

## RIVERS AND FORESHORES IMPROVEMENT ACT.

### Act No. 20, 1948.

An Act to provide for the carrying out of works for the removal of obstructions from and the improvement of rivers and foreshores and the prevention of erosion of lands by tidal and non-tidal waters; to make provision as to payments to be made by owners of lands benefited by such works; to constitute a Rivers and Foreshores Improvement Board; to amend the Water Act, 1912-1946, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 21st May, 1948.]

George VI.  
No. 20, 1948.

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

#### PART I.

##### PRELIMINARY.

**1.** (1) This Act may be cited as the "Rivers and Foreshores Improvement Act, 1948."

Short title,  
commence-  
ment, and  
division  
into Parts.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

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

PART I.—PRELIMINARY.

PART II.—CONSTRUCTION OF WORKS.

PART III.—RIVERS AND FORESHORES IMPROVEMENT  
DISTRICTS.

DIVISION 1.—*Rivers and Foreshores Improvement  
Board.*

DIVISION

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Interpreta-  
tion.DIVISION 2.—*Constitution of Districts.*DIVISION 3.—*Contributions and Rates.*

## PART IV.—MISCELLANEOUS.

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

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

“Board” means the Rivers and Foreshores Improvement Board constituted under this Act.

“Constructing Authority” means—

(a) the Minister for Public Works in respect of any work to which this Act extends in or in connection with any tidal waters or in or in connection with any coastal lake or lagoon not being a work for the purpose of preventing the inflow of sea water or saline water into the course of a river to enable water to be supplied to rural lands or for irrigation; and

(b) the Water Conservation and Irrigation Commission in respect of any work to which this Act extends not being a work in respect of which the Minister for Public Works is the Constructing Authority under paragraph (a) of this definition.

“Council” means council as defined in the Local Government Act, 1919, as amended by subsequent Acts, and includes a county council constituted under that Act, as so amended.

“District” means a River or Foreshore Improvement District or a River and Foreshore Improvement District constituted under this Act.

“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)

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

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“Port of Sydney” means so much of the port of Sydney, the rivers falling into it with their tributaries, and the lands on the margins thereof as is covered at mean high-water.

“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 and, in the case of a river running to the sea or into any coastal bay or inlet or into a coastal lake, includes the estuary of such river and any arm or branch of same and any part of the river influenced by tidal waters.

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

“Tidal waters” includes the waters of the sea or of any lake, estuary, harbour, river, bay, lagoon or inlet of the sea in which the tide ebbs and flows.

“Work to which this Act extends” means any work for the purpose of—

- (a) the removal of dead or growing timber, or other vegetation or aquatic plants, or of silt, shingle, soil, sand, gravel, stone,

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stone, rock or other matter or thing whatsoever, from the bed, banks or foreshore of any tidal waters or coastal lake or lagoon, or from the water or the bed or banks of a river or from any adjoining, adjacent or nearby lands;

- (b) changing or preventing the changing of the course of a river;
- (c) preventing the erosion of the bed or banks of a river or of adjoining, adjacent or nearby lands by the waters of a river;
- (d) preventing the siltation of the course of a river where such work is confined to the bed or banks of a river and adjoining, adjacent or nearby lands;
- (e) preventing the flooding of land by the waters of a river;
- (f) deepening, widening, straightening, or improving the course of a river;
- (g) preventing the inflow of sea water or saline water into the course of a river; or
- (h) preventing the erosion of lands by tidal waters or by the waters of any coastal lake or lagoon.

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**PART II.**
**CONSTRUCTION OF WORKS.**

Works  
within  
port of  
Sydney.

**3.** No work to which this Act extends shall be constructed, operated or maintained in the port of Sydney by the Constructing Authority unless the Maritime Services Board of New South Wales has approved of the construction, operation or maintenance of such work.

Construction,  
etc. of  
work to  
which this  
Act extends.

**4.** (1) The Constructing Authority may in accordance with the provisions of this Act construct, operate and maintain any work to which this Act extends.

(2)

(2) (a) Every work which the Constructing Authority is authorised by this Act to construct shall be constructed under the Public Works Act, 1912, as amended by subsequent Acts. No. 20, 1948.

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

(c) The Constructing Authority shall be the constructing authority for any such work within the meaning of the said Act as so amended, and shall enter into such contracts and take all such necessary steps for the proper execution thereof as such authority may think proper.

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

(4) Notwithstanding the provisions of section ninety-one of the Public Works Act, 1912, as amended by subsequent Acts, the Constructing Authority shall not be compelled, nor shall it be the duty of the Constructing Authority to make or maintain any fence in connection with any work to which this Act extends for the accommodation of any person or for any purpose whatsoever; but the Constructing Authority may, in its discretion, make and maintain such fences in connection with any such work as it may deem fit.

(5) For the purposes of this Act the Constructing Authority or any person authorised by it may after due notice to the owner of any lands enter such lands and take levels and make surveys and marks and fix pegs and stakes and inspect any works.

(6) The Constructing Authority for the purposes of this Act may construct, operate and maintain any work on any land, street, road or reserve.

(7)

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(7) For the purpose of the construction of any work to which this Act extends proposed to be constructed under the authority of this Act or for the purpose of the operation or maintenance of any such work so constructed the Constructing Authority shall have power at any time to enter land and use such land for the purpose of constructing, operating or maintaining the work notwithstanding an easement so to enter or to use such land has not been granted or acquired.

(8) Where any claim is made for compensation by reason of the exercise by the Constructing Authority of any of the powers conferred upon it by subsection five, subsection six, or subsection seven of this section there shall be taken into consideration and given effect to by way of set-off or abatement the amount by which the value of the land of the claimant has been enhanced by the benefit conferred on such land by the construction of works under this Act, but in no case shall this subsection operate so as to require any payment to be made by the claimant to the Constructing Authority in respect of any excess of the amount by which the value of the land of the claimant has been enhanced as aforesaid over the amount of compensation which, but for this subsection, would be payable to the claimant by reason of the exercise by the Constructing Authority of such powers.

(9) In any barrage or work for preventing the inflow of sea water or saline water into the course of a river, such provision for navigation shall be made by means of a lock or other device as may be determined by the Maritime Services Board of New South Wales.

(10) Any person obstructing or hindering the Constructing Authority or any person authorised by the Constructing Authority pursuant to the provisions of this section in the exercise of any power conferred by this section shall be liable to a penalty not exceeding twenty pounds.

(11) Any person who removes, injures or interferes with any marks made, or pegs or stakes fixed pursuant to the provisions of this section or with any work to which this Act extends shall be liable to a penalty not exceeding fifty pounds.

5. (1) Where any land would be benefited by the construction, operation or maintenance of any work to which this Act extends, and a district has not been constituted in respect of such work, the Constructing Authority may, by arrangement with the owner of the land, construct, operate and maintain such work on such terms, including terms relating to the payment by the owner of the cost of the construction, operation and maintenance of the work or part of such cost, as may be agreed upon between the Constructing Authority and the owner:

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Construction of work under agreement with owner of land.

Provided however that any agreement relating to any such work for the purpose of preventing erosion shall not be entered into until the nature and design of such work has been approved by the Minister.

(2) Any sum payable under an agreement made under the provisions of subsection one of this section shall be paid to the Bank by the owner of the land mentioned in the agreement and shall be recoverable by the Bank in any court of competent jurisdiction from the owner of the land for the time being.

6. (1) (a) Where the Constructing Authority is of opinion that by reason of the act or default of any person the flow of water in a river is obstructed or detrimentally affected, or likely to be obstructed or detrimentally affected, the Constructing Authority may serve upon that person a notice requiring him to do or refrain from doing such act or thing as may be necessary to ensure that the flow of water in that river is not obstructed or detrimentally affected, or is not likely to be obstructed or detrimentally affected, and the person on whom such notice is served shall comply with the requirements thereof.

Removal of obstructions in rivers.

(b) If the person on whom any such notice is served fails to comply with the requirements contained therein the Constructing Authority may, if it thinks fit, do whatever in the opinion of the Constructing Authority is necessary to ensure that the flow of water in the river is not obstructed or detrimentally affected or likely to be obstructed or detrimentally affected, and recover the expense incurred in so doing in any court of competent jurisdiction as a debt due to it from the person on whom such notice is served.

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(2) (a) Where the Constructing Authority is of opinion that the flow of water in a river is obstructed or detrimentally affected, or likely to be obstructed or detrimentally affected, otherwise than by the act or default of any person known to the Constructing Authority, the Constructing Authority may do whatever in the opinion of the Constructing Authority is necessary to ensure that the flow of water in that river is not obstructed or detrimentally affected, or is not likely to be obstructed or detrimentally affected.

(b) Where the Constructing Authority is of opinion that any act or thing done pursuant to paragraph (a) of this subsection will benefit any land, and that, having regard to all the circumstances, it is just and equitable that the owner or owners of the land benefited thereby should pay or contribute towards the cost incurred by the Constructing Authority in doing such act or thing, the Constructing Authority may notify the owner or each of the owners accordingly, and shall in such notification specify the amount of the payment or contribution to be made by such owner or by each of such owners and the manner in which and the time within which the payment or contribution is to be made.

The notification shall also indicate the land of the owner on which such an amount shall be a charge in accordance with section twenty-one of this Act.

(c) Any such owner may, within twenty-eight days after service of the notification, appeal to the Land and Valuation Court against the amount specified in such notification. 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 Constructing Authority upon the lodging of the appeal in the Land and Valuation Court.

The Land and Valuation Court in making a determination on any such appeal shall have regard to—

(i) the cost incurred by the Constructing Authority in accordance with paragraph (a) of this subsection;

(ii)



- (ii) the amount by which the value of the land of the appellant and of all other persons has been or will be enhanced by reason of the work carried out by the Constructing Authority under the said paragraph (a);
- (iii) the extent to which the value of the land of the appellant will be maintained by the said work;
- (iv) the depreciation which would have been likely to occur in the value of the land of the appellant had the said work not been carried out; and
- (v) such matters as it deems relevant to the subject matter of the appeal.

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(d) The amount specified by the Constructing Authority or determined by the Land and Valuation Court, as the case may be, as the amount of the payment or contribution to be made by any owner shall be paid by such owner to the Bank in the manner and within the time mentioned in the notification referred to in paragraph (b) of this subsection or in the manner and within the time determined by the Land and Valuation Court upon any appeal against the amount specified in the notification referred to in paragraph (b) of this subsection, as the case may be and, if not so paid, may be recovered by the Bank in any court of competent jurisdiction.

(e) Any determination of the Land and Valuation Court pursuant to this subsection shall be final and binding on the parties affected thereby.

(3) The provisions of this section shall not apply in respect of a work to which Part II of the Water Act, 1912, as amended by subsequent Acts, extends and which is the subject of a license permit or authority for a joint water supply scheme issued under the provisions of that Part.

**7.** (1) Where any work to which this Act extends constructed by the Constructing Authority, whether or not a district has been constituted under the provisions of this Act in respect of such work, benefits any land, road or work vested in or under the control of any council and the Constructing Authority is of opinion that, having regard to all the circumstances, it is just and equitable that the council should pay or contribute towards the cost of the construction, operation and maintenance of

**Work**  
**benefiting**  
**land, road**  
**or work of**  
**a council.**

the

No. 26, 1948. the work constructed by the Constructing Authority, the council shall pay such a sum of money, representing either the whole or part of the cost of the construction, operation and maintenance of such work, as may be agreed upon between the Constructing Authority and the council, or failing such agreement within a period of three months after the date of a notification to the council by the Commission that such work has been completed, then such sum of money as may be determined by the Land and Valuation Court on reference thereto by the council or the Commission.

The Land and Valuation Court in making a determination on any matter so referred shall have regard to—

- (a) the cost incurred by the Constructing Authority in constructing such work;
- (b) the amount of the payment or contribution made or to be made by the owners of lands benefited by such work;
- (c) the nature of the land, road or work vested in or under the control of the council benefited by the work to which this Act extends;
- (d) the amount by which the value of such land, road or work and of the land of all other persons has been or will be enhanced by reason of the work to which this Act extends;
- (e) the extent to which the value of such land, road or work will be maintained by the work to which this Act extends;
- (f) the depreciation which would have been likely to occur in the value of such land, road or work had the work to which this Act extends not been constructed; and
- (g) such matters as it deems relevant to the subject matter of the reference.

(2) Any sum of money to be paid by a council under the provisions of subsection one of this section shall be paid to the Bank by the council in such manner as may be agreed upon between the council and the Constructing Authority or failing such agreement then in such manner as may be determined by the Land and Valuation Court.

(3) Any determination of the Land and Valuation Court pursuant to this section shall be final and binding on the parties affected thereby. (4)

(4) Before the construction of any work to which this Act extends in respect of which a Council may be liable to make any payment or contribution under the foregoing provisions of this section the Constructing Authority shall furnish such Council with particulars of the proposed work.

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### PART III.

#### RIVERS AND FORESHORES IMPROVEMENT DISTRICTS.

##### DIVISION 1.—*Rivers and Foreshores Improvement Board.*

8. (1) There shall be constituted a Board, to be called the Rivers and Foreshores Improvement Board, which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Board by or under this Act.

Constitution  
of Rivers  
and Fore-  
shores  
Improve-  
ment  
Board.

(2) The Board shall consist of four members who shall be appointed by the Governor.

Of the members so appointed—

- (a) one shall be an officer of the Commission;
- (b) one shall be an officer of the Department of Public Works;
- (c) one shall be the Director of the Soil Conservation Service or an officer of the Soil Conservation Service;
- (d) one, who shall be chairman of the Board, shall be a person not being an officer of the Commission, the Department of Public Works or the Soil Conservation Service.

(3) The member of the Board referred to in paragraph (a) of subsection two of this section shall act as such member only in relation to matters and proceedings before the Board in respect of which the Commission is the Constructing Authority.

The member of the Board referred to in paragraph (b) of subsection two of this section shall act as such member only in relation to matters and proceedings before the Board in respect of which the Minister for Public Works is the Constructing Authority.

(4) At any meeting of the Board the chairman and, subject to subsection three of this section, one other member shall form a quorum.

(5)

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(5) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to any appointment of members of the Board, and such members shall not in their capacity as members of the Board be subject to the provisions of any such Act.

(6) In the event of an equality of votes at any meeting of the Board the chairman shall have a second or casting vote.

(7) Meetings of the Board for any purpose under this Act shall be held at such times and places as may be determined by the Board.

(8) Notification of the holding of any inquiry under the provisions of this Act shall be published by the Board in a newspaper circulating within the district within which the work to which this Act extends is or will be situated.

All persons whose interests appear to be affected by any matter the subject of such inquiry shall be permitted to attend at the inquiry and be heard in support of or in opposition to such matter.

(9) Notes of proceedings including evidence taken at any inquiry by the Board pursuant to the provisions of this Act or a true copy of such notes shall be forwarded to the Commission together with the report of the Board upon such inquiry. Such report shall be signed by the chairman.

*DIVISION 2.—Constitution of Districts.*

**Proposal for  
constitution  
of district.  
cf. Act No.  
44, 1912,  
s. 131.**

**9.** (1) In respect of any proposed work to which this Act extends the Commission, whether or not it would under this Act be the Constructing Authority for such work, may notify in the Gazette a proposal for the constitution of any lands as a River or Foreshore Improvement District or as a River and Foreshore Improvement District.

(2) Any such proposal shall embody—

- (a) a plan and description of the lands proposed to be included in the district;
- (b) the area of such lands which it is estimated will be benefited by such work (in this Act referred to as “benefited lands”);
- (c)

- (c) a description of the nature and purpose of such work; No. 20, 1948.
- (d) the estimated capital cost of such work where the owners of benefited lands within the proposed district are to be required to make a contribution towards such capital cost;
- (e) the contribution, if any, which the owners of benefited lands within the proposed district will be required to make towards the capital cost of such work and the times, terms and conditions under which the contribution will be required to be paid;
- (f) the maximum annual rate, if any, to be levied in respect of the benefited lands; and
- (g) any further particulars the Commission may deem fit.

(3) The Commission shall also publish in a newspaper circulating in the proposed district a brief reference to the notification in the Gazette.

(4) If within eight weeks of such notification a petition objecting to the proposal upon the grounds stated in the petition and signed by at least one third in number of the owners of the lands within the proposed district is presented to the Commission it shall refer the proposal to the Board for inquiry and report.

**10.** (1) If within the said period no such petition is received or if the Board reports in favour of the proposal, with or without amendment, the Governor, by proclamation in the Gazette, may constitute as a district the lands or any of them described in the proposal with such amendment, if any, of the proposal as the Commission may recommend: Constitution of district. cf. Act. No. 44, 1912, s. 132.

Provided that the maximum annual rate, if any, to be paid by owners of lands within the district shall not exceed but may be less than the maximum annual rate notified in the proposal.

(2) Upon such proclamation the Constructing Authority or the Constructing Authorities, as the case may be, may in respect of the district construct the work the subject of the proclamation.

(3)

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(3) Where an error has been made in the proclamation constituting a 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.

Additional works.

**11.** (1) The Constructing Authority may from time to time construct in a district any additional work to which this Act extends.

(2) Where the Commission is of the opinion that the construction of any such additional work will benefit lands within the district and the cost of the construction of such additional work or the maintenance thereof will be sufficiently high to warrant the imposition of a contribution and/or rate in respect of the benefited lands, the Commission shall before such additional work is constructed notify in the Gazette a proposal embodying—

- (a) the area of the lands within the district which it is estimated will be benefited by such additional work (in this Act referred to as "benefited lands");
- (b) a description of the nature and purpose of such additional work;
- (c) the estimated capital cost of such additional work where the owners of benefited lands are to be required to make a contribution towards such capital cost;
- (d) the contribution, if any, which the owners of benefited lands will be required to make towards the capital cost of such additional work and the times, terms and conditions under which the contribution will be required to be paid;
- (e) the maximum annual rate, if any, to be levied in respect of benefited lands; and
- (f) any further particulars the Commission may deem fit.

(3) The Commission shall also publish in a newspaper circulating in the district a brief reference to the notification in the Gazette.

(4)

(4) If within eight weeks of such notification a petition objecting to the proposal, upon the grounds stated in the petition, and signed by at least one-third in number of the owners of the benefited lands is presented to the Commission it shall refer the proposal to the Board for inquiry and report. No. 20, 1948.

(5) If within the said period no such petition is received or if the Board reports in favour of the proposal, with or without amendment, the Governor, by proclamation in the Gazette, may direct that the additional work be constructed subject to such amendment, if any, of the proposal as the Commission may recommend:

Provided that the maximum annual rate, if any, to be paid by owners of benefited lands shall not exceed but may be less than the maximum annual rate notified in the proposal.

(6) Upon such proclamation the Constructing Authority or the Constructing Authorities, as the case may be, may construct the additional work the subject of such proclamation.

**12.** (1) The Governor may by proclamation in the Gazette alter a district by—

- (a) including additional lands; or
- (b) excising lands; or
- (c) transferring lands from one district to another.

Alteration  
of  
boundaries.  
cf. Act No.  
44, 1912,  
s. 134.

(2) In connection with any proposal for any such alteration of a district unless the owners of the lands have notified in writing their willingness to have such lands included in the district, or excised therefrom, or transferred to another district, as the case may be, the Commission shall notify in the Gazette—

- (a) a plan and description of the lands proposed to be added, excised or transferred, as the case may be;
- (b) the area of such lands which it is estimated will be benefited by the work to which this Act extends constructed or to be constructed in such district (in this Act referred to as “benefited lands”);
- (c) the contribution, if any, which the owners of the benefited lands will be required to make towards the capital cost of any such work constructed.

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constructed or to be constructed in such district and the times, terms and conditions under which the contribution will be required to be paid;

- (d) the maximum annual rate, if any, applicable to the district within which it is proposed to include the additional or transferred lands and which will apply to such lands; and
- (e) any further particulars the Commission may deem fit.

The Commission shall also publish in a newspaper circulating in the district or districts proposed to be altered a brief reference to the notification in the Gazette.

(3) If within eight weeks of such notification a petition objecting to the proposal, upon the grounds stated in the petition, signed by at least one third in number of the owners of the lands proposed to be added to the district or to be transferred from one district to another, or to be excised from the district is presented to the Commission it shall refer the proposal to the Board for inquiry and report.

(4) If within the said period no such petition is received or if the Board has reported upon any petition referred to it, the Governor, by proclamation in the Gazette, may alter the district or districts subject to such amendment, if any, of the proposal as the Commission may recommend:

Provided that the maximum annual rate, if any, to be paid by owners of benefited lands shall not exceed but may be less than the maximum annual rate notified in the proposal.

(5) Any benefited lands which have been excised from a district or transferred from one district to another shall, as from the date of such proclamation in the Gazette, be exempt from rates and further instalments of contribution, if any, under this Act within the district from which such lands have been excised or transferred. All rates and instalments of contribution due in respect of such lands to the date of such proclamation shall be paid.

(6) For the purposes of subsection five of this section rates shall be considered as accruing from day to day and shall be apportionable in respect of time accordingly.



**13.** Upon the alteration of any district to include additional lands the Constructing Authority or Constructing Authorities, as the case may be, may construct works to which this Act extends for purposes in connection with the district as altered.

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Construction of work for additional lands.

**14.** Any owner who is of the opinion that any area of land of which he is the owner and estimated to be benefited lands is in excess of the area which is benefited lands, may, within five years after the date of the notice referred to in subsection one of section eighteen of this Act or the publication of the proclamation altering the district, as the case may be, appeal to the Land and Valuation Court. The appeal shall be made as prescribed by rules of court of the Land and Valuation Court and shall 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.

Appeal as to benefited lands.

The Land and Valuation Court shall hear and determine the matter and may confirm or vary the area of land estimated to be benefited lands.

Any determination of the Land and Valuation Court pursuant to this section shall be final and binding on the parties affected thereby.

**15.** (1) The Governor may, where in his opinion sufficient reason exists, dissolve a district. Notification of any such dissolution shall be published in the Gazette.

Dissolution of districts.

(2) Upon the dissolution of a district the obligation or liability of an owner of land within the district to pay rates in respect of any period after such dissolution shall cease and determine, but without prejudice to the obligation or liability of such owner to pay rates in respect of any earlier period.

(3) For the purpose of ascertaining the amount of any rate for the payment of which an owner remains liable rates shall be considered as accruing from day to day and shall be apportionable in respect of time accordingly.

(4) Every contribution and instalment of contribution which was due and unpaid in respect of land within a district at the date of the dissolution of the district

district

No. 20, 1948. District shall, notwithstanding such dissolution, be and remain a debt due to the Bank by the owner of the land unless otherwise provided in the notification of such dissolution.

Division 3.—*Contributions and Rates.*

Contribu-  
tions.  
Act No. 44,  
1912, s. 172.

**16.** (1) The Commission may require owners of benefited lands within a district to contribute the whole or part of the capital cost of the work to which this Act extends.

(2) The amount of the contribution, if any, so required to be paid and the times, terms and conditions of payment shall be in accordance with the proposal notified in the Gazette under the provisions of subsection one of section nine or subsection two of section eleven or subsection two of section twelve of this Act or where those proposals have been amended by any proclamation under this Act, then in accordance with the proposals as so amended.

(3) The contribution, if any, shall be in respect of benefited lands.

(4) The contribution may be required to be paid in one payment or by instalments to be paid at intervals.

(5) The contribution or instalments of contribution shall be payable to the Bank on the due dates by the owner of the land.

(6) Any person liable to pay the contribution under this Act who transfers his estate or interest in or who abandons any benefited lands in respect of which the contribution is to be paid shall, within thirty days of such transfer or abandonment, give notice thereof to the Commission, and shall nevertheless remain liable for the contribution, or, where the contribution is required to be paid by instalments, for all instalments which became due for payment either—

(a) before he transferred his estate or interest in or abandoned the benefited lands; or

(b) before the said notice was given to the Commission.

(7)

(7) If any person who transfers his estate or interest in any benefited lands, pays to the Bank any instalment of contribution which becomes due for payment after he transfers his estate or interest, and before the notice of transfer is given to the Commission, he may recover the amount from the person to whom he transfers his estate or interest. No. 20, 1948.

(8) As between a person and any other person from whom he derives or to whom he transfers his estate or interest in benefited lands every instalment of contribution shall be considered as accruing from day to day and shall be apportionable in respect of time accordingly.

**17.** (1) The Commission shall fix in respect of the benefited lands within a district rates as hereinafter provided. Fixing of rates.  
cf. Act No. 44, 1912,  
s. 173.

(2) The Commission shall in respect of each year commencing on the first day of July, fix during that year the rate to be paid in respect of benefited lands within a district and shall in respect of each parcel of benefited lands assess the total amount of such rate.

(3) The rates in a district shall be fixed in order to obtain in each year a total amount not exceeding—

(a) an amount of interest for the year on the capital cost of the works of the district, or the part of such capital cost not being paid by way of contribution by owners of lands within the district, at the rate fixed by the Colonial Treasurer for that year; and

(b) an amount estimated by the Commission as being required to defray the cost of operating and maintaining the works and administering the district during that year.

**18.** (1) The rates shall—

(a) be levied and paid as prescribed and be payable only in respect of benefited lands; Rates.  
cf. *Ibid.*  
s. 174.

(b) in respect of each parcel of benefited lands commence to be payable from the first day of July next following the date of a notice given by the Commission to the owner of such benefited lands by registered letter addressed to him at his

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his address last known to the Commission that in its opinion such parcel of lands has been benefited by the construction of the work of the district or part of such work or by the construction of the additional work or part thereof, and in the case of additional lands included in a district under the provisions of section twelve of this Act from the first day of July next following the date of the publication of the proclamation altering the district;

- (c) be not greater but may be less than the maximum annual rate notified in the Gazette under the provisions of section nine, section eleven or section twelve of this Act or where any such maximum annual rates have been amended by proclamation, the maximum annual rates as so amended.

(2) Any person liable to pay rates under this Act who transfers his estate or interest in or abandons any benefited lands ratable under this Act, shall, within thirty days of such transfer or abandonment, give notice thereof to the Commission, and 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 benefited lands, provided that the rate was levied either—

- (a) before he transferred his estate or interest in or abandoned the benefited lands; or
- (b) before the said notice was given to the Commission.

(3) If any person who transfers his estate or interest in benefited lands pays to the Bank any rate in respect thereof which is levied after he transfers his estate or interest and before the notice of transfer is given to the Commission, he may recover the amount from the person to whom he transfers his estate or interest.

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

19. (1) (a) Overdue contributions and instalments of contribution under section sixteen of this Act and overdue rates payable under sections seventeen and eighteen of this Act shall be increased in accordance with this subsection.

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Rates and contributions.  
cf. Act No. 44, 1912, s. 175.

(b) If any contribution or instalment of contribution or any rate so payable is unpaid at the expiration of three months after the due date of payment thereof the amount due shall be increased by a sum calculated at the rate of five per centum per annum.

Any increase under this paragraph shall be deemed to be part of the contribution or instalment of contribution or rate, as the case may be.

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

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

(e) The increase in the contribution or instalment of contribution or in the rate under this subsection shall continue to apply to any unpaid contribution, instalment of contribution or rate notwithstanding that judgment for same may have been obtained in any court, including the District Court.

(2) In any case where more than one person is an owner within the meaning of this Act of benefited lands any contribution or instalment of contribution payable or rate assessed in respect of such benefited lands may be demanded from or levied upon any one or more of such persons and the Bank may recover the contribution, instalment of contribution or rate as against any person from whom the contribution or instalment of contribution is so demanded or upon whom the rate is so levied: Provided that nothing in this subsection shall entitle the Bank to recover more than the full amount of the contribution or instalment of contribution or the rate, as the case may be.

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(3) (a) Where the benefited lands are owned jointly by two or more owners, such owners shall be jointly and severally liable to the Bank for the contribution, instalment of contribution or rate, but, as between themselves each shall only be liable for such part of the contribution, instalment of contribution or rate as is proportionate to his interest in the benefited lands 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.

(4) Where an owner acquires benefited lands from the Crown during any year within which contributions or rates are payable under this Act, contributions or rates proportionate to the portion of the year during which the benefited lands are held by such owner shall be payable by him to the Bank, and notwithstanding the provisions of section seventeen of this Act the Commission may assess the said owner accordingly at a date subsequent to that on which he acquired the benefited lands.

(5) Where during any year any benefited lands revert to the Crown and in respect of that year and in respect of those lands an instalment of contribution is payable or rates are or are to be fixed or assessed, the owner of such lands shall, as regards such lands, be liable only for that part of the instalment of contribution or of the rates, as the case may be, which accrues due in respect of the period of the year during which such lands are held by him.

For the purpose of this subsection the instalment of contribution or the 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.

(6) In the event of the Commission at any time finding it has made an error in requiring payment of a contribution or instalment of contribution or in the assessment of a rate in respect of any benefited lands or owner through lack of knowledge of the name of the owner, or the area or extent of the benefited lands, or miscalculation,

miscalculation, the Commission, upon such error being brought under its notice, may at any time amend the requirement or re-assess the rate in respect of any benefited lands or owner affected. No. 20, 1943.

**20.** All rates due and payable or to become due and payable under this Act shall be payable to the Bank by the owner of the land. Liability for rates.

**21.** (1) Every amount payable under the terms of an agreement entered into pursuant to the provisions of section five of this Act shall be a charge on the land mentioned in the agreement and every amount payable pursuant to the provisions of section six of this Act shall be a charge on the land mentioned in the notification given to the owner of such land pursuant to paragraph (b) of subsection two of section six of this Act, and every rate and every contribution under this Act shall be a charge on the land in respect of which the rate is levied or the contribution is required to be paid, as the case may be. Charge of rates, contributions and other amounts on land.

For the purposes of Division 1 of Part XXIII of the Conveyancing Acts, 1919-1943, the expression "rate or tax" in paragraph (b) of section one hundred and eighty-seven of the said Acts shall be deemed to include every amount and every contribution referred to in this subsection.

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

**22.** Notwithstanding anything in this Act contained the rates or contributions in a district may be determined or varied having regard to the benefit which, in the opinion of the Commission, is derived by the owner of each parcel of land in respect of the work in respect of which the district has been constituted. Benefit to be taken into account. cf. Act No. 44, 1912, s. 160.

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## PART IV.

## MISCELLANEOUS.

Construction  
of works  
in navigable  
waters.

**23.** In respect of any work to which this Act extends which may affect navigation upon the inland waters of the State, or in or in connection with the navigable waters lying within one nautical league of the coast, such provision for navigation shall be made as may be determined by the Maritime Services Board of New South Wales, and no work which shall prevent navigation in such waters shall be constructed without the approval of the said Board.

Provisions  
relating  
to the  
Bank.

cf. Act No.  
44, 1912,  
s. 182.

**24.** (1) The powers, authorities, duties and functions conferred or imposed upon the Bank by this Act shall be exercised and performed by the Bank through its Irrigation Agency.

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

(3) To the extent that the same are applicable and are not inconsistent with this Act, the provisions of Division 1 of Part VI<sub>B</sub> of the Government Savings Bank Act, 1906, as amended by subsequent Acts, shall apply to all moneys which become payable to, or recoverable by, or which are received by the Bank in pursuance of this Act.

Regulations.

**25.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which, by this Act, are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of the power conferred by subsection one of this section the Governor may make regulations—

- (a) for the prevention of injury to works to which this Act extends;
- (b) with respect to the fixing, assessing, levying and collection of rates and contributions;

(c)



- (c) prescribing the forms of notices required under this Act and the manner of and periods for giving same; No. 20, 1948.
- (d) generally for carrying out the provisions of this Act.

(3) The regulations may impose a penalty not exceeding twenty pounds for any breach thereof and where the breach continues not exceeding five pounds for every day during which such breach continues.

(4) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

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

**26.** Any penalty imposed by this Act or the regulations thereunder may be recovered in a summary manner in a court of petty sessions holden before a stipendiary magistrate. Recovery of penalties.