigation (Amendment) Act, 1918) in relation to the allotting of water rights and the fixing of the price therefor, shall be deemed to have been validly taken.

Further
amendment
of Act No.
73, 1912.

Sec. 8B.
(Sinking of
bores or
wells.)

4. (1) The Irrigation Act, 1912-1941, is further amended by inserting next after subsection three of section 8B the following new subsection:—

(3A) (a) The Commission shall have power to enter into an agreement with the owner or occupier of any land to clean out, deepen, examine, repair or alter any bore or well, or to alter, dismantle, remove or re-erect any equipment or fittings connected with a bore or well, and to carry out such works pursuant to the agreement.

Any such agreement may be made on such terms and subject to such conditions as the Commission may think fit.

(b) Any sum payable under an agreement made under this subsection shall be paid to the bank and shall, until so paid, be and remain a charge in its favour on the land upon which such works are carried out, and shall be recoverable by the bank in any court of competent jurisdiction from the owner or occupier of the land for the time being.

(2)

Irrigation and Water (Amendment) Act.

15

(2) In any case where before the commencement of this Act the Water Conservation and Irrigation Commission under agreement with the owner or occupier of land has cleaned out, deepened, examined, repaired or altered a bore or well, or altered, dismantled, removed or re-erected any equipment or fittings connected with a bore or well—

No. 2, 1943.

- (a) the action of the Commission in so doing is hereby validated and the carrying out of any of such works shall be deemed to have been within the power of the Commission; and
- (b) any moneys paid or payable under any such agreement shall, as from the commencement of Part VIb of the Government Savings Bank Act, 1906, be deemed to have been payable to the Rural Bank of New South Wales.

5. (1) The Irrigation Act, 1912-1941, is further amended—

Further amendment of Act No. 73, 1912.

- (a) by omitting from section 9A the word "lease" wherever occurring, and by inserting in lieu thereof the word "holding";

Sec. 9A.
(Unauthorised removal, damage to or destruction of buildings, etc.)

- (b) by inserting next after section 11F the following new sections:—

New secs. 11G and 11H.

11G. (1) The Minister may from time to time by notification in the Gazette declare that any land within the irrigation area constituted under the provisions of the Wentworth Irrigation Act or within the irrigation area constituted under the provisions of the Hay Irrigation Act, 1902, shall be reserved for public purposes, and may from time to time by a similar notification revoke, either wholly or in part, any reservation notified under the provisions of this section or notified before the commencement of the Irrigation and Water (Amendment) Act, 1943.

Reserves for public purposes.

(2) Upon the notification of the revocation, either wholly or in part, of any reservation the land to which the notification relates shall thereupon vest in the Commission and shall form part of the irrigation area constituted under the provisions of the Wentworth Irrigation

Act

No. 2, 1943.

Agreements
for the
supply of
electricity.

Act or the Hay Irrigation Act, 1902, as the case may be, and shall be dealt with as land within such irrigation area.

11H. (1) The Commission may on such terms and conditions as it thinks fit (including such valuable consideration as is agreed upon) by agreement grant to the council of a municipality or shire or to any person for a period not exceeding twenty years permission to supply electric current to the Commission and to the public within any irrigation area (as defined in this Act or in the Wentworth Irrigation Act or in the Hay Irrigation Act, 1902) or part thereof and for such purpose to lay or erect and maintain pipes, wires, poles and other apparatus, on, under or over the roads and lands within the irrigation area or part thereof under the immediate control of the Commission.

(2) Any agreement under subsection one of this section granting any person the right to supply electric current to the public within an irrigation area or part thereof which is within a municipality or shire shall not relieve that person from any obligation to obtain the permission of the council of the municipality or shire to supply the electric current to the public and to lay or erect and maintain pipes, wires, poles and other apparatus on, under or over any public place.

New secs.
17A-17D.

Unauthor-
ised use
of water.

(c) by inserting next after section seventeen the following new sections:—

17A. (1) Any person who, except under the authority of this Act or of the Wentworth Irrigation Act or of the Hay Irrigation Act, 1902, or with the permission of the Commission—

(a) takes or uses water from—

(i) any reservoir, aqueduct, channel or pipe used in or in connection with any irrigation area constituted under this Act or under the Wentworth Irrigation Act, the Hay Irrigation Act, 1902, or the
Murrumbidgee

Murrumbidgee Irrigation Act, 1910, and belonging to or under the control and management of the Commission; or

No. 2, 1943.

(ii) any pipe leading to or from any such reservoir, aqueduct, channel or pipe; or

(iii) any cistern or place used in or in connection with any irrigation area constituted under this Act or under the Wentworth Irrigation Act, the Hay Irrigation Act, 1902, or the Murrumbidgee Irrigation Act, 1910, and belonging to or under the control and management of the Commission or supplied by it with water for the use of any consumer; or

(b) interferes with the flow of the water in any supply channel used in or in connection with any irrigation area constituted under this Act or under the Wentworth Irrigation Act, the Hay Irrigation Act, 1902, or the Murrumbidgee Irrigation Act, 1910, by opening or closing either in whole or in part any valve, sluice, gate, meter, or other like regulator or by removing or placing in position any drop-bar or like appliance;

shall be guilty of an offence and shall be liable to a penalty not exceeding twenty pounds.

(2) Any person who, except under the authority of this Act or of the Wentworth Irrigation Act, or of the Hay Irrigation Act, 1902, or with the permission of the Commission—

(a) diverts or takes water supplying or flowing into any waterworks, watercourse, or reservoir, used in or in connection with any irrigation area constituted under this Act or under the Wentworth Irrigation Act, the Hay
Irrigation

No. 2, 1943.

Irrigation Act, 1902, or the Murrumbidgee Irrigation Act, 1910, and belonging to or under the control and management of the Commission; or

- (b) does any act whereby the water from any such waterworks, watercourse, or reservoir may be drawn off or diminished in quantity,

shall be guilty of an offence and shall be liable to a penalty of not more than five pounds for every day during the whole or any part of which the said supply of water is diverted, taken, drawn off or diminished by reason of any act done by or by the direction of such person.

(3) Any person who destroys, damages or interferes with any reservoir, dam, weir, tank, channel, conduit, pipe, bridge, culvert, box, structure or other part whatsoever of the works used in or in connection with any irrigation area constituted under this Act or under the Wentworth Irrigation Act, the Hay Irrigation Act, 1902, or the Murrumbidgee Irrigation Act, 1910, and belonging to or under the control of the Commission shall be guilty of an offence and shall be liable to a penalty not exceeding twenty pounds.

(4) Where, in any prosecution for an offence against this section, it is established that as a result of the acts complained of a benefit is conferred upon or derived by any occupier it shall be presumed in the absence of proof to the contrary that such occupier was guilty of the offence.

17B. All actions against the Commission for anything done or omitted or purporting to have been done or omitted under this Act or under any other Act (whether passed before or after the commencement of the Irrigation and Water (Amendment) Act, 1943) which confers or imposes any power, authority, duty or function on the Commission, or in the exercise or performance of any power, authority, duty or function conferred or imposed by any such Act, shall
be

Limitation
of actions.
cf. Act No.
31, 1932,
s. 27.

be commenced within three years after the act or omission complained of was committed or made. No. 2, 1943.

17c. (1) No action shall be commenced against the Commission or any person for anything done or omitted or purporting to have been done or omitted under this Act or under any other Act (whether passed before or after the commencement of the Irrigation and Water (Amendment) Act, 1943) which confers or imposes any power, authority, duty or function on the Commission, or in the exercise or performance of any power, authority, duty or function conferred or imposed by any such Act, until one month at least after a notice in writing of such intended action has been delivered to or left at the office of the Commission or person by the party intending to commence such action, or by his attorney or agent. Notice of
action.
cf. Act No.
46, 1940.

(2) Such notice shall clearly and explicitly state the cause of action and the court in which the same is intended to be brought, and upon the back thereof shall be endorsed the name and place of abode of the party so intending to sue and also the name and place of abode or of business of the attorney or agent, if such notice was served by such attorney or agent.

(3) A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein unless the court before which the action is tried is of opinion that the defendant in the action has been prejudiced in his defence by such defect or inaccuracy.

(4) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

17d. (1) If any irregularity, trespass, or other wrongful proceeding has been committed in the execution of this Act or of any other Act (whether passed before or after the commencement of the Irrigation and Water (Amendment) Tender of
amends.
cf. *Ibid.*

Act,

No. 2, 1943.

Act, 1943) which confers or imposes any power, authority, duty or function on the Commission or in the exercise or performance of any power, authority, duty or function conferred or imposed by any such Act, and if, before action brought in respect thereof, tender of sufficient amends is made to the person injured, such last-mentioned person shall not recover in any such action.

(2) If no such tender has been made, the defendant may by leave of the court where such action is pending at any time before issue joined, pay into court such sum of money as the defendant thinks fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

Sec. 18A.
(Rent and instalments.)

(d) by inserting at the end of section 18A the following new subsection:—

(2) Where a lease granted under the provisions of the Crown Lands Consolidation Act, 1913, of land within an irrigation area is terminated under the provisions of that Act, the proportion of the annual rental in respect of the period extending from the first day of July next preceding the date of such termination to that date shall become due and payable on that date.

Sec. 19c.
(Entry on land for treatment of trees, etc.)

(e) (i) by inserting in section 19c after the word "servants" the words "or by any person authorised by it";

(ii) by omitting from the same section the words "if thought necessary by the Commission";

(iii) by inserting in the same section after the word "disease" the words "noxious insects or other pests";

Sec. 23.
(Commission not bound to supply water.)

(f) by inserting at the end of section twenty-three the following new subsection:—

(2) (a) Without prejudice to the effect of subsection one of this section the Commission may, if it is satisfied that by reason of an actual or threatened shortage of water or for any other sufficient

sufficient cause it is necessary or expedient so to do, determine that— No. 2, 1943.

- (i) the quantity of water which the Commission is required by or under this or any other Act or otherwise howsoever to supply to any area or person shall be reduced; or
- (ii) such supply shall be discontinued.

(b) Any such determination may be made in relation to all water, or to water used for any purpose or class of purposes, and may apply to and in respect of all areas and persons, or may apply to and in respect of any particular area or person specified in the determination, or to and in respect of any class of areas or persons so specified.

(c) Every determination made under this subsection may be carried into effect by the Commission.

(d) No matter or thing done by the Commission or by any person whomsoever acting under the direction of the Commission shall, if the matter or thing was done bona fide for the purpose of carrying this subsection into effect, subject the Commission or any such person to any action, liability, claim or demand whatsoever.

(g) (i) by omitting paragraph (n) of section twenty-six and by inserting in lieu thereof the following paragraphs:— Sec. 26.
(General
regula-
tions.)

(n) for the prevention, treatment, or eradication of diseases in trees, vines, plants, grass, fruit, seeds, bees, livestock, poultry, birds or animals or other thing in any irrigation area as defined in this Act or in the Wentworth Irrigation Act, or the Hay Irrigation Act, 1902;

(n1) for the prohibition or regulation of the introduction or consignment into or for the removal from or the destruction within any irrigation area

No. 2, 1943.

area as defined in this Act or in the Wentworth Irrigation Act or the Hay Irrigation Act, 1902, of any trees, vines, plants, grass, straw or hulls of plants or parts of plants, fruit, fruit-cases, packages, seeds, bees, livestock, poultry, birds, animals and the meat or flesh of any bird or animal, or other thing which in the opinion of the Commission would be likely to harbour or spread disease, noxious insects or other pests or are otherwise noxious.

(ii) by inserting in paragraph (u) of the same section after the words "irrigation area" the words "as defined in this Act or in the Wentworth Irrigation Act, or the Hay Irrigation Act, 1902";

(iii) by inserting at the end of the same section the following new subsections:—

(2) Any regulation made in pursuance of this section may, whether or not the prescribing of a fee or charge is expressly authorised by any provision contained in subsection one of this section, prescribe such fees or charges as the Commissioner may deem appropriate and proper.

(3) In any proceedings for a contravention of a regulation made in relation to any of the matters referred to in paragraph (n1) of subsection one of this section, proof that any tree, vine, plant, grass, straw or the hulls of any plant or part of a plant, fruit, fruit-case, package, seeds, bees, livestock, poultry, bird, animal, or the meat or flesh of any bird or animal, or other thing, the introduction or consignment of which into an irrigation area is prohibited or regulated by such regulation, is found in the possession of any person shall be prima facie evidence that the same was introduced into the irrigation area by such person.

In

In this subsection "irrigation area" has the same meaning as in paragraph (n1) of subsection one of this section. No. 2, 1943.

(h) by omitting section twenty-seven and by inserting in lieu thereof the following section:— Subst. sec. 27.

27. The regulations made under section twenty-six of this Act may impose a penalty not exceeding twenty pounds for a first offence and not exceeding one hundred pounds for a second and any subsequent offence and where the offence continues, may impose a further penalty not exceeding five pounds for every day during which the offence continues. Regulations may impose penalties.

(2) The Irrigation Act, 1912-1941, is further amended by omitting from section one the symbols "11F" and by inserting in lieu thereof the symbols "11H." Further amendment of Act No. 73, 1912. (Revision.)

PART III.

AMENDMENT OF THE WENTWORTH IRRIGATION ACT.

6. (1) The Wentworth Irrigation Act, as amended by subsequent Acts, is amended— Amendment of Act 54 Vic. No. 7.

(a) by omitting section thirty-one and by inserting in lieu thereof the following section:— Subst. sec. 31.

31. (1) Subject to the sanction of the Minister, the Water Conservation and Irrigation Commission shall have power to fix charges for water supplied by the works carried out pursuant to this Act. Such charges shall be fixed in the manner prescribed, and shall be paid in the manner and within the time prescribed to the bank by the owner of the land to which the water is supplied. Power to fix charges for water.

(2) (a) Subject to the sanction of the Minister— Power to fix rates.

(i) the said Commission shall have power to fix a rate per acre on land within the irrigation area which, in its opinion, is

No. 2, 1948.

is suitable for the planting of fruit trees or vines: Provided that the whole or any part of any such land which is used for other purposes may, subject to such sanction, be exempted by the said Commission from such rate;

- (ii) the rate may be fixed at any time and for such period as the said Commission may determine.

(b) The rate shall be paid in the manner and within the time prescribed to the bank by the owner of the land on which the rate is imposed.

Sec. 32.
(Power to
make
by-laws.)

- (b) by omitting paragraph (d) of section thirty-two and by inserting in lieu thereof the following paragraphs:—

(d) To prescribe the manner of fixing the charges for water supplied and the time and manner of their payment and the conditions on which water shall be supplied.

(dd) To prescribe the time and manner of payment of the rate fixed by the Water Conservation and Irrigation Commission.

(2) The rates fixed or purporting to have been fixed before the commencement of this Act by the Water Conservation and Irrigation Commission under section thirty-one of the Wentworth Irrigation Act (whether as originally enacted or as amended from time to time) shall be deemed to have been duly fixed under the provisions of that section and shall be deemed to have been duly levied by the service of the accounts served by the Water Conservation and Irrigation Commission or by the Rural Bank of New South Wales and the person upon whom such accounts were served shall be liable for payment of the rates which were unpaid immediately before the commencement of this Act.

PART IV.

No. 2, 1943.

AMENDMENT OF THE HAY IRRIGATION ACT, 1902.

7. The Hay Irrigation Act, 1902, as amended by subsequent Acts, is amended—

Amendment of Act No. 57, 1902.

- (a) by inserting in section five next after the definition of "Domestic use" the following new definition:—

Sec. 5. (Interpretation.)

"Irrigated lot" means any area of land within the irrigation area which is classified by the Commission as an irrigated lot.

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

Subst. sec. 25.

25. (1) The Water Conservation and Irrigation Commission, for the purposes of this Act, may construct, maintain and repair any work on any land, street, road or reserve.

Construction of works on roads, etc.

(2) The said Commission shall have power at all times to enter any land, street, road or reserve vested in or under the control of the council of a municipality or shire and to carry out therein all such works as it may deem necessary for the purpose of exercising any of the powers conferred on the said Commission by this Act: Provided that if in the carrying out of any such works damage is caused to any land, street, road or reserve vested in or under the control of the council of any municipality or shire the said Commission shall make all such damage good to the satisfaction of the council.

(3) Before commencing any work which may in any way affect any land, street, road or reserve vested in or under the control of the council of a municipality or shire the said Commission shall supply such council with information showing the nature of the proposed work.

(4) (a) Where any bridge, culvert, drain, channel or other work is constructed across a public road (whether so constructed before or after the commencement of the Irrigation and Water (Amendment) Act, 1943) in the exercise of the powers conferred on the said Commission

by,

No. 2, 1943.

by this Act, it shall be the duty of the said Commission to maintain the same and the immediate approaches to any such bridge or culvert in good and serviceable condition.

(b) Where any drain, channel or other work is constructed for the purpose of carrying a supply of water across a public road, it shall be the duty of the said Commission to provide a bridge or culvert or other means of crossing which, having regard to the nature of the work and the nature and extent of the traffic on such public road, is sufficient to permit the passage of traffic along such public road.

(c) Any difference arising between the said Commission and the council of the municipality or shire within which the public road is situated, which arises out of the proper performance by the said Commission of any duty imposed upon it by this subsection, shall be deemed to be a difference within the meaning of section six hundred and fifty-four of the Local Government Act, 1919, and shall be settled in the manner provided by that section for the settlement of differences between a council and any department of the Government.

(d) In this subsection "public road" has the meaning given to that expression in the Local Government Act, 1919.

Sec. 26.
(Rent of
lots.)

(c) by inserting at the end of section twenty-six the following new subsection:—

(4) Notwithstanding anything contained in subsection one or subsection two of this section where, in the opinion of the Minister, the circumstances warrant such action, the rent of any lot leased may be decreased by the Water Conservation and Irrigation Commission as from the first day of January, one thousand nine hundred and thirty-six, to such sum as the Minister may determine:

Provided that where the rent of any lot reduced in accordance with the provisions of subsection one of section three of the Crown Lands

Lands (Amendment) Act, 1932, as amended by No. 2, 1943.
 subsequent Acts, is less than the rent as decreased under the provisions of this subsection, the lesser rent shall be payable until the expiration of the period of operation of the said subsection one of section three of the said Act as so amended when the rent as decreased under the provisions of this subsection shall become payable.

The power conferred by this subsection shall be deemed to have become exercisable on the first day of May, one thousand nine hundred and thirty-six, and to have remained exercisable until the thirty-first day of December, one thousand nine hundred and thirty-seven.

- (d) by inserting at the end of subsection four of section twenty-seven the words "Such payment shall be made by the lessee whether the water so supplied is or is not taken by him, unless he proves that the water was not available." Sec. 27 (4).
(Lessee to pay for water supplied.)

PART V.

AMENDMENT OF THE WATER ACT, 1912-1941.

8. The Water Act, 1912-1941, is amended —

- (a) (i) by inserting in subsection one of section 4A after the word "within" the words "or are adjoining"; Amendment of Act No. 44, 1912.
Sec. 4A.
(Right to flow of water.)
- (ii) by omitting from the same subsection the words "For the purposes of this subsection 'occupier' includes the Crown";
- (iii) by inserting at the end of paragraph (a) of subsection two of the same section the following word and new subparagraphs:—
- or
- (iii) the Broken Hill Water Board or any person by or under the authority of the Broken Hill Water and Sewerage Act, 1938; or
- (iv)

No. 2, 1943.

- (iv) the chief officer of fire brigades or any fire brigade officer by or under the authority of the Fire Brigades Act, 1909, as amended by subsequent Acts;

- (iv) by inserting next after the same subsection the following new subsections:—

(2A) The said right may be used to regulate the exercise in relation to a river or lake of the powers conferred on a trust by Part III of this Act.

(2B) The said right shall, subject to this section, prevail over any authority conferred by or arising under any Act (whether passed before or after the commencement of the Irrigation and Water (Amendment) Act, 1943), to construct any work connected with a river or lake or to interfere with the flow of water in a river;

- (v) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—

(3) In this section unless the context or subject matter otherwise indicates or requires—

“Lake” includes a lagoon, swamp or other collection of still water whether permanent or temporary not being water contained in an artificial work.

“Occupier” means a person in actual occupation of any land whatsoever, and where there is no person in actual occupation means the holder under any tenure of the land; and in respect of a public road within the meaning of the Local Government Act, 1919, means the council of the area within which the public road is situated; and in any case where a work to which Part II of this

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 Part II of this Act extends, includes the council; and includes the Crown in respect of lands of the Crown.

No. 2, 1943.

“River” includes any stream of water, whether perennial or intermittent, flowing in a natural channel, or in a natural channel artificially improved, or in an artificial channel which has changed the course of the stream of water, and any affluent, confluent, branch or other stream into or from which the river flows.

“Works” means works connected with or affecting the quantity or use of water in any river flowing through or past, or in any lake situated within or adjoining, the land of two or more occupiers, or connected with or affecting the quantity of any water flowing in, to, or from or being in any river or lake flowing or situated as aforesaid.

- (b) (i) by omitting from the definition of “Drainage” in section five the words “rivers or lakes” and by inserting in lieu thereof the words “a river or lake”;
- (ii) by omitting from the definition of “Local land board” in the same section the word “Minister” and by inserting in lieu thereof the word “Commission”;
- (iii) by inserting in the definition of “Occupier” in the same section after the word “land” where secondly occurring the words “and in respect of a public road within the meaning of

Sec. 5.
(Interpretation.)

Irrigation and Water (Amendment) Act.**No. 2, 1943.**

of the Local Government Act, 1919, means the council of the area within which the public road is situated”;

- (iv) by omitting the definition of “Private irrigation scheme” in the same section and by inserting in lieu thereof the following definition:—

“Private irrigation scheme” means any work to which this Part extends which is used or is proposed to be used with the object of supplying water for irrigation purposes to the subdivided parts of any land which has been or is proposed to be subdivided for sale with a right to a supply of water by means of the said work;

- (v) by inserting in the definition of “River” in the same section after the word “channel” the words “or in a natural channel artificially improved, or in an artificial channel which has changed the course of the stream of water”;
- (vi) by omitting from the definition of “Work” in the same section the word “bank”;
- (vii) by inserting after the word “weir” in the same definition the word “regulator”;
- (viii) by inserting in the definition of “Work to which this Part extends” in the same section after the word “within” the words “or adjoining”;
- (ix) by inserting at the end of the same definition the words “and in respect of a flume, race, channel, cutting, tunnel or pipe diverting water by gravitation from any such river or lake means such part of the work as is situated between the source of supply and the device fitted or installed to control the flow of the water in the work or the site where it is proposed to fit or instal such device”;

(c)

- (c) (i) by omitting subsections one, two, three, four and five of section seven and by inserting in lieu thereof the following subsections:—

No. 2, 1943.

Sec. 7.

(Rights of occupiers of riparian lands.)

(1) The occupier of land on the bank of a river or lake shall, subject to the provisions of subsection two of this section, have the right to take and use the water then being in the river or lake for domestic purposes, and for watering stock, and for irrigating gardens, not exceeding five acres in extent, used in connection with a dwelling-house where the produce of such garden is not offered for sale.

It shall not be necessary for any such occupier to apply for or obtain a license for any work (not being a work mentioned in subsection six of this section) used solely in respect of the right conferred by this subsection.

(2) Where the Commission is satisfied that any such occupier taking or using water in a river or lake in the exercise of the right conferred by subsection one of this section is wasting the water so taken or where the Commission deems it necessary by reason of an actual or threatened shortage of water in any river or lake to suspend or modify the said right the Commission may give the occupier notice—

(a) personally; or

(b) by leaving the notice with any person apparently above the age of fourteen years resident or employed on the land of the occupier; or

(c) by registered letter addressed to the occupier 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 or modify the said right;

No. 2, 1943.

right; and at the expiration of the period so specified the said right shall be deemed to be suspended or modified as stated in the said notice unless the Commission shall have annulled or withdrawn the notice in the meantime.

- (ii) by omitting from subsection six of the same section the word "This" and by inserting in lieu thereof the words "Subsection one of this";
- (iii) by inserting in the same subsection after the word "right" where firstly occurring the words "to use a pump with a capacity of more than six hundred gallons per minute for the purpose of taking water for watering stock, or";

Sec. 8.
(Rights of
Crown in
respect of
works.)

- (d) (i) by omitting from section eight the words "Where the Crown" and by inserting in lieu thereof the words "Where the Commission on behalf of the Crown";
- (ii) by omitting from the same section the words "constructed by the Crown at any time, the Crown" and by inserting in lieu thereof the words "the Commission";

Sec. 9.
(Rights of
occupiers of
work to which
this Part
extends.)

- (e) by inserting in section nine after the word "occupier" the words "of the site";

Sec. 10.
(Applica-
tion for
licenses.)

- (f) (i) by inserting in subsection one of section ten after the word "extends" the words "(not being a private irrigation scheme)";
- (ii) by omitting from the same subsection the words "other than irrigation";
- (iii) by inserting next after the same subsection the following new subsection:—

(1A) An application for a license may be made under subsection one of this section by a person who proposes to construct or use any such work as is referred to in that subsection subject to his obtaining the right to occupy the site of the work; and for all purposes of or relating to such application such

such person shall be deemed to be an occupier: No. 2, 1943.

Provided that a license shall not be issued upon any application made under the authority of this subsection unless and until the applicant has obtained the right to occupy the site of the work.

- (g) (i) by omitting paragraphs (i), (ii) and (iii) of subsection one of section eleven and by inserting in lieu thereof the words "containing particulars of the application and the decision of the Commission as to whether the application should be granted or refused, and where the Commission is prepared to grant the application the period, terms, limitations and conditions which are to apply to the license to be issued";

Sec. 11.
(Notifica-
tion of
applicatio
for license.)

- (ii) by omitting from subsection two of the same section the words—

"In the event of—

- (a) objections to the granting of the application being received by the Commission on or before the said date; or
(b) the Commission being of opinion that the application should not be granted,

the Commission shall, and in any other case the Commission may"

and by inserting in lieu thereof the words—

"Any person dissatisfied with the decision of the Commission as to the grant or refusal of the application or with the period, terms, limitations and conditions proposed to be applied to the license may, within twenty-eight days after the publication of the later of such advertisements, lodge with the Commission an objection thereto.

Every such objection shall be in writing and shall specify the grounds of objection.

No. 2, 1943.

Where any such objection is so lodged the Commission shall”;

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

(3) Where an inquiry is held under this section the Commission or the applicant or any person so interested as aforesaid may, within twenty-eight days from the announcement of the decision, as provided for in subsection two of this section, appeal to the Land and Valuation Court against the decision of the local land board or police magistrate. The decision of the said court shall be final.

The appeal shall be made as prescribed by rules of court of the Land and Valuation Court and be accompanied by a fee of five pounds as security for the costs of the appeal. Notice of appeal in the prescribed form shall be given by the appellant to the Commission upon the lodging of the appeal in the Land and Valuation Court.

Sec. 12.
(License.)

- (h) (i) by omitting subsection one of section twelve and by inserting in lieu thereof the following subsection:—

(1) Where the decision of the Commission is in favour of the granting of an application for a license and no objection has been lodged under section eleven of this Act the Commission shall issue a license to the applicant in the prescribed form for the period and subject to the terms, limitations and conditions (if any) contained in the decision.

Where an inquiry has been held upon an objection lodged under section eleven of this Act, or an appeal against the decision upon such inquiry has been heard, a short summary of the report of the police magistrate or the local land board holding the inquiry or of the Land and Valuation Court,

as the case may be, shall be published in the Gazette, and the Commission shall, where the report recommends the issue of a license, issue a license to the applicant in the prescribed form for the period and subject to the terms, limitations and conditions (if any) recommended in such report.

No. 2, 1943

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

(2A) If an applicant fails to pay to the Commission within the time prescribed the fee payable upon the issue of the license the Commission may at any time thereafter reject the application.

Where an application is rejected under this subsection the deposit accompanying such application or any part of such deposit may, in the discretion of the Commission, be retained by it.

- (iii) by inserting in subsection three of the same section after the words “shire council” the words “or such other statutory body as may be prescribed”;

- (i) (i) by inserting in subsection one of section fourteen after the word “licensee” the words “or of the owner of the land upon which the licensed work is situated”;

**Sec. 14.
(Renewal.)**

- (ii) by inserting in the same subsection after the words “shire council” the words “or such other statutory body as may be prescribed”;

- (j) by inserting in section sixteen after the word “constructed” wherever occurring the words “or used”;

**Sec. 16.
(Benefit of license.)**

- (k) (i) by inserting in paragraph (a) of subsection one of section 17A after the word “authority” where secondly occurring the words “or has irrigated an area in excess of that which he is entitled by his licence or authority to irrigate”;

**Sec. 17A.
(Revocation or suspension of license or authority.)**

(ii)

No. 2, 1943.

(ii) by omitting from subsection two of the same section the words "If by reason of an actual or threatened shortage of water the Commission considers" and by inserting in lieu thereof the words "If in the opinion of the Commission there are circumstances which render it necessary or expedient that";

Sec. 17B.
(Offences.)

(1) (i) by omitting from paragraph (b) of section 17B the words "or revoked" and by inserting in lieu thereof the words "cancelled, revoked or withdrawn";

(ii) by omitting paragraph (c) of the same section and by inserting in lieu thereof the following paragraphs:—

(c) using such a work in contravention of the limitations or conditions subject to which the license or authority was issued and is held, or failing to comply with the terms of any notice given by the Commission whereby the license or authority is modified or the quantity of water authorised by the license or authority to be taken thereunder has been reduced; or

(d) failing to comply to the satisfaction of the Commission with any direction given to him by the Commission to remove wholly or in part any unlicensed or unauthorised work to which this Part extends, which is situated on land occupied or owned by him; or

(e) failing to comply to the satisfaction of the Commission with any direction given to him by the Commission to carry out any work which the Commission considers necessary—

(i) to permit the flow of water through or past any unlicensed or unauthorised work to which this Part extends

extends which is situated on land occupied or owned by him; or

No. 2, 1943.

- (ii) to prevent the use of any unlicensed or unauthorised work to which this Part extends which is situated on land occupied or owned by him, and which is a work for the diversion or abstraction of water;

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

(2) In any prosecution under this section proof—

- (a) that a work to which this Part extends has been constructed, erected or used without a license or authority or permit and for which a license or authority or permit should be obtained, or in contravention of any priority of right conferred under and by virtue of this Act; or
- (b) that such a work has been used when the license or authority or permit therefor has been suspended, cancelled, revoked or withdrawn or has expired; or
- (c) that such a work has been used in contravention of the limitations or conditions subject to which the license or authority respectively for the work was issued and is held; or
- (d) of failure to comply with the terms of any notice given by the Commission whereby the license or authority is modified or the quantity of water authorised by the license or authority to be taken thereunder has been reduced,

shall

No. 2, 1943.

shall be prima facie evidence that such construction, erection, use or failure has been caused by the occupier of the land whereon such work is situated.

Sec. 18.
(Penalty
for altera-
tion of
work during
currency of
license.)

(m) by inserting at the end of section eighteen the following new subsection:—

(2) If, during the time that a license under this Part is in force in respect of a work for the purpose of irrigation, an area has been irrigated in excess of the area permitted by the license the person who has irrigated the excess area shall be liable to a penalty not exceeding one hundred pounds and in addition to the imposition of the said penalty the license may, by notice in the Gazette, be cancelled and annulled:

Provided that the holder of any such license may, during the currency thereof, apply for an additional license for the purpose of irrigating an additional area, and any such application shall be dealt with as hereinbefore provided in respect of applications for a license in the first instance.

Secs. 18b and
18c.
(Revision.)
Sec. 19.
(Private
irrigation
schemes.)

(n) by omitting sections 18b and 18c;

(o) by inserting at the end of section nineteen the following new subsection:—

(10) Any work which after the commencement of the Irrigation and Water (Amendment) Act, 1943, is not a private irrigation scheme as defined in section five of this Act but which immediately before such commencement was the subject of a private irrigation authority, shall be deemed to be a work duly licensed under the provisions of Division 3 of this Part.

The Commission shall, as soon as practicable after the said commencement, issue in respect of such work and in substitution for the private irrigation authority a license under Division 3 of this Part for the unexpired portion of the period for which the private irrigation authority had been granted and subject to similar terms, limitations and conditions to those to which the private irrigation authority was subject.

In

In the event of a private irrigation authority for which a license is substituted having a priority of right under Division 3A of this Part, the license substituted for the private irrigation authority shall have the like priority. No. 2, 1943.

Notwithstanding the provisions of section twelve of this Act a license issued in accordance with this subsection shall be issued without payment of a fee.

(p) by omitting section twenty-five;

Sec. 25.
(Revision.)

(q) by inserting next after section twenty-six the following new sections:---

New secs.
26A, 26B
and 26C.

26A. Where the operation of any statute, including the Local Government Act and any Act relating to mining, but excluding the River Murray Waters Act, 1915, as amended by subsequent Acts, conflicts with the operation of the provisions of this Part, the provisions of this Part shall prevail, and such statute shall to the extent of such conflict be inoperative.

Act to
prevail
over other
Acts.

26B. The Commission may cancel at any time after giving reasonable notice a license or an authority for a private irrigation scheme on payment of compensation to the person entitled to the benefit of the license or authority.

Power to
determine
license.

The right to the water which was vested in that person shall thereupon vest in the Commission in the order of precedence which was given to that person.

Such compensation shall be assessed by the local land board of the land district in which the work licensed or authorised is situated.

26C. No work to which this Part extends shall be constructed by the Crown for or on behalf of any municipal council, shire council or county council or any person unless such council or person shall have first obtained a license under this Part for the work.

Construction
of work by
Crown for
councils.

This section shall not apply to any such work in course of construction by the Crown at the commencement of the Irrigation and Water (Amendment) Act, 1943.

Irrigation and Water (Amendment) Act.

No. 2, 1943.

Further
amendment
of Act No. 44,
1912.

Sec. 28.

(Interpre-
tation.)

Sec. 29A.

(Revision.)

Sec. 31.

(Proposals
for works.)

9. (1) The Water Act, 1912-1941, is further amended—

(a) by omitting from the definition of “Cost of the works” in section twenty-eight the word “Minister” and by inserting in lieu thereof the word “Commission”;

(b) by omitting section 29A;

(c) by inserting in section thirty-one after the word “conservation” the words “water supply.”

(2) The amendment made by paragraph (c) of subsection one of this section shall be deemed to have commenced upon the first day of December, one thousand nine hundred and thirty-nine.

Further
amendment
of Act No. 44,
1912.

Sec. 33.

(Petition,
objection
and
inquiry.)

10. The Water Act, 1912-1941, is further amended—

(a) (i) by omitting from subsection one of section thirty-three the word “Minister” and by inserting in lieu thereof the word “Commission”;

(ii) by omitting from the same subsection the words “the proposal, he” and by inserting in lieu thereof the words “the proposal upon the grounds stated in the petition, the Commission”;

(b) (i) by omitting from section thirty-four the word “Minister” wherever occurring and by inserting in lieu thereof the word “Commission”;

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

(3) Where a trust is constituted in respect of any work to which the provisions of Part V of this Act apply, then as from the date of the constitution of such trust such provisions shall cease to apply to the work.

Sec. 34.

(Constitu-
tion of
trust.)

(c) by omitting from section thirty-five the word “Minister” and by inserting in lieu thereof the word “Commission”;

Sec. 35.

(Construc-
tion of
works.)

(d)

(d) (i) by omitting from section thirty-seven the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";

No. 2, 1943.
Sec. 37.
(Transfer to trust.)

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

(4) Notwithstanding anything hereinbefore contained in this section where the cost of the works is to be repaid by a sinking fund and where the Commission is unable from causes beyond its control to ascertain the cost of the works within a period of three months from the date when the works have been completed and taken over by the trust the Commission may notify in the Gazette the cost of the works so far as is ascertainable by it and the cost of the works as so notified shall in such case be the cost repayable by the trust:

Provided that the Commission may at any time thereafter notify in the Gazette any additional amount of the cost of the works ascertained by it. Such additional amount shall upon such notification be notified to the trustees and shall be repaid by the trust as directed by the Commission.

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

(e) by omitting from section thirty-eight the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";

Sec. 38.
(Transfer of works not completed.)

(f) (i) by omitting from section thirty-nine the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";

Sec. 39.
(Alteration of trust districts.)

(ii)

Irrigation and Water (Amendment) Act.

No. 2, 1943.

(ii) by inserting in subsection one of the same section after the word "shall" where firstly occurring the words "unless it is of opinion that the petition should be refused";

(iii) by omitting from subsection two of the same section the word "him" and by inserting in lieu thereof the word "it";

New sec.
39A.

(g) by inserting next after section thirty-nine the following new section:—

Excision
of lands
from trust
district.

39A. Where any lands within a trust district have not benefited from the works of the trust for a continuous period of three years or upwards and the occupier (in the case of Crown lands) or the owner (in any other case) of such lands signs and forwards to the Commission a request that such lands be excised from the trust district the Commission shall refer the request to the Board for inquiry and report and shall furnish to the Board a statement expressing its opinion as to—

- (a) the reasons why such lands have not so benefited or have ceased so to benefit; and
- (b) the practicability or otherwise of extending or improving the works of the trust so as to benefit the said lands; and
- (c) the effect which the granting of the request would have on the general administration and finances of the trust.

A copy of such request and statement shall be supplied to the trustees by the Board. The trustees shall refer the question of the proposed excision of the lands from the trust district and the statement abovementioned to 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 and shall convey to the Board the decision of the voters.

The

Irrigation and Water (Amendment) Act.

43

The Board shall thereupon complete its inquiry and report to the Commission whether in its opinion the request should be granted with or without amendments or should be refused.

No. 2, 1943.

The Commission, after consideration of such report, shall decide whether or not the whole or any part of the lands referred to in the request are to be excised from the trust district.

The Commission may, by notification in the Gazette, excise such lands from the trust district and upon the publication of such notification the trust district shall be deemed to be altered accordingly.

- (h) (i) by omitting from section forty the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 40. (Construction, acquisition or utilisation of work through another district.)
- (ii) by omitting from the same section the word "he" wherever occurring and by inserting in lieu thereof the word "it";
- (i) by omitting from section 40A the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec 40A. (Union of trusts.)
- (j) (i) by omitting from section 40B the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 40B. (Amendment of boundaries.)
- (ii) by omitting from the same section the word "he" and by inserting in lieu thereof the word "it";
- (k) by omitting section forty-one and by inserting in lieu thereof the following section:— Subst. sec. 41.
41. (1) If the trustees in writing request the Commission to increase the quantity of water supplied by the Crown to the trust the Commission may furnish to the trustees a statement of the charge to be made for the additional water to be supplied pursuant to such request and of the conditions of such supply. Extension or improvement of works.

(2)

No. 2, 1943.

(2) If the trustees in writing request the Commission to improve or extend any works of the trust the Commission may—

- (a) where it is of opinion that the cost of the works of improvement or extension and interest on such cost should be repaid by means of a charge for the additional water obtained by such improvement or extension, furnish to the trustees a statement of the charge to be made for such additional water;
- (b) where it is of opinion that the cost of the works of improvement or extension and interest on such cost should be repaid by provision of a sinking fund and payment of interest, furnish to the trustees a statement of—
 - (i) the estimated cost of the works of improvement or extension; and
 - (ii) the rate of interest to be paid on the cost of such works; and
 - (iii) the number of years within which the cost of such works is to be repaid.

(3) Upon the receipt of an intimation from the trustees that a statement furnished to the trustees under subsection one or subsection two of this section 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 increase the quantity of water supplied or proceed with the construction or acquisition of the proposed works of improvement or extension or transfer the works to the trust, as the case may require.

(4) (a) Upon additional water being supplied by the Crown to the trust pursuant to the request of the trustees a notification shall be sent by the Commission to the trustees and shall be published by it in the Gazette directing that the trust shall pay the charge in respect of the additional water supplied. (b)

(b) The completion or acquisition or transfer to the trust of the works of improvement or extension pursuant to the request by the trustees for the improvement or extension of the works of the trust shall be notified by the Commission in the Gazette and a copy of the notification shall be sent to the trustees. No. 2, 1943.

Such notification shall—

- (i) where the cost of such works of improvement or extension and interest on such cost is to be repaid by means of a charge for the additional water obtained by such improvement or extension direct that the trust shall pay the charge for the additional water so obtained;
- (ii) where the cost of such works of improvement or extension and interest on such cost is to be repaid by provision of a sinking fund and payment of interest direct that the trust shall pay the cost of such works of improvement or extension by a sinking fund within the number of years specified in the statement referred to in paragraph (b) of subsection two of this section and the interest on such cost.

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

(6) The charge for additional water, 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 four of this section.

(7) In any case where the cost of the works of improvement or extension and interest on such cost is to be repaid by provision of a sinking fund and payment of interest the trust shall, subject to the approval of the Commission, have the option of repaying such cost by a lump sum or within a less number of years than the period determined for extinguishing such cost by the sinking fund.

Irrigation and Water (Amendment) Act.

No. 2, 1943.

Sec. 42.
(Appointment
of trustees,
etc.)

(l) by omitting from section forty-two the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";

Sec. 44.
(Rolls for
first election.)

(m) (i) by omitting from section forty-four the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";

(ii) by omitting from the same section the word "his" and by inserting in lieu thereof the word "its";

Sec. 48.
(Returning
officers.)

(n) by omitting from section forty-eight the word "Minister" and by inserting in lieu thereof the word "Commission";

Sec. 49.
(Date of
election
and polling
places.)

(o) by omitting from section forty-nine the word "Minister" and by inserting in lieu thereof the word "Commission";

Sec. 53.
(Powers
and duties
of trustees.)

(p) by omitting from section fifty-three the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";

Sec. 54.
(Power of
trustees to
enter and
inspect.)

(q) by inserting at the end of section fifty-four the following new subsections:—

(3) The trustees may cut off or withhold the supply of water to any land—

(a) if any meter used to measure such supply or any outlet is out of repair or, in the opinion of the trustees, unsatisfactory for the expeditious or effective supply of water to such land; or

(b) if, in the opinion of the trustees, such course is necessary owing to drought or any accident or other unavoidable cause; or

(c) if the owner or occupier or person requiring a supply of water neglects to comply with the lawful requirements of the trustees as to the installation of outlets or meters or instruments for measuring the quantity of water; or

(d)

No. 2, 1943.

- (d) if the owner or occupier or person requiring a supply of water neglects to comply with any lawful requirements of the trustees to repair or alter water connections, outlets, channels, ditches, pipes, fittings, or appliances connected to the works under the control of the trustees; or
- (e) if the owner or occupier of the land fails to take such steps as may be necessary to insure compliance with any order or public notice of the trustees requiring consumers of water to economise its use in time of drought or scarcity of supply.
- (4) Where the Commission reduces or discontinues the supply of water to the trustees or directs the trustees to reduce the quantity of water being taken or diverted by them from a river or lake or to discontinue the taking or diverting of water from a river or lake as provided in this Act, the trustees may reduce or cut off or withhold the supply of water to any land.
- (5) The cutting off or withholding or reduction of the supply of water by the trustees under the authority of subsection three or subsection four of this section shall not affect the liability of the ratable person in respect of the rates on the land the supply of water to which has been cut off, withheld or reduced.
- (r) by omitting paragraph (d) of subsection one of section fifty-five and by inserting in lieu thereof the following paragraph:—
- (d) In the case of irrigation, a rate shall be levied on the land within the trust district which is suitable for production under irrigation and which is commanded by the works of the trust with the use of recognised methods of irrigation and for the irrigation of which land water can be delivered by means of the works of the trust. (s)

Irrigation and Water (Amendment) Act.**No. 2, 1943.****Sec. 55A.**

(Enlargement of rating powers.)

- (s) (i) by omitting from section 55A the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";
- (ii) by omitting from the same section the word "he" wherever occurring and by inserting in lieu thereof the words "the Commission";

Sec. 58.

(Accounts.)

- (t) (i) by omitting from section fifty-eight the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";
- (ii) by omitting from the same section the word "his" and by inserting in lieu thereof the word "its";

Sec. 59.

(Power to remove trustees and assume their powers, etc.)

- (u) by omitting from section fifty-nine the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";

Sec. 60.

(Power to enter and inspect.)

- (v) (i) by omitting from section sixty the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";
- (ii) by omitting the words "himself or his" from the same section and by inserting in lieu thereof the word "its";
- (iii) by omitting from the same section the word "he" wherever occurring and by inserting in lieu thereof the word "it";

Sec. 61.

(Conduits and drains.)

- (w) by omitting from section sixty-one the word "Minister" and by inserting in lieu thereof the word "Commission";

Sec. 62.

(Channels and embankments.)

- (x) (i) by omitting from section sixty-two the words "and under the hand of the Minister";
- (ii) by omitting from the same section the words "Minister by his" and by inserting in lieu thereof the words "Commission by its";

Sec. 63.

(Powers incidental to powers to construct or maintain works.)

- (y) (i) by omitting from section sixty-three the word "Minister" and by inserting in lieu thereof the word "Commission";

(ii)

Irrigation and Water (Amendment) Act.

49

(ii) by omitting paragraph one of the same section and by inserting in lieu thereof the following paragraph:—

No. 2, 1948.

(1) to enter any land being—

(a) the site of a work constructed or the proposed site of a work to be constructed under this Part; and

(b) within a distance of not more than sixty-six feet from the nearest boundary of such site or proposed site; and

(z) by omitting from section sixty-four the word “Minister” wherever occurring and by inserting in lieu thereof the word “Commission”;

Sec. 64.

(No compensation.)

(aa) by inserting next after section sixty-four the following new section:—

New sec. 64A.

64A. (1) Where the Commission is satisfied that by reason of an actual or threatened shortage of water or for any other sufficient cause it is necessary or expedient that the quantity of water supplied by it to a trust constituted for the purpose of water supply, water conservation or irrigation should be reduced, or that the quantity of water being taken or diverted by the trustees of such a trust from a river or lake as defined in Part II of this Act, should be reduced, or that such supply, taking or diversion should be discontinued, the Commission may—

Reduction or discontinuance of supply of water.

(a) reduce for any period or periods to be determined by it the quantity of water which it is required by or under this or any other Act or otherwise howsoever to supply to such a trust; or

(b) discontinue for any period or periods to be determined by it such supply; or

(c) direct the trustees to reduce for any period or periods to be determined by it and notified to the trustees the quantity of water being taken or diverted by them from any such river or lake; or

(d)

No. 2, 1943.

(d) direct the trustees to discontinue for any period or periods to be determined by it and notified to the trustees the taking or diverting of water from any such river or lake.

(2) No action, claim or demand whatsoever shall lie or be made or allowed by or in favour of any person whomsoever against—

(a) the Commission for or in respect of any damage, loss or injury sustained or alleged to be sustained by reason of any action taken or direction given by it bona fide in the exercise of the powers conferred by subsection one of this section; or

(b) the trustees for any damage, loss or injury sustained or alleged to be sustained by reason of the discontinuance of the supply of water or the reduction in the quantity of water supplied by them where such discontinuance or reduction was rendered necessary by reason of any action taken or direction given by the Commission under subsection one of this section.

Sec. 65.
(Power of entry.)

(bb) (i) by omitting from subsection one of section sixty-five the word "Minister" and by inserting in lieu thereof the word "Commission";

(ii) by omitting from the same subsection the word "him" and by inserting in lieu thereof the word "it";

(iii) by omitting from subsection two of the same section the word "him" and by inserting in lieu thereof the words "the Commission or the person so authorised";

Sec. 66.
(State works.)

(cc) (i) by omitting from section sixty-six the word "Minister" and by inserting in lieu thereof the word "Commission";

(ii) by omitting from the same section the word "he" and by inserting in lieu thereof the word "it";

(dd)

- (dd) (i) by omitting from subsection one of section sixty-seven the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission"; No. 2, 1943.
Sec. 67.
(Works of water conservation under £5,000.)
- (ii) by omitting from the same subsection the word "he" and by inserting in lieu thereof the word "it";
- (ee) (i) by omitting from subsection one of section seventy the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 70.
(Notice to holder of license.)
- (ii) by omitting from the same subsection the word "his" and by inserting in lieu thereof the word "its";
- (ff) (i) by omitting from section seventy-three the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 73.
(Public Works Act.)

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

(2) Without prejudice to the generality of subsection one of this section the provisions of section thirty-eight of the Public Works Act, 1912, shall, mutatis mutandis, apply to and in respect of any contracts for carrying out any such work.

(3) Notwithstanding the provisions of section ninety-one of the Public Works Act, 1912, the Commission shall not be compelled nor shall it be the duty of the Commission to make or maintain any fence in connection with any such work for the accommodation of any person or for any purpose whatsoever, but the Commission may in its discretion make and maintain such fences in connection with any such work as it may deem fit.

- (gg) by omitting from section 73B the word "Minister" and by inserting in lieu thereof the word "Commission"; Sec. 73B.
(Reduction of liability.)

(hh)

No. 2, 1943.

Subst.
sec. 73c and
new sec. 73d.
Variation of
charges
payable by
trust.

(hh) by omitting section 73c and by inserting in lieu thereof the following sections:—

73c. (1) Notwithstanding anything elsewhere contained in this Part the trustees of any trust relating to a work of water supply from an artesian bore or bores may in writing request the Commission to consider a variation of the charges payable by the trust to the Crown in order that the trustees may be enabled to abandon the provision of a sinking fund for the payment of the cost of the trust works and interest, and/or 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 Crown such charges for the water obtained by or supplied to the trust from the bore or bores as may be approved by the Governor.

(2) The Commission if it considers that a variation of the charges should be made shall supply to the trustees a statement of the proposed altered charges. Where necessary such altered charges shall be fixed to meet the balance of the cost of the trust works and interest remaining to be repaid by the trust.

(3) Upon a notification in writing from the trustees that the statement has been approved by the voters of the trust at a special general meeting of such voters (of which meeting not less than fourteen days' notice shall be given in the prescribed manner) the Commission shall submit the said statement to the Governor for approval.

Upon the approval of the Governor being signified a notification shall be sent by the Commission to the trustees and shall be published by it in the Gazette directing that the trust shall pay the approved charges and abandon the provision of a sinking fund and/or cease the payment to the Crown of the charges for water previously payable by the trust and directing the times at which the said approved charges shall be paid by the trust. Such times may with the approval of the Governor extend beyond the
period

period within which the cost of the trust works is, under the constitution of the trust, to be extinguished by a sinking fund. **No. 2, 1943.**

73D. Where the charges for water payable by a trust have been fixed to repay over a period— **Cessation of payment of charges for water.**

(a) the cost to the Crown of an artesian bore; or

(b) the value of an artesian bore as determined on the constitution of the trust,

and the total amount paid by the trust by way of charges for water is equal to or exceeds the said cost or value together with interest, the Commission may forward to the trust a certificate to that effect and the obligation of the trust to pay charges for water shall be discharged as from the date specified in the certificate.

11. (1) The Water Act, 1912-1941, is further amended—

Further amendment of Act No. 44, 1912.

(a) by omitting from section twenty-eight the definition of "Owner" and by inserting in lieu thereof the following definitions:—

Sec. 28.
(Interpretation.)

"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).

Irrigation and Water (Amendment) Act.**No. 2, 1943.**

(d) is the holder of a lease from the Crown or any statutory body representing the Crown.

“Owning,” “owned” and similar expressions have a meaning corresponding with that of owner.

Sec. 33.
(Petition, objection and inquiry.)

(b) by omitting from subsection one of section thirty-three the words “occupiers of Crown land, including homestead selectors, conditional lessees, and settlement lessees, and owners of other land” and by inserting in lieu thereof the words “owners of lands”;

Sec. 39.
(Alteration of trust districts.)

(c) by omitting from subsection one of section thirty-nine the words “occupiers of Crown lands and owners of other lands” and by inserting in lieu thereof the words “owners of lands”;

Sec. 39A.
(Excision of lands from trust district.)

(d) by omitting from section 39A (as inserted by section ten of this Act) the words “the occupier (in the case of Crown lands) or the owner (in any other case) of such lands” and by inserting in lieu thereof the words “the owner of such lands”;

Sec. 40B.
(Amendment of boundaries.)

(e) by omitting from section 40B the words “occupier in the case of Crown land or the owner in the case of other land” and by inserting in lieu thereof the words “owner of the land”;

Sec. 42.
(Appointment of trustees, etc.)

(f) by omitting from subsection two of section forty-two the word “occupied” and by inserting in lieu thereof the word “owned”;

Sec. 44.
(Rolls for first election.)

(g) by omitting from section forty-four the proviso thereto;

Sec. 45.
(Rolls for subsequent elections.)

(h) by omitting from section forty-five the proviso thereto;

Sec. 46.
(Plural voting.)

(i) (i) by omitting from subsection one of section forty-six the word “occupier” wherever occurring and by inserting in lieu thereof the word “owner”;

(ii) by omitting subsection two of the same section;

(j)

- (j) (i) by omitting subsection two of section fifty-five and by inserting in lieu thereof the following subsection:—

No. 2, 1943.

Sec. 55.

(Rates.)

(2) All such rates shall be a charge upon the land in respect of which they are levied and shall be payable by the owner thereof.

- (ii) by omitting from subsection three of the same section the word "occupier" and by inserting in lieu thereof the word "owner";

- (k) (i) by omitting from section 55c the words "until such notice is given he shall remain liable for all rates which become payable in respect of such land prior to the giving of such notice" and by inserting in lieu thereof the words "he shall nevertheless remain liable to the trustees for the rate to the same extent as if he had not transferred his estate or interest in or abandoned the ratable land, provided that the rate is levied either—

Sec. 55c.

(Notice of transfer.)

(a) before he transferred his estate or interest in or abandoned the ratable land; or

(b) before the said notice is given to the trustees."

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

(2) If any person who transfers his estate or interest in ratable land pays to the trustees any rate in respect thereof which is levied after he transfers his estate or interest and before the notice referred to in subsection one of this section is given to the trustees, he may recover the amount from the person to whom he transfers his estate or interest.

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

(1)

No. 2, 1943.

New secs.,
55D, 55E.
Joint owners
and owners
for part
only of
rating year.

- (1) by inserting next after section 55c the following new sections:—

55D. (1) In any case where more than one person is an owner within the meaning of this Part of land any rate assessed in respect of that land may be levied upon any one or more of such persons and the trustees may recover the rate as against any person upon whom the rate is so levied: Provided that nothing in this subsection shall entitle the trustees to recover more than the full amount of the rate.

(2) (a) Where the land is owned jointly by two or more owners, such owners shall be jointly and severally liable for the rate, but as between themselves each shall only be liable for such part of the rate as is proportionate to his interest in the land and in the improvements thereon.

(b) If any such owner pays to the trustees more than his proportionate part, he may recover the excess from the others.

(3) Where an owner acquires land from the Crown during any year within which rates are payable under this Part rates proportionate to the portion of the year during which the land is held by such owner shall be payable by him to the trustees as and when prescribed and the trustees may levy such rates upon the said owner accordingly at a date subsequent to that on which he acquired the land.

(4) Where any land being the whole or part of a holding within a trust district reverts to the Crown during any year within which rates are payable under this Part the owner shall as regards such land be liable for payment of only that part of the rates proportionate to the portion of the year for which the land was held by him and any excess payment by him in that behalf shall be refunded to him.

55E.

55E. Subject to the provisions of this Part no rate or part of a rate shall be abandoned or written off the rate-book or other book of account of a trust except with the approval of the Commission, and then only when the trustees satisfy the Commission that the circumstances of the case render it undesirable to enforce payment of the rate or part of a rate or that the rate has been made in error.

No. 2, 1943.
Writing off
of rates.

(2) For all purposes of or relating to the rating of land within any particular trust district in existence at the commencement of this Act, the amendments made by subsection one of this section shall, in their application to and in respect of the trust district, the trustees thereof, and the owners and occupiers of land within the trust district, be deemed to take effect as from the commencement of the first rating year of the trust to commence after a day to be appointed by the Governor and notified by proclamation published in the Gazette, and until such commencement the provisions of the Water Act, 1912-1941, as amended by this Act (otherwise than by subsection one of this section) shall be deemed to continue in force.

(3) Where, at the date upon which the amendments made by subsection one of this section take effect in their application to and in respect of any particular trust district, there is in force a lease of land within that trust district, made before the commencement of this Act, which does not contain any stipulation whereby the obligation to pay rates under Part III of the Water Act, 1912-1941, as amended by this Act, is undertaken by the owner of the land the following provisions shall have effect:—

- (a) as between the owner and the lessee the lessee shall be liable to pay any such rates which are fixed and levied during the currency of the lease; but this paragraph shall not be construed as exempting the owner from any liability to which he is subject under the said Act as so amended;
- (b) any owner who has paid such rates may recover as a debt from the lessee the amount so paid.

Irrigation and Water (Amendment) Act.**No. 2, 1943.**Further
amendment of
Act No. 44,
1912.New sec.
122A.Cessation
of supply
of water
from
artesian
well.**12.** The Water Act, 1912-1941, is further amended—

- (a) by inserting next after section one hundred and twenty-two the following new section:—

122A. Where the flow of an artesian well and supply of water therefrom become so reduced that the Commission considers that there is no longer a sufficient benefit being derived by the occupiers of lands who are liable to pay charges under this Part in respect of such water and that the charges should no longer be payable, the Commission may by notification published in the Gazette declare that water from the artesian well shall no longer be available to the lands of occupiers who were liable to pay such charges.

Upon the publication of such notification water from the artesian well shall cease to be available to the said lands under the provisions of this Part and all charges under this Part in respect of the supply of water from the artesian well shall cease to be payable: Provided that such notification shall not operate to release any person from liability for any charges or expenses to the payment of which he was liable immediately before the publication of such notification.

Sec. 126.
(Appeal.)

- (b) by inserting in section one hundred and twenty-six after the words "Land and Valuation Court" the words "in the manner prescribed by the Crown Lands Acts or any regulation made thereunder."

Further
amendment of
Act No. 44,
1912.Sec. 131.
(Proposal
for
constitution
of districts.)**13.** The Water Act, 1912-1941, is further amended—

- (a) (i) by omitting paragraph (c) of subsection two of section one hundred and thirty-one and by inserting in lieu thereof the following paragraph:—

(c) in the case of a proposed domestic and stock water supply district—

- (i) the annual rate or rates per acre; or

(ii)

- (ii) the annual rate per sheep of No. 2, 1943:
the livestock carrying capacity
of holdings which may be
classified as pastoral and the
annual rate or rates per acre
in respect of holdings which
may be classified as other than
pastoral,

to be paid for the supply of water
for domestic and stock use during the
period from the date of the constitu-
tion of the provisional district to
the thirtieth day of June next follow-
ing the fifth anniversary of the
constitution of the district;

- (ii) by omitting subparagraph (ii) of para-
graph (d) of the same subsection and by
inserting in lieu thereof the following
subparagraph:—

(ii) an identification of the holdings
within the proposed district to
which water rights are to be
attached and the number of water
rights to be attached to each of the
holdings identified;

- (iii) by inserting in subsection three of the same
section after the words “to the proposal”
the words “upon the grounds stated in the
petition”;

- (b) (i) by omitting paragraph (c) of subsection one Sec. 133.
of section one hundred and thirty-three (Constitu-
and by inserting in lieu thereof the tion of
following paragraph:— districts.)

(c) the holdings (if any) within the
district to which water rights are
to be attached and the number of
water rights to be attached to each
of such holdings;

- (ii) by inserting in subsection two of the same
section after the word “objecting” the
words “upon the grounds stated in the
petition”;

(iii)

No. 2, 1943.

(iii) by omitting from subsection three of the same section the words "water rights to be attached to each holding within the district" and by inserting in lieu thereof the words "holdings (if any) within the district to which water rights are attached and the number of water rights attached to each of such holdings";

New sec.
133A.

(c) by inserting next after section one hundred and thirty-three the following subheading and new section:—

Correction of errors in constitution of districts and provisional districts.

Correction
of errors
in consti-
tution of
districts and
provisional
districts.

133A. (1) Where an error has been made in the proclamation constituting a district or provisional district, the Governor may, by a further proclamation in the Gazette, correct such error.

Such proclamation shall take effect from the date of publication or from such other date (whether before or after the date of publication) as may be specified in the proclamation.

(2) Where, in the proclamation constituting a district or provisional district, two or more holdings are described as one holding and water rights are expressed to be attached to that holding the further proclamation may, in addition to describing such two or more holdings as separate holdings, attach to each such separate holding its proper proportion of such water rights or increase the number of water rights and attach to each such separate holding its proper proportion of such increased water rights.

Sec. 134.
(Alteration
of
boundaries
of districts.)

(d) (i) by inserting in section one hundred and thirty-four after the word "district" wherever occurring the words "or provisional district";

(ii) by omitting from paragraph (d) of subsection two of the same section the words "the number of water rights proposed to be attached to each holding" and by inserting
in

in lieu thereof the words "the holdings (if any) to which it is proposed to attach water rights and the number of water rights proposed to be attached to each of such holdings";

No. 2, 1943.

- (iii) by inserting in subsection three of the same section after the words "to the proposal" the words "upon the grounds stated in the petition";
- (iv) by inserting in subsection four of the same section after the word "districts" the words "or provisional districts";
- (v) by omitting from the same subsection the words "water rights (if any) to be attached to each holding" and by inserting in lieu thereof the words "holdings (if any) to which water rights are attached and the number of water rights attached to each of such holdings";
- (vi) by inserting at the end of the same section the following new subsection:—

(7) Where additional lands have been included in a district or provisional district under this section the Commission may in respect of those lands assess the rates and charges for water for the year current at the date of such inclusion.

Such rates and charges shall be proportionate to the portion of the year during which those lands are included in the district or provisional district.

- (e) by inserting in section one hundred and thirty-five after the word "district" wherever occurring the words "or provisional district";
- (f) (i) by inserting in subsection one of section one hundred and thirty-six after the words "excise from a" the words "provisional district or";
- (ii) by inserting in the same subsection after the words "provisional district or district or excise it from the" the words "provisional district or";

Sec. 135.
(Additional lands.)

Sec. 136.
(Lands within provisional district or district and trust district.)

(iii)

No. 2, 1948.

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

(3) Where any lands are excised from the district of a trust and included in a provisional district or district and any moneys are owing to the Crown by the trust in respect of the works of the district of the trust or the trust is paying to the Crown charges for water, the Commission shall—

- (a) reduce the indebtedness of the trust to the Crown by such amount as may be agreed upon between the Commission and the trustees, or failing such agreement, by an amount in the proportion to the then total indebtedness to the Crown as the amount of the rates last fixed and levied by the trust on the excised lands bears to the total of the rates last fixed and levied by the trust on the lands within the trust district;
- (b) reduce the charges for water, other than charges which are based on the daily flow of the bore, payable by the trust to the Crown by such amount as may be agreed upon by the Commission and the trustees but so that such reduced payment will not be greater than an amount which bears the same proportion to the original payment as the area which remains in the district of the trust after the lands are excised and which is ratable bears to the area which was rated at the last assessment before the lands were excised;
- (c) in the case of a trust where the charges for water are based on the daily flow of the bore, restrict the
flow

flow of the bore, if necessary, either to a quantity equivalent to eight gallons per acre of the area remaining in the district of the trust or to a quantity equivalent to a supply of eight thousand gallons per mile of drain utilised in the reduced area of the district of the trust.

No. 2, 1943.

Where the indebtedness of the trust to the Crown is reduced under paragraph (a) of this subsection a sum equivalent to the amount of such reduction shall be paid by the Commission to the Colonial Treasurer and thereupon such adjustment shall be made of the amount of the future periodical payments in respect of the indebtedness of the trust to the Crown as may be necessary having regard to the reduction of such indebtedness to the Crown.

Where the flow of a bore is restricted under paragraph (c) of this subsection charges for water shall thereupon be based on the flow as so restricted.

- (iv) by inserting in subsection five of the same section after the words "purposes of the" the words "provisional district or";
- (v) by omitting from subsection six of the same section the words—

"In the event of the whole of the lands within the district of a trust constituted for the purposes of water conservation, water supply, or irrigation, under the provisions of Part III of this Act, being included in a provisional district or a district, the trust shall as from the date of the notification in the Gazette of such inclusion be deemed to be dissolved"

and by inserting in lieu thereof the words—

"Where the whole of the lands within the district of a trust constituted for the purposes of water conservation, water supply

No. 2, 1943.

supply or irrigation under the provisions of Part III of this Act are to be included in a provisional district or district and the trustees are notified by the Commission that the works of the trust are to be taken over by the Commission in connection with or for the purposes of a provisional district or district, the Commission may take over the said works and the trust shall as from a date to be notified by the Commission in the Gazette be deemed to be dissolved."

Subst. sec.
137.

- (g) by omitting section one hundred and thirty-seven and by inserting in lieu thereof the following section:—

Rates and
charges for
water.

137. The Commission shall fix in respect of the lands within provisional districts and districts the rates and charges for water.

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

- (h) (i) by omitting from paragraph (a) of subsection one of section one hundred and thirty-eight the words "fixed and levied only" and by inserting in lieu thereof the words "levied as prescribed";
- (ii) by omitting from the same subsection the word "period" and by inserting in lieu thereof the word "year";

New. sec.
138A.

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

Classification
of holdings
and
determination
of livestock
carrying
capacity.

138A. (1) This section shall apply to and in respect of a domestic and stock water supply district or provisional district in the constitution of which it is notified that rates are to be fixed on the basis of an annual rate per sheep of the livestock carrying capacity of holdings which may be classified as pastoral and an annual rate or rates per acre in respect of holdings which may be classified as other than pastoral.

(2) Upon the constitution of a provisional district the Commission shall classify the holdings therein as pastoral, or other than pastoral, and give written notification to the owner

owner of each holding therein of the classification of such holding. No. 2, 1943.

(3) Before the first assessment of rates within a provisional district the Commission shall determine the livestock carrying capacity of each holding therein which is classified as pastoral and give written notification to the owner thereof of such determination.

(4) Upon the subdivision of a holding which is classified as pastoral and which is within a district or provisional district the Commission shall—

- (a) classify each of the several parts as pastoral or other than pastoral;
- (b) determine the livestock carrying capacity of each of such parts classified as pastoral;
- (c) give written notification to the owner of each of such parts of such classification or determination.

(5) (a) Any classification made under subsection two and any determination made under subsection three of this section or any amendment, upon appeal, of any such classification or determination shall have force and effect until the thirtieth day of June next following the fifth anniversary of the constitution of the district.

(b) Before the said thirtieth day of June and thereafter before the expiration of each succeeding period of ten years the Commission shall—

- (i) classify the holdings in the district as pastoral or other than pastoral and give written notification to the owner of each holding therein of the classification of such holding; and
- (ii) determine the livestock carrying capacity of each holding in the district which is classified as pastoral and give written notification to the owner thereof of such determination.

The

No. 2, 1943.

The first classification and determination made under this paragraph or any amendment, on appeal, of any particular classification or determination, shall come into force on the first day of July next following the fifth anniversary of the constitution of the district and shall continue in force for a period of ten years.

Each subsequent classification and determination made under this paragraph or any amendment, on appeal, of any particular classification or determination shall come into force upon the expiration of the period of the last preceding classification and determination and shall continue in force for a period of ten years.

(6) Any classification or determination made under subsection four of this section or any amendment, on appeal, of any such classification or determination shall have force and effect until a classification and determination is made under paragraph (b) of subsection five of this section in respect of holdings within the district.

(7) Where an owner of a holding or a part of a subdivided holding is dissatisfied with any classification or determination made by the Commission under this section he may within thirty days after receipt of the notification of the classification or determination appeal against such classification or determination to a police magistrate having jurisdiction in any part of the district or provisional district in which the holding is situated.

The police magistrate shall have jurisdiction to hear and determine the appeal and may affirm or amend the classification or determination appealed against and may also make such order for the payment of the costs of the appeal by the owner or the Commission as seems just.

Any costs so ordered to be paid may be recovered as a debt in any court of competent jurisdiction.

The decision of the police magistrate shall be final.

(8)

Irrigation and Water (Amendment) Act.

67

(8) For the purpose of this section the livestock carrying capacity of a holding shall be the annual average of the number of sheep which the holding was capable of carrying during the five years immediately preceding the year in which the determination is made. The Commission, to assist it in arriving at such determination, and a police magistrate, for the purposes of hearing and determining any appeal under this section, may have recourse to any records or returns in the possession of any pastures protection board, and any such board shall on request to it by the Commission or police magistrate make such records or returns available to the Commission or police magistrate.

No. 2, 1943.

(9) The rates for water within a domestic and stock water supply district or provisional district shall—

- (a) in respect of a holding classified as pastoral be assessed at the annual rate per sheep of the livestock carrying capacity determined in respect of that holding;
 - (b) in respect of holdings classified as other than pastoral be assessed at the annual rate or rates per acre of such holding and be subject to the provisions of section one hundred and forty of this Act.
- (j) (i) by inserting in paragraph (a) of subsection two of section one hundred and thirty-nine after the word "Act" the words "and overdue charges fixed under subsection three or subsection four of section one hundred and forty-seven of this Act";
- (ii) by inserting in paragraph (b) of the same subsection after the word "assessed" the words "or fixed";
- (iii) by omitting from subsection three of the same section the words "until such notice is given he shall remain liable for all rates which become payable in respect of such land prior to the giving of such notice" and
- by

Sec. 139.
(Assessment
of rates and
charges.)

No. 2, 1943.

by inserting in lieu thereof the words "he shall nevertheless remain liable for the rate to the same extent as if he had not transferred his estate or interest in or abandoned the ratable land, provided that the rate is levied either—

- (a) before he transferred his estate or interest in or abandoned the ratable land; or
- (b) before the said notice is given to the Commission.

(iv) by inserting at the end of the same section the following new subsections:—

(4) If any person who transfers his estate or interest in ratable land pays to the bank any rate in respect thereof which is levied after he transfers his estate or interest and before the notice referred to in subsection three of this section is given to the Commission, he may recover the amount from the person to whom he transfers his estate or interest.

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

(6) In the event of the Commission at any time finding it has made an error in the assessment of a rate in respect of any holding or owner through lack of knowledge of the name of the owner, or the area or extent of the holding, or miscalculation, the Commission upon such error being brought under its notice may at any time re-assess the rate in respect of any holding or owner affected.

Sec. 141.
(Rating.)

- (k) by omitting from section one hundred and forty-one the words "The rate or charge referred to in this section shall be paid whether the water is or is not taken by the owner unless it is established that the water was not available";

(1)

(l) by omitting from section one hundred and forty-two the words "such thirtieth day of June" and by inserting in lieu thereof the words "the thirty-first day of July next following";

No. 2, 1943.

Sec. 142.
(Charges for additional water.)

(m) by omitting section one hundred and forty-three and by inserting in lieu thereof the following section:—

Subst.
sec. 143.

143. (1) All amounts due and payable or to become due and payable under this Part whether in respect of rates or charges for water or charges for additional water or for water supplied, or for maintenance charges arising in relation to the supply of water, shall be payable to the bank by the owner of the land, and shall be paid whether water is or is not taken by the owner unless it is established that the water was not available to his holding.

Liability for rates and charges for water.

(2) Rates or charges for water under this Part, except charges for additional water, shall be a charge upon the land.

(3) In any case where more than one person is an owner of the land within the meaning of this Part the rate or charge may be levied upon any one or more of such persons and the bank may recover the rate or charge as against any person upon whom the rate or charge is so levied:

Provided that nothing in this subsection shall entitle the bank to recover more than the full amount of the rate or charge.

(4) (a) Where the land is owned jointly by two or more owners, such owners shall be jointly and severally liable to the bank for the rate or charge, but as between themselves each shall only be liable for such part of the rate or charge as is proportionate to his interest in the land and in the improvements thereon.

(b) If any such owner pays to the bank more than his proportionate part, he may recover the excess from the others.

(5)

No. 2, 1948.

(5) Where an owner acquires land within a district or provisional district from the Crown during any year within which rates and charges are payable under this Part in respect of such land rates and charges proportionate to the portion of the year during which the land is held by such owner shall be payable by him to the bank as and when prescribed and the Commission may assess the said owner accordingly at a date subsequent to that on which he acquired the land.

(6) Where during any year any land, being the whole or part of a holding within a district or provisional district, reverts to the Crown, and in respect of that year and in respect of each holding within the district or provisional district, rates and charges are or are to be assessed, the owner of such land shall, as regards such land, be liable only for that part of the rates (not being rates of the class referred to in paragraph (a) of section one hundred and forty-one of this Act) which accrues due in respect of the period of the year during which such land is held by him, and in addition shall, as regards such land, be liable for the greater of the following amounts:—

- (a) the amount of the rate or charge fixed and levied as provided in section one hundred and forty-one of this Act which accrues due in respect of the period of the year during which such land is held by him;
- (b) the amount due and payable in respect of charges for water or for additional water or for water supplied or delivered during the period of the year during which such land is held by him.

For the purposes of this subsection charges for water rights and rates shall be considered as accruing from day to day and shall be apportionable in respect of time accordingly.

Any excess payment by such owner shall be refunded to him.

(7)

(7) The repeal of the section which this section replaces shall not affect any liability incurred before such repeal or any charge upon land existing immediately before such repeal. No. 2, 1943.

- (n) (i) by omitting from subsection two of section one hundred and forty-seven the words "held by any owner" and by inserting in lieu thereof the words "to which water rights are attached"; Sec. 147.
(Supply of water.)
- (ii) by inserting next after subsection six of the same section the following new subsection:—

(6A) (a) Without prejudice to the effect of subsection six of this section the Commission may, if it is satisfied that by reason of an actual or threatened shortage of water or for any other sufficient cause it is necessary or expedient so to do, determine that—

- (i) the quantity of water which the Commission is required by or under this or any other Act or otherwise howsoever to supply to any land or person shall be reduced; or
- (ii) such supply shall be discontinued.

(b) Any such determination may be made in relation to all water or to water used for any purpose or class of purposes and may apply to and in respect of all lands and persons or may apply to and in respect of any particular land or person specified in the determination or to and in respect of any class of lands or persons so specified.

(c) Every determination made under this subsection may be carried into effect by the Commission.

(d) No matter or thing done by the Commission or by any person whomsoever acting under the direction of the Commission shall, if the matter or thing was done bona fide for the purpose of carrying

No. 2, 1948.

carrying this subsection into effect, subject the Commission or any such person to any action, liability, claim or demand whatsoever.

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

(7) The water rights attached to a holding under this Part shall not be divested from the holding except in accordance with this subsection.

On the application of the owner and on the recommendation of the Commission the Governor may divest from a holding the water rights attached to such holding.

Where the circumstances require that water rights attached to a holding under this Part should be cancelled, the Governor may, on the recommendation of the Commission, divest from a holding the water rights attached to such holding.

- (iv) by inserting next after subsection eight of the same section the following new subsection:—

(8A) The Governor may, on the recommendation of the Commission, and with the consent in writing of the owner, attach water rights to any holding within a district or provisional district to which water rights have not already been attached, and fix the number of those water rights.

The rate or charge for water in pursuance of such water rights shall commence to be payable from the date when the supply of water pursuant to the water rights is first made available to the holding from the works of the district or provisional district.

- (v) by omitting subsection nine of the same section and by inserting in lieu thereof the following subsections:—

(9) (a) Where the owner of any holding to which water rights are attached proposes
to

to dispose of a part or parts of such holding he shall notify the Commission and shall furnish particulars as to such part or parts. No. 2, 1943.

(b) Thereupon the Governor shall, on the recommendation of the Commission—

- (i) apportion such water rights between the several parts of the holding (including any part to be retained by the owner); or
- (ii) increase the number of such water rights and apportion such increased number of water rights between the several parts of the holding (including any part to be retained by the owner):

Provided that water rights shall not be apportioned to any such part which, in the opinion of the Commission, does not contain land capable of being irrigated from the works of the district or provisional district, or to which, in the opinion of the Commission, it is impracticable to convey water for irrigation from such works.

(c) Upon the disposal of any such part water rights shall attach to the several parts of the holding (including any part retained by the owner) in accordance with the apportionment under this subsection.

(d) Rates and charges for water shall be assessed and payable in respect of each of such several parts (including any part retained by the owner) as from the date upon which such water rights are attached.

An adjustment shall be made in respect of any rates overpaid.

(9A) (a) Where the owner of any holding to which water rights are attached disposes of a part or parts of such holding without notifying the Commission in accordance with subsection nine of this section the

No. 2, 1943.

the Governor shall, on the recommendation of the Commission, apportion such water rights or increase the number of such water rights and apportion such increased number of water rights in the manner set out in paragraph (b) of subsection nine of this section.

(b) Water rights in accordance with the apportionment under this subsection shall attach to the several parts of the holding (including any part retained by the owner) and shall be deemed to have so attached as from the date upon which such part or the first of such parts was disposed of.

(c) Rates and charges for water shall be assessed and payable in respect of each of such several parts (including any part retained by the owner) as from the date upon which such water rights are deemed to have attached thereto.

An adjustment shall be made in respect of any rates overpaid.

(9B) Where part of any holding to which water rights are attached reverts to the Crown, the Governor may, on the recommendation of the Commission, determine the number of water rights, if any, which shall attach to the balance of such holding.

(vi) by omitting paragraph (a) of subsection ten of the same section and by inserting in lieu thereof the following paragraph:—

(a) Prior to the disposal of any part or parts of a holding within a district or provisional district by the owner of the holding the said owner shall, when called upon by the Commission so to do, construct at his own cost such works as are deemed by the Commission to be necessary, in respect of either the part or parts of the holding

holding to be disposed of or the part or parts to be retained by the owner or both, to provide—

No. 2, 1943.

- (i) means of supplying and conveying water from the works of the district or provisional district and of measuring such supply;
- (ii) means of access from roads in any case where access would not be available except by crossing a channel of the district or provisional district; and
- (iii) means of access across a channel of the district or provisional district where such means of access is required by reason of the subdivision of the holding.

All such works shall be to the approval of the Commission in respect of location, design, form, dimensions and construction.

(vii) by inserting at the end of the same subsection the following new paragraphs:—

- (f) Where the owner of a holding fails to construct the works referred to in paragraph (a) of this subsection the Commission may construct such works and may recover the costs and expenses (including the cost of acquisition of any land or easement deemed by the Commission to be required for such works) incurred in so doing from such owner as a debt.
- (g) Where the owner of a holding desires to dispose of any part of the holding prior to the construction by the Commission in the

No. 2, 1943.

the vicinity of the holding of any of the works of the provisional district the Commission may if it deems fit relieve the owner from the obligation to construct the works referred to in paragraph (a) of this subsection.

Sec. 148.
(Surveys
and works.)

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

(5A) Without prejudice to the generality of subsection five of this section the provisions of section thirty-eight of the Public Works Act, 1912, shall, mutatis mutandis, apply to and in respect of any contracts for carrying out any such work.

(5B) Notwithstanding the provisions of section ninety-one of the Public Works Act, 1912, the Commission shall not be compelled nor shall it be the duty of the Commission to make or maintain any fence in connection with any such work for the accommodation of any person or for any purpose whatsoever, but the Commission may in its discretion make and maintain such fences in connection with any such work as it may deem fit.

(ii) by omitting paragraph one of subsection six of the same section and by inserting in lieu thereof the following paragraph:—

(1) to enter any land being—

(a) the site of a work constructed or the proposed site of a work to be constructed under this Part; and

(b) within a distance of not more than sixty-six feet from the nearest boundary of such site or proposed site; and

(iii)

- (iii) by inserting at the end of the same section No. 2, 1943.
the following new subsection:—

(7) Where any claim is made for compensation by reason of the exercise by the Commission of any power conferred by subsection one, subsection four, or subsection six of this section there shall be taken into consideration and given effect to by way of set-off or abatement the enhanced value of the land of the claimant on account of the provision under this Part of a water supply or the attachment of water rights to the said land, but in no case shall this subsection operate so as to require any payment to be made by the claimant to the Commission in consideration of such enhancement of value:

Provided that—

(a) where the land entered upon or used by the Commission is the site of a work or the proposed site of a work and is of a width in excess of one and one-half chains; or

(b) where in the opinion of the Commission—

(i) the area of the land of the claimant entered upon or used as compared with the total area of his holding is such as to place an undue burden upon him if the said set-off or abatement were applied either wholly or partially; or

(ii) the location of the land of the claimant entered upon or used is such as to cause undue loss or expense to him on account of severance,

the set-off or abatement may be waived by the Commission either in whole or in part.

(p)

No. 2, 1943.
 New sec.
 148A.

(p) by inserting next after section one hundred and forty-eight the following new subheading and section:—

Unauthorised use of water.

Unauthorised use
 of water.

148A. (1) Any person who, except under the authority of this Part, or with the permission of the Commission—

- (a) takes or uses water from any work of a district or provisional district; or
- (b) interferes with the flow of the water in any work of a district or provisional district by opening or closing either in whole or in part any valve, sluice, gate, meter, or other like regulator or by removing or placing in position any drop-bar or like appliance,

shall be guilty of an offence and shall be liable to a penalty not exceeding twenty pounds.

(2) Any person who, except under the authority of this Part, or with the permission of the Commission—

- (a) diverts or takes water supplying or flowing into any work of the district or provisional district; or
- (b) does any act whereby the water from any such work may be drawn off or diminished in quantity,

shall be guilty of an offence and shall be liable to a penalty of not more than five pounds for every day during the whole or any part of which the said supply of water is diverted, taken, drawn off or diminished by reason of any act done by or by the direction of such person.

(3) Any person who destroys, damages or interferes with any work of a district or provisional district shall be guilty of an offence and shall be liable to a penalty not exceeding twenty pounds.

(4) Where, in any prosecution for an offence against this section, it is established that as a result of the acts complained of a benefit

benefit is conferred upon or derived by any owner it shall be presumed in the absence of proof to the contrary that such owner was guilty of the offence. No. 2, 1943.

14. The Water Act, 1912-1941, is further amended—

(a) (i) by omitting from subsection two of section one hundred and fifty-eight 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 “fix” the words “during that year”;

(b) (i) by omitting from subsection three of section one hundred and fifty-nine the words “until such notice is given he shall remain liable for all rates which become payable in respect of such land prior to the giving of such notice” and by inserting in lieu thereof the words “he shall nevertheless remain liable for the rate to the same extent as if he had not transferred his estate or interest in or abandoned the ratable land, provided that the rate is levied either—

(a) before he transferred his estate or interest in or abandoned the ratable land; or

(b) before the said notice is given to the Commission.”

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

(3A) If any person who transfers his estate or interest in ratable land pays to the bank any rate in respect thereof which is levied after he transfers his estate or interest and before the notice referred to in subsection three of this section is given to the Commission, he may recover the amount from the person to whom he transfers his estate or interest.

(3B)

Further amendment of Act No. 44, 1912. Sec. 158. (Fixing of rates.)

Sec. 159. (Rates.)

No. 2, 1943.

(3B) As between a ratable person and any other person from or to whom he derives or transfers his estate or interest in the land every rate shall be considered as accruing from day to day and shall be apportionable in respect of time accordingly.

New sec.
163A.

(c) by inserting next after section one hundred and sixty-three the following new section:—

Provisions
relating to
the Bank.

163A. (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.

(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_B 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_B of the Government Savings Bank Act, 1906, as amended by subsequent Acts, shall apply to all moneys which become payable to, or recoverable by, or which are received by the Bank in pursuance of this Part.

PART VI.

AMENDMENT OF THE CROWN LANDS CONSOLIDATION ACT,
1913.Amendment
of Act No.
7, 1913.

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

Sec. 142.
(Conditions,
etc., of
irrigation
farm
purchases.)

(a) (i) by omitting from subsection four of section one hundred and forty-two the word "two" and by inserting in lieu thereof the word "three";

(ii)

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

No. 2, 1943.

(6) (a) Land described in any notification in the Gazette under the provisions of section one hundred and thirty-nine or section 144A of this Act, as suitable for purposes other than purposes of the following character, that is to say—

(i) for residential purposes,

(ii) for horticulture,

(iii) for both horticulture and some other purpose,

shall not be used to plant any area of orchard or vineyard to a greater extent than one acre, unless such land comprises an irrigation farm purchase to which is attached a condition that, or to the effect that, a greater area of orchard or vineyard may be planted.

The restriction imposed by this paragraph shall be a condition attaching to the purchase.

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

(b) Upon the conversion under the provisions of section one hundred and forty-five of this Act into an irrigation farm purchase of any irrigation farm lease which is subject to any of the conditions mentioned in subsection seven, subsection eight or subsection nine of section 142D of this Act (or any of the said conditions with the addition of a provision respecting the consent of the Commission or some condition to the like effect), the condition to attach to the purchase after the conversion shall be in terms of the condition which attached to the lease.

(c)

No. 2, 1943.

(c) With respect to any irrigation farm purchase to which at the commencement of the Irrigation and Water (Amendment) Act, 1943, is attached a condition that, or to the effect that, it shall not be used to plant any area of orchard or vineyard to a greater extent than that specified in the condition, such condition shall continue to attach to such purchase.

(d) A condition mentioned in paragraph (c) of this subsection or a condition to the like effect may be attached to any irrigation farm purchase—

- (i) by the Minister when notifying it as available for disposal, or
- (ii) by the Commission when notifying the addition of land thereto.

(e) A condition mentioned in paragraph (a), paragraph (b), paragraph (c), or paragraph (d) of this subsection attaching to an irrigation farm purchase shall not cease and shall be deemed never to have ceased to apply after the grant in fee-simple has issued.

Any breach of such a condition shall render the land liable to forfeiture.

(f) The Minister may, at any time, with the consent of the holder, by instrument under his hand in the prescribed form, cancel or vary any condition mentioned in paragraph (a), paragraph (b), paragraph (c) or paragraph (d) of this subsection on such terms and conditions as he thinks fit and the condition as so varied shall, whether or not the grant has issued, be the condition attaching to the land.

(g) The Registrar-General may register any such instrument and may cause appropriate entries to be made in the register book.

- (iii) by inserting in subsection seven of the same section after the words "payment of" the words "the prescribed";
- (iv)

- (iv) by omitting from subsection eight of the same section the word "due" and by inserting in lieu thereof the word "owing";
- (v) by omitting from the same subsection the words "relating to residence and improvements";
- (vi) by omitting paragraph (c) of subsection nine of the same section;
- (vii) by inserting at the end of the same section the following new subsection:—

No. 2, 1943.

(10) The Crown grant shall also contain such reservations and exceptions as may, by the Governor, be deemed expedient in the public interest either generally or in any particular case.

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

- (b) (i) by omitting from subsection four of section 142B the word "two" and by inserting in lieu thereof the word "three";
- (ii) by omitting from subsection seven of the same section the word "due" and by inserting in lieu thereof the word "owing";
- (iii) by omitting paragraph (c) of subsection eight of the same section;
- (iv) by inserting next after subsection eight of the same section the following new subsection:—

Sec 142B.
(Conditions,
etc., of town
land pur-
chases.)

(8A) The Crown grant shall also contain such reservations and exceptions as may, by the Governor, be deemed expedient in the public interest either generally or in any particular case.

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

- (v) by omitting subsection nine of the same section;

(vi)

Irrigation and Water (Amendment) Act.**No. 2, 1948.**

- (vi) by inserting in subsection ten of the same section after the word "or" where firstly occurring the word "public";
- (vii) by inserting at the end of the same section the following new subsections:—

(11) Where a grant in fee-simple has been issued containing a condition the terms of which follow the provisions of subsection ten of this section, or a condition to the like effect, and the consent of the Commission as provided therein has been given, the Registrar-General shall, upon production of a certificate in the prescribed form by the Commission, make such entries and notifications in the register book as are necessary to show that such consent has been given.

(12) The provisions of subsection ten of this section shall not cease to apply after the issue of the grant in fee-simple, and any breach of such provisions shall render the land liable to forfeiture.

(13) The provisions of subsection ten of this section shall apply to a town land purchase which is a conversion of a town land lease, where such town land lease was notified in the Gazette as available for disposal for the purpose of residence.

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

Sec. 142D.
(Conditions,
etc., of
leases with-
in irrigation
areas.)

- (c) by omitting subsections seven and eight of section 142D and by inserting in lieu thereof the following subsections:—

(7) Land described in any notification in the Gazette under the provisions of section one hundred and thirty-nine or section 144A of this Act

Act as suitable for purposes other than purposes of the following character, that is to say— No. 2, 1943.

- (i) for residential purposes,
- (ii) for horticulture,
- (iii) for both horticulture and some other purpose,

shall not be used to plant any area of orchard or vineyard to a greater extent than one acre, unless such land comprises an irrigation farm lease to which is attached a condition that, or to the effect that, a greater area of orchard or vineyard may be planted.

The restriction imposed by this subsection shall be a condition attaching to the lease.

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

(8) With respect to any lease to which at the commencement of the Irrigation and Water (Amendment) Act, 1943, is attached a condition that, or to the effect that, it shall not be used to plant any area of orchard or vineyard to a greater extent than that specified in the condition, such condition shall continue to attach to such lease.

(9) A condition mentioned in subsection eight of this section or a condition to the like effect may be attached to any lease—

- (a) by the Minister when notifying it as available for disposal; or
- (b) by the Commission when notifying the addition of land thereto.

(10) (a) Land which, either before or after the commencement of the Irrigation and Water (Amendment) Act, 1943, has been notified in the Gazette as available for disposal for the purpose of residence shall not, except with the written consent of the Commission, be used as a place of amusement or public meeting, or for any business which involves the manufacturing, repairing,

No. 2, 1943.

repairing, selling, buying or cleansing of any article or commodity, or for any other business purpose.

(b) The provisions of paragraph (a) of this subsection shall apply after the issue of the perpetual lease grant and shall so apply whether the perpetual lease grant was issued before or is issued after the commencement of the Irrigation and Water (Amendment) Act, 1943.

(11) Where a perpetual lease grant has been issued containing a condition mentioned in paragraph (a) of subsection ten of this section, or a condition to the like effect, and the consent of the Commission as provided therein has been given, the Registrar-General shall, upon production of a certificate in the prescribed form by the Commission, make such entries and notifications in the register book as are necessary to show that such consent has been given.

(12) A condition attaching to a lease in pursuance of the provisions of subsection seven, subsection eight or subsection nine of this section, shall not cease to apply after the perpetual lease grant has been issued.

Sec. 144.
(Perpetual
lease
grants.)

(d) (i) by omitting subsection one of section one hundred and forty-four and by inserting in lieu thereof the following subsection:—

(1) Upon application by the holder of a lease, the term of which is in perpetuity, and payment of deed fee and stamp duty, if the Commission is satisfied that all the conditions of the lease have been duly complied with, the Governor shall issue a grant in the prescribed form to the lessee, his heirs and assigns for ever.

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

(b) conditions securing upon the land so much of any rate or charge for water made and levied under the provisions

provisions of the Irrigation Act, 1912, and any Act amending the same, 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. No. 2, 1943.

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

(3) The grant shall also be made subject to such reservations and exceptions as may, by the Governor, be deemed expedient in the public interest either generally or in any particular case.

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

(e) (i) by inserting next after subsection one of section 144B the following new subsection:— Sec. 144B.
(Alterations of
area.)

(1A) Subsection one of this section shall not apply in any case where the irrigable area of the holding is increased by the construction of additional works wholly provided by the holder or the additional facilities for watering are so provided.

This subsection shall be deemed to have been in force from the date of the commencement of the Irrigation (Amendment) Act, 1931.

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

(2) Where a lease is subdivided, the Commission shall determine the annual rental of each part resulting from the subdivision, provided that the total annual rental of the respective parts shall not exceed the annual rental of the lease before subdivision.

(f)

Irrigation and Water (Amendment) Act.

No. 2, 1943.

New sec.
144F.Restriction
as to
number of
adjoining
allotments.

- (f) by inserting next after section 144E the following new short heading and section:—

Number of adjoining allotments within a city, town or village, which may be held by any one person or in his interest.

144F. (1) No more than the maximum number of adjoining allotments referred to in this subsection may be held in any city, town or village by any one person or in his interest except as a mortgagee or as a person holding a security thereover.

The maximum number of adjoining allotments which may be so held shall be—

- (a) in the case of allotments notified in the Gazette as available for the purpose of business—four;
- (b) in the case of allotments notified in the Gazette as available for the purpose of residence—three: Provided that where, in the opinion of the Minister, the circumstances so warrant, he may consent to the holding of four such allotments by one person or in his interest, and in such case the maximum number which may be held by such person or in his interest shall be four.

(2) Any transfer, agreement, contract or other dealing whatsoever whether before or after the issue of the perpetual lease grant, or grant in fee-simple, as the case may be, which would contravene or have the effect of contravening the provisions of this section shall not be valid for any purpose whatsoever.

(3) The provisions of this section shall not cease to apply after the issue of the perpetual lease grant or grant in fee-simple.

(4) For the purpose of this section an allotment shall mean any one parcel of land notified in the Gazette as being available for disposal as a town land purchase or a town land lease: Provided that an allotment may comprise one or more surveyed areas.

(g)

(g) by omitting from subsection one of section 145A the following words:—

No. 2, 1948.

Sec. 145A.

(Restrictions on transfer of holdings.)

“Application for permission to transfer or otherwise deal with in any manner whatsoever a holding, other than a holding within a city, town, or village, shall be made in the prescribed form to the Commission. The granting or refusing of any application shall be entirely at the discretion of the Commission. Such transfer or other dealing shall not be effected, or if effected, shall not be valid for any purpose whatsoever, unless the consent thereto of the Commission in writing has been obtained.”

and by inserting in lieu thereof the following words:—

“Except with the consent of the Commission—

- (a) an irrigation farm lease or a non-irrigable lease shall not be transferred or subleased either in whole or in part or otherwise dealt with;
- (b) a sublease of the whole or part of an irrigation farm lease or a non-irrigable lease shall not be assigned or subleased either in whole or in part or otherwise dealt with;
- (c) an irrigation farm purchase or a non-irrigable purchase shall not be transferred or leased either in whole or in part or otherwise dealt with;
- (d) a lease of the whole or part of an irrigation farm purchase or a non-irrigable purchase shall not be assigned or subleased either in whole or in part or otherwise dealt with.

Application for the consent of the Commission shall be made in the prescribed form.

The

No. 2, 1943.

The granting or refusing of any such application shall be entirely in the discretion of the Commission.

Any transfer, lease, assignment, sublease, or other dealing whatsoever, which would contravene, or have the effect of contravening the provisions of this subsection, shall not be valid for any purpose whatsoever.

The provisions of this subsection shall be conditions attaching to the holding, and any breach thereof shall render the holding liable to forfeiture."

Sec. 147.
(Forfeiture
for non-
perform-
ance of
conditions.)

(h) (i) by omitting subsection one of section one hundred and forty-seven and by inserting in lieu thereof the following subsection:—

(1) The Commission may report to the chairman of the special land board any non-performance or breach—

(a) of any special or other condition attaching to a holding; or

(b) of any provision of this Act which relates to a holding,

(other than conditions or provisions relating to the payment of money) and thereupon the board shall proceed to inquire into the matter. If the special land board after due inquiry finds that any of such conditions or provisions have not been or are not being duly performed or there has been a breach thereof, and so reports to the Commission, it shall be lawful for the Commission by notification in the Gazette to declare the holding, together with any moneys paid in respect thereof and all improvements on the land, to be forfeited, and the same shall be forfeited accordingly.

The forfeiture shall not operate to extinguish the obligation to make any payment as is mentioned in subsection two of this section.

(ii)

- (ii) by inserting at the end of the same section the following new subsection:— No. 2, 1943.

(6) The provisions of this section shall not cease to apply after the perpetual lease grant or the Crown grant has issued.

- (i) by inserting next after section 147B the following new short heading and section:— New sec. 147c.

Savings.

147c. Lands which, immediately before the commencement of the Irrigation Holdings (Freehold) Act, 1924, were held as— Savings.

- (a) an irrigation farm or block, or
- (b) a town lands block, or
- (c) a block of non-irrigable land,

shall on and after such commencement be deemed to have been respectively held as—

- (i) an irrigation farm lease, or
- (ii) a town land lease, or
- (iii) a non-irrigable lease, the title to which is a lease in perpetuity.

All conditions and provisions which immediately before such commencement attached to such lands shall be deemed to have continued to attach thereto to the extent to which such conditions and provisions were not repealed, superseded, amended or modified, by or under such Act or by or under any subsequent Act.

- (j) (i) by inserting in subsection three of section two hundred and sixteen after the words "such shallow bore" the words "but if the amount outstanding exceeds the original amount of the charge for the bore, then the amount to be paid by the incoming settler shall be the amount of such original charge"; Sec. 216.
(Periods allowed for payment for improvements.)

- (ii) by omitting from the same subsection all words commencing with the words "Subject to this subsection" down to and including the words "occupation of the land" and by inserting in lieu thereof the words "The amount to be paid to the Rural Bank in pursuance of this subsection shall be paid to the said

Irrigation and Water (Amendment) Act.

No. 2, 1943.

said Bank in such manner, at such time or times, with such interest or without interest as the said Commission may determine and shall until paid be and remain a charge on the land in favour of the said Bank and shall be recoverable by it in any court of competent jurisdiction from the owner or occupier of the land for the time being."

Sec. 1.
(Revision.)

(k) by omitting from the matter relating to Part VI in section one the figures and symbol "147B" and by inserting in lieu thereof the figures and symbol "147c".

PART VII.

AMENDMENT OF THE WESTERN LANDS ACT OF 1901.

Amendment
of Act
No. 70, 1901.
Sec. 31.
(Determina-
tion of
value of
improve-
ments.)

16. The Western Lands Act of 1901, as amended by subsequent Acts, is amended by inserting at the end of section thirty-one the following new subsection:—

(5) Notwithstanding any of the foregoing provisions of this section, where any land leased under this Act upon which the Water Conservation and Irrigation Commission has put down a successful shallow bore becomes forfeited to the Crown and the land surrounding the bore is again leased, the incoming tenant shall pay to the Rural Bank of New South Wales any amount which may still be outstanding in respect of such shallow bore, but if the amount outstanding exceeds the original amount of the charge for the bore then the amount to be paid by the incoming tenant shall be the amount of such original charge.

The amount to be paid to the said Rural Bank in pursuance of this subsection shall be paid to it in such manner, at such time or times, with such interest or without interest, as the said Commission may determine and shall until paid be and remain a charge on the land in favour of the said Rural Bank and shall be recoverable by it in any court of competent jurisdiction from the owner or occupier of the land for the time being.

For

For the purposes of this subsection "successful shallow bore" means a bore which on completion has been tested by the said Commission and found to yield a supply of water of at least one hundred gallons per hour, and of a quality suitable for drinking by stock, or a bore capable of use yielding any less supply of water of the same quality in which the casing has been allowed to remain at the request of the settler for whom the bore was sunk.

No. 2, 1943.

PART VIII.

MISCELLANEOUS.

17. (1) (a) The yearly charge to be paid by the Dolgelly Bore Water Trust for water supplied, and to be supplied, to it by the Crown shall, from the twenty-eighth day of April, one thousand nine hundred and thirty-seven, be at the rate of eight shillings and sixpence for every thousand gallons or part thereof in the flow per day—less twenty thousand gallons 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 April in each year.

Validations,
exemptions,
etc.

The said yearly charge shall be paid by the said Trust whilst a natural flow greater than twenty thousand gallons per day continues from the bore outlet.

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

(2) (a) The yearly charge to be paid by the Dungle Ridge Bore Water Trust for water supplied, and to be supplied, to it by the Crown shall, for the year commencing on the fourteenth day of July, one thousand nine hundred and thirty-six, be one hundred and twenty-three pounds, and for the year commencing the fourteenth day of July, one thousand nine hundred and thirty-seven, at the rate of twelve shillings and sevenpence for every thousand gallons in the flow of water from

No. 2, 1943. from the bore per day, as ascertained by the Water Conservation and Irrigation Commission by measurement and notified by it to the said Trust. Thereafter the yearly charge shall be at the rate of twelve shillings and sevenpence for every thousand gallons in the flow per day—less ten thousand gallons 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 fourteenth day of June in each year.

The said yearly charge shall be paid by the said Trust whilst a natural flow greater than ten thousand gallons per day continues from the bore outlet.

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

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

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

(4) The Pomona Irrigation Trust shall have and shall be deemed to have had at all times power to exempt from rates each of the pieces or parcels of land being lots numbers nine, ten, thirteen, 13A, 14A, 17A, twenty-six, forty-one and fifty within the Trust District provided that this power to exempt from rates shall cease in respect of any of the said pieces or parcels of land when it is actually occupied or whenever it is disposed of by the person who at the commencement of this Act is the owner thereof to any other person.

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

(b)

(b) This subsection shall be deemed to have commenced upon the twenty-first day of October, one thousand nine hundred and thirty-nine. No. 2, 1943.

(6) (a) The Munna Munna Bore Water Trust is relieved of its obligation to pay any charge for water supplied, and to be supplied, to it by the Crown other than charges which became due and payable by that Trust on or before the thirtieth day of September, one thousand nine hundred and forty-one.

(b) This subsection shall be deemed to have commenced upon the thirtieth day of September, one thousand nine hundred and forty-one.

(7) (a) The Three B Bore Water Trust is relieved of its obligation to pay any charge for water supplied, and to be supplied, to it by the Crown other than charges which became due and payable by that Trust on or before the seventh day of May, one thousand nine hundred and forty-two.

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

(8) The yearly charge to be paid by the Pilliga Bore Water Trust for water to be supplied to it by the Crown shall, from the seventh day of July, one thousand nine hundred and forty-three, be at the rate of thirteen shillings for every one thousand gallons or part thereof in the flow per day—less one hundred and fifty-eight thousand gallons 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 seventh day of July in each year.

18. Where before the commencement of this Act the Water Conservation and Irrigation Commission has by notification published in the Gazette purported to correct errors made in proclamations under Part VI of the Water Act, 1912, as amended by subsequent Acts, constituting districts and provisional districts, and as a consequence of the correction of such errors, to apportion water rights or to increase the number of water rights and apportion such increased number of water rights, the Commission shall

Validation
of certain
notifica-
tions.

No. 2, 1943. shall be deemed to have had power to make such correction and apportionment and every such notification shall have effect according to its tenor as from the date of the publication thereof.

Savings
as to
certain
transfers
and
dealings.

19. Any transfer or other dealing with a town land lease effected, without the consent of the Water Conservation and Irrigation Commission, before the commencement of the Irrigation (Amendment) Act, 1918, shall not be invalid merely because such consent was not obtained.

Adjustment
of certain
indebted-
ness.

20. (1) This section shall be read and construed with the Wentworth Irrigation Act and the Irrigation Act, 1912, as amended, in each case, by subsequent Acts.

(2) In this section, unless the context or subject matter otherwise indicates or requires—

“Arrears of indebtedness” means so much of the indebtedness of an occupier to the Rural Bank of New South Wales in its Irrigation Agency as had become payable to the Crown or to the Commission, whether for instalments, interest, rent, water charges or otherwise, before the first day of July, one thousand nine hundred and thirty-four, but was not actually paid on or before that day.

“Commission” means the Water Conservation and Irrigation Commission.

“Current indebtedness” means so much of the indebtedness of an occupier to the Rural Bank of New South Wales in its Irrigation Agency as was owing to the Crown or the Commission, whether for instalments, interest, rent, water charges or otherwise, but had not become payable on the first day of July, one thousand nine hundred and thirty-four, together with interest on such indebtedness calculated up to and including the thirty-first day of December, one thousand nine hundred and thirty-four, at the rate of four pounds per centum per annum.

“Minister” means the Minister for Agriculture.

“Occupier” means a person holding under any tenure any land within the irrigation area constituted under the provisions of the Wentworth Irrigation Act, as amended by subsequent Acts.

(3)

(3) In any case where the Minister has determined that the arrears of indebtedness or the current indebtedness of an occupier should be extinguished or reduced as from the date determined by the Minister, the action of the Minister in so doing is hereby validated and such arrears of indebtedness or current indebtedness shall be deemed to be and to have been extinguished or reduced accordingly.

(4) In any case where the Minister has determined and fixed terms for payment of or in respect of the arrears of indebtedness or the current indebtedness of an occupier (or of either as reduced in pursuance of subsection three of this section), or the interest thereon, the action of the Minister in so doing is hereby validated and the arrears of indebtedness or the current indebtedness (or either of them as reduced in pursuance of subsection three of this section) or interest, shall be deemed to have been and shall be payable as so determined and fixed by the Minister.

(5) In any case where before the date of transfer of a lease granted in pursuance of the Wentworth Irrigation Act, as amended by subsequent Acts, the Commission and the proposed transferee have agreed that on such transfer the annual rental in respect of such lease should be altered, and the Minister has determined such annual rental in accordance with such agreement, the action of the Minister in so doing is hereby validated and such annual rental so determined shall be deemed to have been and shall be the annual rental on and from the date of the transfer.

(6) In any case where in the exercise of the powers conferred upon it the Commission has defined an area or areas of land being part of a lease of an irrigated lot granted in pursuance of the Wentworth Irrigation Act, as amended by subsequent Acts, as being non-irrigable land or land unsuited for irrigation or has varied the area or areas so defined and has agreed with the occupier that the annual rental in respect of such lease should be reduced on and from the first day of July, one thousand nine hundred and thirty-five, and the Minister has determined such annual rental at the amount so agreed upon the action of the Minister in so doing is hereby validated and such amount so determined shall be deemed

No. 2, 1943. deemed to have been and shall be the annual rental on and from the said date.

(7) Notwithstanding anything contained in this or any other Act, in any case where any lease of land under the Wentworth Irrigation Act, as amended by subsequent Acts, expires by effluxion of time, and at the date of such expiry any moneys remain owing in respect of the said lease for arrears of indebtedness or for current indebtedness the following provisions shall have effect:—

(a) If a further lease of the land is not granted to the occupier by the Commission then the moneys so remaining owing shall notwithstanding any determination by the Minister in pursuance of subsection four of this section be deemed to be and to have become due and payable on the date of such expiry and may be recovered accordingly in any court of competent jurisdiction.

(b) If a further lease of the land is granted to the occupier by the Commission—

(i) the moneys so remaining owing shall be payable on the same dates and under the same conditions as if the original lease had continued;

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

(iii) the Registrar-General shall on request made by the Rural Bank of New South Wales endorse on the further lease particulars of any mortgage, charge or lien which was recorded on the original lease on the date of its expiry, and every such mortgage, charge or lien so endorsed

endorsed shall be deemed to have been given and executed in respect of the further lease. No. 2, 1943.

(8) (a) In any case where any mortgage, charge, lien or security exists in favour of the Rural Bank of New South Wales in respect of the indebtedness of an occupier, neither anything contained in this section nor any action taken in pursuance of this section relative to such indebtedness shall operate so as to postpone, negative or otherwise prejudice or affect any such mortgage, charge, lien or security except in so far as the indebtedness secured thereby may be reduced or extinguished or the terms of payment thereof varied.

(b) In this subsection "indebtedness" includes arrears of indebtedness and current indebtedness.

21. (1) In any and every case where an advance was made by the Water Conservation and Irrigation Commission to a person to whom the said Commission was not empowered by or under any Act to make such advance— Validation of certain advances.

(a) the action of such Commission is hereby validated;

(b) such Commission shall be deemed to have had power to make such advance under section nineteen of the Irrigation Act, 1912-1931 (as repealed by the Rural Bank (Agency) Act, 1934), and to have had power to take any action in respect of the said advances which might have been taken in respect of any advance properly made under the said section nineteen.

(2) The provisions of the Rural Bank (Agency) Act, 1934, shall have effect in every way whatsoever in respect of every advance validated by subsection one of this section in the same manner as if such subsection had been enacted before the first day of July, one thousand nine hundred and thirty-five.

22. (1) In any case where a bore has been sunk by the Commission on any land otherwise than in accordance with the provisions of section 8B of the Irrigation Act, 1912-1941, and the regulations made thereunder— Validation of sinking of certain bores.

(a) the action of the Commission is hereby validated;

(b)

No. 2, 1943.

(b) the sum of money which would have been owing to the Commission immediately before the first day of July, one thousand nine hundred and thirty-five, by the owner or occupier of the land on which the bore had been sunk, if the provisions of the said section and of such regulations had been complied with and if an agreement had been signed by the owner or occupier of the land before the sinking of the bore shall be deemed to have been in fact so owing.

(2) Each sum of money which by virtue of subsection one of this section is deemed to have been owing to the Commission immediately before the first day of July, one thousand nine hundred and thirty-five, shall be also deemed on the said first day of July to have become moneys owing to the Bank and the Bank shall have the same duties, powers, rights and remedies in respect of such moneys as apply to each sum of money which became owing to it by virtue of paragraph (c) of section 70RR of the Government Savings Bank Act, 1906, as amended by subsequent Acts.

(3) Each sum of money owing in pursuance of this section shall be payable and shall be deemed always to have been payable by such instalments and with or without interest in the manner mentioned in the certificate of charge or other written notification of cost given by the Commission in respect of the same to the person who was the owner or occupier of the land concerned at the time such certificate of charge or other written notification of cost was given:

Provided, however, that in respect of any amount owing from time to time the Bank may, on the application of the person indebted, vary the method or terms of payment of such amount.

(4) In this section—

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

“Commission” means the Water Conservation and Irrigation Commission.

“Occupier” shall have the meaning ascribed thereto in section 8B of the Irrigation Act, 1912-1941.

23. (1) This section shall be read and construed with the Irrigation Act, 1912-1941. **No. 2, 1943.**

Reduction
of certain
charges
for water.

(2) Where in the case of every irrigation farm lease and irrigation farm purchase which is of an area exceeding five acres and is within the Yanco Number One Irrigation Area or the Mirrool Number One Irrigation Area, the price for each water right attached thereto exceeds ten shillings per annum, the price for each such water right shall be reduced to ten shillings per annum as from the first day of July, one thousand nine hundred and thirty-eight, and the payments which fell due on the thirtieth day of June, one thousand nine hundred and thirty-eight, for water rights attached to such irrigation farm lease or irrigation farm purchase shall be reduced to such an amount as represents a price of ten shillings per water right per annum.

(3) The collection by the Rural Bank of New South Wales of amounts which fell due for payment on or after the thirtieth day of June, one thousand nine hundred and thirty-eight, in respect of water rights attached to an irrigation farm lease or an irrigation farm purchase mentioned in subsection two of this section, at a reduced price of ten shillings per water right per annum is hereby validated.

(4) The charges for additional water supplied to an irrigation farm lease or an irrigation farm purchase mentioned in subsection two of this section during the period commencing on the first day of July, one thousand nine hundred and thirty-seven, and ending on the thirtieth day of June, one thousand nine hundred and thirty-nine, shall be reduced to ten shillings per acre foot, and the collection by the Rural Bank of New South Wales of the charges for such additional water at the reduced price of ten shillings per acre foot is hereby validated.