

**IRRIGATION, WATER AND RIVERS AND FORE-
SHORES IMPROVEMENT (AMENDMENT) ACT.**

Act No. 12, 1955.

An Act to limit the right of future acquisition of freehold tenures within irrigation areas; to make further provision with respect to the licensing of bores; to regulate the removal of soil from or adjacent to the banks of rivers; to make further provision for the reduction of rentals payable in respect of certain classes of tenures within irrigation areas; for these and other purposes to amend the Irrigation Act, 1912-1954, the Crown Lands Consolidation Act, 1913, the Water Act, 1912-1952, the Rivers and Foreshores Improvement Act, 1948, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 12th April, 1955.]

Elizabeth II,
No. 12, 1955
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BE

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

BE it enacted by the Queen'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, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955."

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

PART I.—PRELIMINARY.

PART II.—AMENDMENT OF THE IRRIGATION ACT, 1912-1954.

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

PART IV.—AMENDMENT OF THE WATER ACT, 1912-1952.

PART V.—AMENDMENT OF THE RIVERS AND FORESHORES IMPROVEMENT ACT, 1948.

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

PART VII.—AMENDMENT OF THE MURRUMBIDGEE IRRIGATION AREAS OCCUPIERS RELIEF ACT, 1934.

PART VIII.—MISCELLANEOUS.

(3) The Irrigation Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Irrigation Act, 1912-1955.

(4) The Water Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Water Act, 1912-1955.

(5) The Rivers and Foreshores Improvement Act, 1948, as amended by this Act, may be cited as the Rivers and Foreshores Improvement Act, 1948-1955.

PART

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

63

PART II.

No. 12, 1955.

AMENDMENT OF THE IRRIGATION ACT, 1912-1954.

2. The Irrigation Act, 1912-1954, is amended—

Amendment
of Act No.
73, 1912.

- (a) by omitting from section five the words “five hundred” wherever occurring and by inserting in lieu thereof the words “two thousand”;
- (b) by inserting next after section 5E the following new section:—

Sec. 5.
(Appoint-
ment of
officers.)

New sec.
5F.

5F. Any person who at the date of commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, is in the service of the Commission and whose yearly salary at such date does not exceed two thousand pounds shall, for the purpose of section five, section 5A and section 5B of this Act, be deemed to have been appointed by the Commission.

3. The Irrigation Act, 1912-1954, is further amended—

Further
amendment
of Act No.
73, 1912.

- (a) by inserting next after section 8B the following new section:—

New sec.
8C.

8c. (1) (a) It shall be a function of the Commission to make provision for—

Further
functions
and powers
of
Commission.

- (i) the systematic gauging and recording of the volume and flow of rivers and streams, and of the volume of lakes and lagoons within the State and the effect of climatic conditions upon such volume; and
- (ii) the gathering and recording of such data concerning the ground water resources of the State as the Commission may deem practicable.

(b)

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

(b) The Commission may publish and make available any information so ascertained or gathered.

(2) The Commission may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable to enable it effectively to carry out all or any of its powers, authorities, duties and functions under this or any other Act and without limiting the generality of the foregoing may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable—

- (a) to ascertain potential sites for works of water storage or water supply and the practicability and cost of constructing any such works;
- (b) to ascertain the nature and extent of lands capable of being supplied with water from any existing or proposed works of water storage or water supply and the means whereby such lands may be so supplied;
- (c) to ascertain the necessity of and potential sites for works for flood mitigation or flood control and the practicability and cost of constructing any such works;
- (d) to ascertain the nature and extent of lands capable of being protected or partially protected from flooding or inundation by any works of flood mitigation or flood control;
- (e) to ascertain the existence and location of subterranean waters and the character and quality thereof.

(3) The Commission, in the exercise of its powers, authorities, duties and functions under this or any other Act, may by its officers, servants,

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

65

servants, workmen or agents enter upon any lands and do all such things as may be requisite for the purpose of—

No. 12, 1955.

- (a) making and carrying out such inspections, tests, investigations, surveys, experiments and boring, drilling and other explorations as the Commission may deem necessary for the full and effective exercise of any of its powers, authorities, duties and functions under this or any other Act; or

- (b) constructing, maintaining, operating, or altering any works,

or for any other purpose connected with or related to or incidental to the exercise of any of its powers, authorities, duties and functions under this or any other Act, notwithstanding an easement or right so to enter or use such lands may not have been granted or acquired.

The powers conferred by this subsection shall be additional to and not in substitution for any other powers elsewhere conferred on the Commission.

(4) In the exercise of any of the powers conferred by subsection three of this section the Commission shall inflict as little damage as may be and shall make full compensation to all parties interested for all damage sustained by them in consequence of the exercise of such powers.

- (b) by omitting subsection four of section nine.

Sec. 9.
(Commission to construct works, etc.)

4. The Irrigation Act, 1912-1954, is further amended—

Further amendment of Act No. 73, 1912.

- (a) by inserting in section 11A after the word “shall” the words “except as hereinafter provided”;

Sec. 11A.
(Application of ss. 11B-11F.)

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

Sec. 11c.

(Conversion
of lease-
holds.)

(b) by inserting next after subsection one of section 11c the following new subsections:—

(1A) The lessee of an irrigated lot within the irrigation area constituted under the provisions of the Wentworth Irrigation Act shall not be entitled to purchase such lot unless the land comprising such lot has, throughout the whole of the period from the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, to the date of notification of his intention to purchase—

(a) been leased land by way of lease subsisting at such commencement and of any new lease granted from time to time during such period; and

(b) been held by—

(i) the lessee under the lease subsisting at such commencement; or

(ii) that lessee and any lessee who became lessee by transfer or assignment from or devolution under the will or intestacy of any immediately prior lessee.

(1B) The lessee of an irrigated lot within the irrigation area constituted under the provisions of the Hay Irrigation Act, 1902, shall not be entitled to purchase such lot unless he has prior to the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, notified the Commission on the form and in the manner prescribed of his intention to purchase such lot.

Further
amendment
of Act No.
73, 1912.

Sec. 12.
(Water
rights.)

5. The Irrigation Act, 1912-1954, is further amended—

(a) by omitting subsection four of section twelve;

(b)

- (b) by inserting in subsection one of section thirteen after the words "such additional water rights" the following new paragraph:—

No. 12, 1955.

Sec. 13.

(Additional
water
rights.)

After the full quantity of water to which an occupier is entitled pursuant to the water rights attached to his land and to any additional water rights which may have been allotted to him has been supplied, the Commission may, on application by the occupier, supply him with additional water at such charges as the Commission may determine.

- (c) by inserting next after section thirteen the following new section:—

New sec.
13A.

13A. (1) Where the Commission is prepared to make available and makes available to any land a supply of water solely during the hours of daylight, it may impose such special charge per acre foot for all water so supplied as it may from time to time determine. Notification of any such determination shall be published in the Gazette.

Supply of
water during
hours of
daylight.

(2) The special charge shall be in addition to the charges for any water rights which are attached to the land and for any additional water rights and for any water supplied to the land additional to the water supplied pursuant to such water rights and additional water rights.

(3) The special charge shall be determined by the Commission having regard to the additional cost per acre foot which the Commission estimates will be incurred by it in supplying water solely during the hours of daylight.

(4) The special charge shall be paid by the occupier of the land on or before the thirtieth day of June in each year in respect of water supplied during the year ending on the said thirtieth day of June.

(5)

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

(5) In this section "acre foot" means such a quantity of water twelve inches deep as would cover an area of one acre.

Sec. 15.
(Payment of charges.)

- (d) (i) by inserting in subsection one of section fifteen after the word "Act" where thirdly occurring the words "or for maintenance charges arising in relation to the supply of water";
- (ii) by omitting from the same subsection the words "as and when directed by the bank";
- (iii) by inserting at the end of the same subsection the following new paragraph:—

The charges in respect of water rights which are attached to the land, the charges in respect of additional water rights, and the charges in respect of the water supplied to the land additional to water supplied pursuant to such water rights and additional water rights shall be paid at the times and in the manner prescribed, and all other rates or charges for water and maintenance charges shall, except where otherwise expressly provided, be paid at the times and in the manner determined by the Commission and when no such determination has been made then at such times and in such manner as may have been agreed between the Commission and the occupier.

Further amendment of Act No. 73, 1912.

6. The Irrigation Act, 1912-1954, is further amended—

New sec. 17AA.

- (a) by inserting next after section 17A the following new section:—

Damage to or interference with works.

17AA. Any person who destroys, damages or interferes in any way with any work, structure or other thing whatsoever vested in or made, constructed or provided by or otherwise under the control or management of the Commission shall where no other provision is expressly made by any other section of this Act be liable upon
summary

summary conviction to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding three months: Provided that nothing in this section shall in any way affect any liability to which any person who commits a breach of this section may be subject under any other Act or at common law but such person shall not be liable to be punished twice for the same offence. No. 12, 1955.

- (b) by inserting in subsection three of section eighteen after the word "Area" where thirdly occurring the words "and any other irrigation area constituted or which may be constituted under the provisions of this Act"; Sec. 18.
(Collection of rents, etc.)
- (c) by omitting from the same subsection the words and figures "and Part VII" and by inserting in lieu thereof the words and figures "Part VII and Part VIII".

PART III.

AMENDMENT OF THE CROWN LANDS CONSOLIDATION ACT,
1913.

7. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is amended— Amendment of Act No 7, 1913.

- (a) by inserting at the end of subsection two of section one hundred and forty the following proviso:— Sec. 140.
(Applications for holdings.)

Provided that in the case of lands set apart for disposal in accordance with the provisions of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, the survey fee shall not be required to accompany an application but shall be paid by the successful applicant at a time and in a manner to be specified in the notification under paragraph (d) of subsection two of section one hundred and thirty-nine of this Act that the lands are available for disposal.

(b)

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

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

- (b) (i) by omitting from subsection five of section one hundred and forty-two the word "six" and by inserting in lieu thereof the word "three";
- (ii) by inserting in paragraph (a) of subsection six of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- (iii) by omitting from paragraph (c) of the same subsection the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- (iv) by omitting paragraph (d) of the same subsection and by inserting in lieu thereof the following paragraph:—

(d) A condition to the effect that the land or any specified part of the land shall not be used to plant—

- (i) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or
- (ii) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or areas specified in the condition,

may be attached to any irrigation farm purchase after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act,
1955,

1955, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such irrigation farm purchase. No. 12, 1955.

- (c) (i) by omitting from subsection four of section 142D the word "six" and by inserting in lieu thereof the word "three"; Sec. 142D.
(Conditions,
&c., of
leases
within
irrigation
areas.)
- (ii) by inserting in subsection seven of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- (iii) by omitting from subsection eight of the same section the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- (iv) by omitting subsection nine of the same section and by inserting in lieu thereof the following subsections:—

(9) A condition to the effect that the land or any specified part of the land shall not be used to plant—

- (a) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or
- (b) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or areas specified in the condition.

may be attached to any lease after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement
(Amendment)

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

(Amendment) Act, 1955, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such lease.

(9A) (a) The Minister may, at any time, with the consent of the holder of the lease, by instrument under his hand in the prescribed form, cancel or vary any condition mentioned in subsection seven, subsection eight or subsection nine of this section on such terms and conditions as he thinks fit and the condition as so varied shall, whether or not the perpetual lease grant has issued, be the condition attaching to the land.

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

Sec. 145.
(Conversion
of I.F.L.
to I.F.P.,
&c.)

- (d) (i) by inserting at the end of subsection one of section one hundred and forty-five the words "or to an irrigation farm lease or a non-irrigable lease described in any notification in the Gazette under the provisions of section one hundred and thirty-nine of this Act as suitable for farming purposes, granted after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- (ii) by inserting in subsection three of the same section after the word "determined" the words "as at the date of receipt by the Commission of the notification referred to in subsection two of this section";
- (iii) by inserting at the end of paragraph (d) of subsection five of the same section the following new paragraphs:—

(e) Where any lease converted under this section is subject to a transfer by way of mortgage

mortgage registered in the books of the Commission such transfer shall be— No. 12, 1955.

- (i) deemed to extend and always to have extended to the purchase into which the lease has been converted in the same manner as it applies to the lease; and
- (ii) recorded in the books of the Commission as a transfer of the purchase.

The provisions of this paragraph shall not apply to a transfer by way of mortgage of a lease in respect of which a perpetual lease grant has been issued where such transfer was registered in the books of the Commission before the issue of such perpetual lease grant.

(f) Where immediately preceding the conversion of any lease under this section an easement is appurtenant to or a burden upon any land comprised in such lease such easement shall after such conversion continue to be appurtenant to or a burden upon such land.

(g) Where a perpetual lease grant has issued in respect of any lease converted under this section and the Commission lodges with the Registrar-General with the surrender referred to in subsection two of this section a notification that the lease has been converted into a purchase, the Registrar-General shall register such surrender without requiring that any easement to which the land is subject shall be released or that any mortgage or other security to which the land is subject shall be discharged.

(h) Paragraphs (e), (f) and (g) of this subsection shall apply to conversions whether effected before or after the commencement of the Irrigation, Water and Rivers
and

74 **Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955. and Foreshores Improvement (Amendment) Act, 1955.

Further amendment of Act No. 7, 1913. **S.** The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended—

Sec. 147D.
(Application to Minister to acquire private lands.)

- (a) (i) by inserting in subsection one of section 147D after the words "irrigation farm lease" the words "or a non-irrigable lease";
- (ii) by inserting next after subsection four of the same section the following new subsections:—

(4A) The application whether made before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, may with the consent of the owner or owners of the private lands proposed to be included or excluded or the price of which is proposed to be increased or decreased and the approval of the Minister be varied by including therein additional private lands or excluding therefrom part of the lands included therein or by increasing or decreasing the price specified in the application.

(4B) The consent of the owner or owners under subsection one of this section whether given before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, and the consent of the owner or owners under subsection (4A) of this section shall not be withdrawn before the expiration of sixty days after such owner or owners has or have given to the Minister notice in writing of his or their intention so to withdraw: Provided that in no case shall such consent be withdrawn after the Minister has approved of the purchase.

(b)

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

75

- (b) by omitting from section 147E the words “such lands” where firstly occurring and by inserting in lieu thereof the words “the lands the subject of such application”.
- No. 12, 1955.
Sec. 147E.
(Valuation.)
- (c) (i) by inserting in section 147G after the word “made” where firstly occurring the words “or varied”;
- Sec. 147G.
(Purchase of land.)
- (ii) by inserting in paragraph (c) of the same section after the words “irrigation farm lease” the words “or a non-irrigable lease”;
- (iii) by inserting at the end of the same section the words “or he may at his discretion refuse the application: Provided that the Minister shall not so approve where in his opinion the amount of capital (including shares in any company or any interest in any land) held by any applicant or by his or her spouse or by his or her parent or parents is such as to warrant refusal of the application”;
- (d) by omitting from subsection one of section 147H the words “Where, under section 147D of this Act, an application has been made to the Minister to acquire any lands and the Minister has approved of the purchase of such lands” and by inserting in lieu thereof the words “Where the Minister has approved of the purchase of lands”;
- Sec. 147H.
(Vesting of land in the Crown.)
- (e) (i) by inserting at the end of paragraph (a) of subsection one of section 147J the following words “or non-irrigable leases”;
- Sec. 147J.
(Vesting of land in applicant.)
- (ii) by inserting next after the same paragraph the following new paragraphs:—
- (a1) Any lands deemed by the Minister to be necessary for roads, or any purpose which he considers to be a community

No. 12, 1955.

community purpose or a public purpose, or any lands which the Minister considers should be excluded for any reason may be excluded from the holdings and any adjacent Crown lands may be included in such holdings.

(a2) The subdivision may be made into holdings before the holdings are measured, and in such case the holdings may be notified under paragraph (c) of this subsection according to the design thereof.

(iii) by inserting in subparagraph (vi) of paragraph (c) of the same subsection after the words "irrigation farm lease" the words "or a non-irrigable lease";

(iv) by inserting in subsection four of the same section after the words "irrigation farm lease" where firstly occurring the words "or a non-irrigable lease";

(v) by inserting in the same subsection after the words "irrigation farm lease" where secondly and thirdly occurring the words "or non-irrigable lease";

(iv) by inserting in subsection four of the same the following new subsections:—

(4A) Where a holding has been measured after publication in the Gazette of a notification under paragraph (c) of subsection one of this section any necessary adjustment shall thereafter be made as to the area and annual rental of the holding and of the nature and value of any improvements which are the property of the Crown and which are to be paid for by the incoming tenants,

tenants, and of the terms and conditions upon which payment for the improvements shall be made. No. 12, 1955.

(4B) Any lands excluded from the holdings under paragraph (a1) of subsection one of this section may be retained by the Crown either permanently or for a limited period and the Commission may expend moneys necessary to maintain adequately such lands and the improvements thereon, and, if necessary, to replace improvements on such lands during such time as they are retained by the Crown. Such lands may be used for such purposes or leased by the Commission for such terms and upon such conditions as the Minister may approve, or may be otherwise disposed of under the provisions of this Act.

- (vii) by inserting in subsection five of the same section after the words "irrigation farm lease" the words "or a non-irrigable lease";
- (viii) by inserting in the same subsection after the words "irrigation farm purchase" the words "or a non-irrigable purchase";
- (ix) by inserting in subsection six of the same section after the words "irrigation farm leases" the words "or non-irrigable leases";
- (f) by inserting in subsection two of section 147K Sec. 147K. after the words "irrigation farm lease" the words "or a non-irrigable lease". (Penalties.)

9. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended— Further amendment of Act No. 7, 1913.

- (a) by inserting in subsection one of section one hundred and ninety-seven after the word "settlement" where firstly occurring the words Sec. 197. (Exchanges and purchases for public purposes.) "or

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

“or for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown”;

(b) by omitting from the same subsection the words “The local land board” where firstly occurring and by inserting in lieu thereof the words “Except as hereinafter provided the local land board”;

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

(5) In the application of the provisions of this section to any exchange or purchase or resumption of land for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown, the following provisions shall have effect—

(a) the provisions of subsection one of this section relating to inquiry into and report by the local land board upon any application or proposal for the exchange or purchase or resumption of any land and determination of the values of any land to be acquired or granted in pursuance thereof and the price to be paid for the land resumed shall not apply;

(b) subsection one of this section shall be read and construed as if for the words “the Minister” where thirdly occurring there were substituted the words “the Commission”;

(c) the compensation to be paid in respect of any resumption to which this subsection applies shall be the value of the land as determined by an advisory board or the Land and Valuation Court on appeal;

(d)

- (d) subsection two of this section shall be read and construed as if for the words “a local land board” there were substituted the words “an advisory board”; No. 12, 1955.
- (c) in determining the value of the land as referred to in paragraph (c) of this subsection—
- (i) the provisions of paragraph (b) of subsection four of section four of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall be taken into account; and
 - (ii) there shall be excluded any added value which would accrue or has accrued to the land from the construction or utilisation of the works of any district or provisional district constituted under the provisions of Part VI of the Water Act, 1912, as amended by subsequent Acts;
- (f) the provisions of sections nine and ten of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall *mutatis mutandis* apply to and in respect of any resumption to which this subsection applies;
- (g) the provisions of subsection one of this section as amended by this subsection shall extend to the resumption of any public road;
- (h) in this subsection the expression “advisory board” means a Closer Settlement Advisory Board constituted under section two of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts.

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.****No. 12, 1955.**

cf. Act
No. 42,
1910,
s. 6 (2B).

(6) Where any public road is resumed under the authority of this section in connection with the resumption of lands for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown the following provisions shall notwithstanding anything contained in this section have effect:—

- (a) the municipal or shire council within whose area the public road so resumed is situated shall be entitled to claim compensation therefor;
- (b) subject to paragraphs (c) to (j) inclusive of this subsection the compensation shall be an amount not exceeding the capital sum spent by the council upon the construction of the road together with the sum, if any, paid by the council for purchase or resumption of the land therefor;
- (c) in any case where the council decides that it is necessary to purchase or resume and construct a new road to replace that resumed it shall notify the Commission of its decision;
- (d) any notification referred to in paragraph (c) of this subsection shall be accompanied by a plan of the location of the proposed new road, together with an estimate of the cost of the purchase or resumption and construction of the proposed new road;
- (e) where, having regard to the requirements of the public as at the date upon which the public road is resumed, the Commission is of opinion—
 - (i) that it is not necessary to replace the road resumed; or
 - (ii)

- (ii) that the location of the proposed new road is not satisfactory; or
- (iii) that the cost of the purchase or resumption and construction of the proposed new road is excessive; or
- (iv) that, for any reason whatsoever, the decision of the council should not be carried out either wholly or in part—

the Commission shall notify the council accordingly;

- (f) the notification referred to in paragraph (e) of this subsection shall be accompanied by—
 - (i) a statement setting out the grounds upon which the opinion of the Commission is based;
 - (ii) details of any alternative proposal which in the opinion of the the Commission should be adopted, together with such plans and estimates of costs (if any) as may be necessary to provide the council with full information in relation to the carrying out of such alternative proposal;
- (g) any matter in dispute between the council and the Commission under paragraphs (e) and (f) of this subsection may be referred by either the council or the Commission to the Land and Valuation Court in accordance with rules of court;
- (h) the Land and Valuation Court shall have jurisdiction to hear and determine any matter referred to it pursuant to the

No. 12, 1955.

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**No. 12, 1955.

the provisions of paragraph (g) of this subsection and that court may in its discretion award such costs as it thinks fit in relation to any matter so referred;

- (i) the determination of the Land and Valuation Court in relation to any matter referred to it under the provisions of paragraph (g) of this subsection shall be final and shall be carried into effect by the council and the Commission;
- (j) where the Land and Valuation Court by its determination decides that it is necessary to replace any public road to which the provisions of this subsection apply the amount of compensation shall be such sum, not exceeding the cost of purchase or resumption and construction of the new road, as the said court may determine and in making such determination the said court shall have regard to the actual condition of such public road as at the date of resumption and to the extent to which the same was used by the public before that date and also to any damage to the road caused by the Commission before that date;
- (k) any amount paid to the council by way of compensation pursuant to the provisions of paragraphs (c) to (j) inclusive of this subsection shall be placed by the council in a trust fund until expended on such new road.

PART

Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.

83

PART IV.

No. 12, 1955.

AMENDMENT OF THE WATER ACT, 1912-1952.

10. The Water Act, 1912-1952, is amended—

Amendment
of Act No.
44, 1912.

- (a) by inserting at the end of the definition of “River” in subsection three of section 4A the words “and includes those waters of a tidal river which are at any time capable of being used for irrigation or for watering stock”;
- (b) (i) by omitting from the definition of “Joint water supply scheme” in section five the words “but not all”;
- (ii) by inserting at the end of the same definition the words “and includes any work to which this Part extends which is used or proposed to be used for the purpose of supplying water for irrigation by any occupier or occupiers other than the occupier or occupiers of the site of the work”;
- (iii) by inserting at the end of the definition of “River” in the same section the words “and includes those waters of a tidal river which are at any time capable of being used for irrigation or for watering stock”;
- (c) by inserting in subsection one of section 17C next after the word “servants” the words “or agents”;
- (d) by inserting next after subsection three of section 18B the following new subsection:—
- (3A) Notwithstanding the provisions of subsections two and three of this section—
- (a) where any such license is held by a member of the forces, discharged member of the forces, discharged soldier, other eligible person, member of the Korea and Malaya Operations Forces or discharged member of the

Sec. 4A.
(Right to
flow of
water.)

Sec. 5.
(Interpreta-
tion.)

Sec. 17C.
(Power to
enter and
remove
works.)

Sec. 18B.
(Classifica-
tion of
existing
licenses and
authorities.)

Korea

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

Korea and Malaya Operations Forces as defined in the War Service Land Settlement Act, 1941, as amended by subsequent Acts, (hereinafter in this Division referred to as a war service settler) in respect of any work to which this Part extends which is used in connection with a holding set apart for disposal in accordance with the provisions of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, or acquired under the provisions of Part IV_A of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts (hereinafter in this Division referred to as a war service holding) such license shall be classified as Class A; and

(b) in the case of any such authority, where the whole of the lands within the joint water supply scheme the subject of the authority are war service holdings, such authority shall be classified as Class A.

Subst.
sec. 18c.

(e) by omitting section 18c and by inserting in lieu thereof the following section:—

Classifica-
tion of
new licenses
and
authorities.

18c. Any license or authority to appropriate water for the purpose of irrigation from a river or lake or section of a river in respect of which a proclamation has been made under the provisions of section 18A of this Act, which is granted after the date of such proclamation, shall—

(a) if any such license is granted to a war service settler in respect of any work to which this Part extends which is used in connection with a war service holding, be classified by the Commission as a Class A license;

(b)

- (b) if, in respect of any such authority No. 12, 1955.
the whole of the lands within the joint
water supply scheme the subject of the
authority are war service holdings, be
classified by the Commission as a Class
A authority; and
- (c) in every other case, be classified by the
Commission as a Class C license or
authority.
- (f) (i) by inserting next after subsection seven of Sec. 18D.
section 18D the following new subsection:— (Reclas-
sification of
licenses and
authorities.)
- (7A) If at any time a war service settler
becomes the holder of a license which has
been classified or reclassified by the Com-
mission as a Class B or a Class C license and
the licensed work is used in connection with
a war service holding, such license shall be
reclassified by the Commission as a Class A
license.
- (ii) by inserting at the end of the same section
the following new subsection:—
- (9) (a) Notwithstanding the provisions
of subsection eight of this section, a license
which is held by a war service settler in
respect of any work to which this Part
extends which is used in connection with a
war service holding shall not, except as
provided in subsection (7A) of this section,
be subject to reclassification by the Commis-
sion for a period of five years from the date
upon which the license commenced to be
held by the war service settler.
- (b) Notwithstanding the provisions
of subsection eight of this section, where the
whole of the lands within a joint water
supply scheme the subject of an authority
are war service holdings, the authority shall
not

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

not be subject to reclassification by the Commission for a period of five years from the date of the granting of the authority.

Further amendment of Act No. 44, 1912.
New sec. 38A.

11. The Water Act, 1912-1952, is further amended by inserting next after section thirty-eight the following new section:—

Transfer of Crown bores to trusts.

38A. (1) Where a trust has been constituted on terms that the trust shall pay a charge for water to be supplied by the Crown from works which include a bore and the Commission is of the opinion that such works should be taken over, administered and managed by the trust, the Commission may notify in the Gazette and in some newspaper circulating in the trust district a proposal that the works by means of which water is supplied to the trust shall be transferred to the trust to be so taken over, administered and managed and that the trust shall be required to repay the value of the works.

(2) Any such proposal shall embody—

- (a) a description of the works;
- (b) a statement of the value of the works;
- (c) a statement of the terms upon which the trust shall repay the value of the works and interest thereon specifying—
 - (i) that such repayment be made by the provision of a sinking fund;
 - (ii) the rate of interest which shall be paid by the trust on the value of the works;
 - (iii) the number of years within which such repayment shall be made;
- (d) if it is proposed to vary the maximum rate which may be assessed by the trust, a revised maximum rate which may be assessed by the trust after the works have been transferred to the trust; and
- (e) such other provisions as the Commission may deem necessary or desirable.

(3)

(3) If within eight weeks after such notification a petition is presented to the Commission, signed by at least one-third in number of the owners of land within the trust district, objecting, upon grounds stated in the petition, to—

No. 12, 1955.

- (a) the value of the works;
- (b) the number of years within which the repayment referred to in paragraph (c) of subsection two of this section is to be made;
- (c) the revised maximum rate (if any) which may be assessed by the trust,

the Commission shall refer the matter or matters regarding which objection has been so made to the Board for inquiry and report.

(4) If within the said period no such petition is received, or upon receipt of the report of the Board in respect of any reference to it pursuant to the provisions of subsection three of this section, as the case may be, the Governor by proclamation in the Gazette may—

- (a) transfer to the trust the works described in the proposal referred to in subsection one of this section upon the terms set out in such proposal with such amendments, if any,—
 - (i) where no reference has been made to the Board, as the Commission may think fit; or
 - (ii) in any other case, as the Board may recommend; and
- (b) appoint a date, hereinafter called the “transfer day”, not being earlier than the date of publication of the proclamation, on and from which the transfer of the works to the trust shall be and become effective.

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

(5) Upon the transfer day the following provisions shall take effect:—

- (a) the trust shall take over and shall thereafter administer and manage the works so transferred and in respect thereof may exercise all the powers and shall discharge all the duties conferred and imposed by this Part in respect of works taken over by or in charge of a trust, except such powers as are conferred solely on the Commission;
- (b) the trust shall become liable to repay the value of the works and interest and the charge for interest and payments to the sinking fund shall commence to run;
- (c) the liability of the trust to pay the charge for water to be supplied by the Crown shall cease and determine: Provided that—
 - (i) nothing in this paragraph shall be deemed to discharge or to modify or affect in any way the liability of the trust to pay for water supplied by the Crown at any time prior to the transfer day;
 - (ii) the charge for water to be supplied by the Crown in respect of the period then current shall be deemed to accrue from day to day and be apportioned accordingly;
 - (iii) if the trust has paid the charge for water to be supplied by the Crown in respect of the period then current, the proportion thereof which relates to that part of such period as has not elapsed on the transfer day shall be credited towards the liability of the trust in respect of charges for interest
and

and payments to the sinking fund No. 12, 1955.
pursuant to the provisions of this
section;

- (iv) if the charge for water to be supplied by the Crown in respect of the period then current has not become due and payable, the trust shall, unless such charge has been paid by the trust, be liable to pay and shall pay the proportion thereof which relates to that part of the said period which has elapsed on the transfer day on the date which but for this section would have been the due date for payment of such charge next ensuing after the transfer day;
- (d) the revised maximum rate (if any) specified in the proposal referred to in subsection one of this section or any amendment thereof made by the proclamation referred to in subsection four of this section shall be and become the maximum rate which may be assessed by the trust thereafter and the trustees may assess rates up to such revised maximum notwithstanding that a rate may already have been fixed and levied in respect of the rating year then current;
- (e) the trust shall from such transfer day observe and perform all of the terms and conditions upon which the works have been transferred.
- (6) Notwithstanding anything contained in this section the trust may, subject to the approval of the Commission, have the option of repaying the value of the works by a lump sum or in a less number of years than the period determined under the foregoing provisions of this section for such repayment.

(7)

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

(7) (a) In this section the expression “the value of the works” means the value, as determined by the Commission or where varied under the foregoing provisions of this section as so varied, of the works by means of which water is supplied to a trust by the Crown.

(b) In determining such value the Commission shall—

- (i) determine the value as at the date of the notification in the Gazette of the proposal referred to in subsection one of this section;
- (ii) if the charge for water to be supplied by the Crown to be paid by a trust to which this section applies has been fixed to include the payment of the cost of the works, take into consideration the amount which has been paid by the trust towards the cost of the works; and
- (iii) have regard to any certificate issued under the provisions of section 73D of this Act.

Further
amendment of
Act No. 44,
1912.

12. The Water Act, 1912-1952, is further amended—

Sec. 105.
(Definition.)

- (a) by omitting from section one hundred and five the definition “‘Bore” and “Well”’ and by inserting in lieu thereof the following definition:—

“**Bore**” means any bore or well or any excavation or other work connected or proposed to be connected with sources of sub-surface water and used or proposed to be used or capable of being used to obtain supplies of such water whether the
water

water flows naturally at all times or has to be raised either wholly or at times by pumping or other artificial means, but does not include a work to which Part II of this Act extends. No. 12, 1955.

- (b) by omitting section 111A; Sec. 111A.
(Boundaries.)
- (c) by omitting from subsection one of section one hundred and twelve the words "to increase the flow of water therefrom"; Sec. 112.
(Wells to be licensed.)
- (d) by inserting in subsection two of section one hundred and thirteen after the word "bore" where secondly occurring the words "or the circumstances so warrant"; Sec. 113.
(Application for license.)
- (e) by omitting from subsection one of section one hundred and fourteen the words "in the case of an application with respect to an artesian bore"; Sec. 114.
(Inquiry.)
- (f) by omitting section one hundred and fifteen and by inserting in lieu thereof the following sections:— Subst.
sec. 115
and new sec.
115A.

115. (1) In any case where an application has not been advertised pursuant to subsection two of section one hundred and thirteen of this Act the Commission shall, as soon as practicable after it has investigated and considered the application, issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper. Issue of
license.

(2) In any other case the Commission shall—

- (a) where an inquiry has been held pursuant to section one hundred and fourteen of this Act and the board reports in favour of the issuing of a license; or
- (b)

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

(b) where no inquiry has been held pursuant to section one hundred and fourteen of this Act and the Commission decides to grant the application,

on payment of the prescribed fee issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.

**Licensing
of existing
bores or
wells.**

115A. (1) Every owner of land upon which at the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, there exists a bore or a partially constructed bore for the sinking of which a license under the provisions of this Part has not been issued shall within a period of twelve months after such commencement notify the Commission in writing of the existence of each such bore and shall make application for a license for and in respect of each such bore.

(2) The provisions of subsection one of section one hundred and thirteen shall, mutatis mutandis, apply to and in respect of an application under this section.

(3) The Commission shall, as soon as practicable after receipt of an application under this section, issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.

(4) Any person who contravenes the provisions of this section shall, upon conviction, be liable to a penalty not exceeding one hundred pounds and a further penalty not exceeding five pounds for each day during which the contravention continues after such conviction.

Sec. 117.
(Benefit of
license.)

(g) by omitting from section one hundred and seventeen the word "well" and by inserting in lieu thereof the word "bore";

(h)

(h) by omitting from section one hundred and eighteen the word "well" wherever occurring and by inserting in lieu thereof the word "bore";

No. 12, 1955.

Sec. 118.
(Penalty for alterations of licensed well or contravention of license.)

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

New sec. 118A.

118A. (1) No person shall, after the expiration of three months from the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, act as a driller on or in connection with the construction of a bore on any land other than that of which he is the owner or occupier unless he is the holder of a driller's license issued by the Commission.

Drillers to be licensed.

(2) Any person who contravenes the provisions of subsection one of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction.

(3) A driller's license may be issued by the Commission to any competent and capable person upon application being made therefor in writing and upon the Commission having been furnished with such information as to the competency and capability of the applicant as it may require.

(4) A holder of a driller's license who acts as a driller on or in connection with the construction of a bore shall, upon demand being made by the Commission and within such time as the Commission may specify, furnish to the Commission or to such person as the Commission may direct and in such form as the Commission may require, such information relating to—

- (a) the nature and thickness of the various strata met with during the drilling performed by him in connection with the bore;
- (b)

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

- (b) the location, quantities and quality of all supplies of water met with during such drilling;
- (c) the height each such supply of water stands relative to the natural surface of the ground at the site of the bore; and
- (d) the depth, diameter and other particulars of the bore and the casing inserted in the bore,

as the Commission may require.

(5) Any driller who contravenes the provisions of subsection four of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and to a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction and, in addition to the imposition of the said penalty, the Commission may cancel his driller's license.

(6) The Commission may at any time cancel any license issued pursuant to subsection three of this section if in its opinion the holder of the license is or has become incompetent or incapable or is not a fit and proper person to continue to be licensed as a driller or for such other good and sufficient cause as to the Commission seems proper.

(7) No person shall be entitled to claim or be paid any compensation whatsoever arising out of or by reason of the exercise by the Commission of the powers conferred by subsection six of this section.

Sec. 123.
(Waste of
water.)

- (j) (i) by inserting in subsection one of section one hundred and twenty-three after the word "well" where firstly occurring the words "or bore";

(ii)

- (ii) by omitting from the same subsection the words “partial closing” and by inserting in lieu thereof the words “closing or partial closing”;
- (iii) by omitting from the same subsection the words “such well” and by inserting in lieu thereof the words “such artesian well or bore”;
- (iv) by omitting from subsection two of the same section the words “such well” and by inserting in lieu thereof the words “such artesian well or bore”;
- (k) (i) by omitting from subsection one of section one hundred and twenty-four the words “artesian wells” and by inserting in lieu thereof the words “artesian well or bore”;
- (ii) by omitting from the same subsection the words “such wells” and by inserting in lieu thereof the words “any artesian well or bore”.

- 13.** The Water Act, 1912-1952, is further amended—
- (a) by inserting in the definition of “Work” in section one hundred and thirty after the word “sewer” the words “bridge, culvert, fence,”;
- (b) by omitting subsection two of section 133A and by inserting in lieu thereof the following subsection:—
- (2) Where by virtue of any such further proclamation lands previously described as comprising two or more holdings become one holding or lands previously described as comprising one holding become two or more holdings such further proclamation may attach to the new holding or each of the new holdings such number of water rights as the Governor may consider proper.
- (c)

No. 12, 1955.

Sec. 124.
(Power of entry.)

Further amendment of Act No. 44, 1912.

Sec. 130.
(Definitions.)

Sec. 133A.
(Correction of errors in constitution of districts and provisional districts.)

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

- No. 12, 1955.** (c) by inserting next after section 133A the following new subheading and section:—
New sec.
133B.

Additional Works.

Additional
works.

133B. At any time after the notification of the completion of the works of a provisional district or the proclamation of the constitution of a district the Commission may, for the purposes of such provisional district or district, construct or acquire any additional works and thereupon such additional works shall become works of the provisional district or district, as the case may be.

New sec.
137A.

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

Meter
charges.

137A. (1) In any provisional district or district in which water is supplied through pipes under pressure and any meter is installed by the Commission for the purpose of measuring the quantity of water so supplied to a holding, the Commission may impose such annual charge for the use of such meter as it may from time to time determine. The charge shall be paid to the bank by the owner of the land on or before the fifteenth day of September in each year.

(2) The owner of the land shall pay to the Commission on demand all costs, charges and expenses incurred by the Commission in repairing or replacing any such meter which has become damaged or destroyed from any cause whatsoever and upon default in payment the amount of such costs, charges and expenses may be recovered by the Commission from such owner in any court of competent jurisdiction as a debt due and owing to the Commission.

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

- (e) (i) by inserting in subsection three of section one hundred and thirty-nine after the word “rates” the words “or charges for water”;

(ii)

- (ii) by inserting in the same subsection after **No. 12, 1955.**
the word "rate" wherever occurring the
words "or charge";
 - (iii) by inserting in subsection four of the same
section after the word "rate" the words
"or charge for water";
 - (iv) by inserting in subsection five of the same
section after the word "rate" the words
"or charge for water";
 - (v) by inserting in subsection six of the same
section after the word "rate" where firstly
occurring the words "or charge for water";
 - (vi) by inserting in the same subsection after
the word "miscalculation" the words "or
for any other reason whatsoever";
 - (vii) by inserting in the same subsection after
the word "rate" where secondly occurring
the words "or charge";
- (f) (i) by omitting subsections nine and (9A) of **Sec. 147.**
section one hundred and forty-seven and by ^{(Supply of} inserting in lieu thereof the following ^{water.)}
subsection:—

(9) (a) Upon the Commission becoming aware that an owner has subdivided his holding and has disposed of any part or parts or all the parts thereof the Governor shall on the recommendation of the Commission declare that, as from a specified date not being earlier than the date the Commission became aware of such subdivision and disposal, the holding shall for the purposes of this Part cease to be a holding and that new holdings shall be deemed to be constituted in respect of each part disposed of and the part, if any, retained by the owner.

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

(b) Thereupon if water rights were attached to the former holding the Governor on the recommendation of the Commission—

- (i) shall apportion such water rights between the new holdings; or
- (ii) shall increase the number of such water rights and apportion such increased number of water rights between the new holdings; or
- (iii) may in any case where water rights are not to be attached to any new holding by virtue of the provisions of paragraph (d) of this subsection reduce the water rights which were attached to the former holding by not more than the proportion which the area of any such new holding bears to the area of the former holding and shall apportion such reduced number of water rights between the remaining new holdings.

(c) Water rights as apportioned in accordance with the provisions of paragraph (b) of this subsection shall attach to each of the new holdings on and from the date specified in accordance with the provisions of paragraph (a) of this subsection.

(d) Water rights shall not be attached to any new holding 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.

(e)

(e) Rates and charges for water No. 12, 1955.
shall be assessed and payable in respect of
each of the new holdings as from the date
specified in accordance with the provisions
of paragraph (a) of this subsection.

(f) Any necessary adjustment of
rates and charges for water already
assessed and levied in respect of the former
holding shall be made.

(g) The rates and charges for water
in respect of the new holdings shall be pay-
able notwithstanding that the means of
supplying and conveying water from the
works of the district or provisional district
and of measuring such supply have not been
provided in respect of all or any of such
new holdings.

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

(f) (i) Where the owner of a holding has
not in accordance with the provisions of
paragraph (a) of this subsection constructed
or fully constructed the works therein
referred to the Commission may construct
such works as have not been con-
structed by such owner 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 in any court
of competent jurisdiction as a debt either
from such owner, or from the owner of the
new holding for the purposes of which the
works are required to be constructed, as the
Commission may determine.

(ii) Where pursuant to the provisions
of subparagraph (i) of this paragraph any
part

No. 12, 1955.

part of the cost referred to in that subparagraph is recovered from any person other than the former owner of the holding, that person may, subject to the terms of any agreement between himself and such former owner, recover that part from such former owner.

(iii) Any works which the Commission constructs pursuant to the provisions of subparagraph (i) of this paragraph shall be deemed to be constructed as works of the district or provisional district, as the case may be, and the provisions of section one hundred and forty-eight of this Act shall apply to and in respect of the construction of such works.

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

(h) If any works which are deemed by the Commission to be necessary to provide means of supplying and conveying water from the works of a district or provisional district to lands within that district or provisional district, as the case may be, which have been acquired by the Crown by purchase or resumption under the provisions of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, or by purchase or vesting under the provisions of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, or to any part or parts of any such lands, have not been otherwise constructed, the Commission shall have power and shall always be deemed to have had power to construct any such works

as

as works of the district or provisional district within which any such lands are situated and the provisions of section one hundred and forty-eight of this Act shall apply and shall always be deemed to have applied to and in respect of the construction of such works. No. 12, 1955.

- (g) by inserting next after section one hundred and forty-seven the following new subheading and section:— New sec.
147A.

Amalgamation of Holdings.

147A. (1) On application by the owner of two or more holdings the total area of which does not in the opinion of the Commission substantially exceed a home maintenance area the Commission may, if it thinks fit, recommend to the Governor that such holdings be amalgamated into one holding and thereupon the Governor may declare such holdings, as from the first day of July next following such declaration, to be one holding for the purposes of this Part and may fix the number of water rights which shall attach thereto. Amalgama-
tion of
holdings.

(2) Where any declaration has been made in accordance with subsection one of this section the Commission shall determine which of the existing works of water supply are sufficient to serve adequately the holding into which holdings have been amalgamated as aforesaid and may at any time after the first day of July next following such declaration cease to supply water to such holding through any other work of water supply.

(3) All overdue rates and charges for water assessed in respect of any of the holdings declared to be one holding shall on the date on which the declaration referred to in subsection

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

subsection one of this section takes effect be overdue rates and charges in respect of the holding into which such holdings have been amalgamated.

(4) For the purposes of this section "home maintenance area" means an area which, when used for the purpose for which the Commission considers it is reasonably fitted, would in the opinion of the Commission be sufficient for the maintenance in average seasons and circumstances of an average family.

**Further
amendment
of Act No.
44, 1912.
New sec.
154A.**

**Additional
works.**

14. The Water Act, 1912-1952, is further amended by inserting next after section one hundred and fifty-four the following new section:—

154A. At any time after the notification of the completion of the works of a provisional district or the proclamation of the constitution of a district the Commission may for the purposes of such provisional district or district construct or acquire any additional works and thereupon such additional works shall become works of the provisional district or district, as the case may be.

**Further
amendment
of Act No.
44, 1912.**

**Sec. 165.
(Defini-
tions.)**

**Sec. 172.
(Contribu-
tions.)**

15. The Water Act, 1912-1952, is further amended—

(a) by inserting in the definition of "Work" in section one hundred and sixty-five after the word "pipe" the words "sewer, bridge, culvert, fence";

(b) (i) by omitting from subsection three of section one hundred and seventy-two the words "and shall be at an equal rate per acre";

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

"For the purposes of Division 1 of Part XXIII of the Conveyancing Act, 1919-1954, the expression 'rate or tax' in paragraph

(b)

(b) of section one hundred and eighty-seven No. 12, 1955.
of the said Act shall be deemed to include
every contribution referred to in this sub-
section.”

(c) by inserting next after section one hundred and
seventy-five the following new section:— New sec.
175A.

175A. Notwithstanding anything in this Part Benefit to be
taken into
account.
contained different amounts of contributions
and different amounts of rates may be fixed
for different holdings and for different parts of
holdings in the same district or provisional dis-
trict and in fixing such different amounts regard
may be had to—

- (a) the degree of benefit conferred upon
the lands by the works of the district
or provisional district;
 - (b) the value of the protection afforded to
the lands by the works of the district
or provisional district having regard
to the purpose for which the lands are
used; and
 - (c) the quantity of water normally used for
the classes of crops or plantings on the
lands.
-

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

PART V.

AMENDMENT OF THE RIVERS AND FORESHORES IMPROVEMENT
ACT, 1948.

Amendment
of Act No.
20, 1948.
Sec. 7.
(Work bene-
fitting land,
road or work
of a council.)

16. The Rivers and Foreshores Improvement Act, 1948, is amended by omitting from section seven the word "Commission" wherever occurring and by inserting in lieu thereof the words "Constructing Authority".

Further
amendment
of Act. No.
20, 1948.
New sec.
23A.

17. The Rivers and Foreshores Improvement Act, 1948, is further amended by inserting next after section twenty-three the following new section:—

Removal of
soil from
or in
proximity
to banks
of rivers.

23A. (1) No owner or occupier of land or other person whomsoever shall, except with the permission of the Constructing Authority—

- (a) make or cause or allow to be made any excavation on, in or under the bank of a river or on, in or under any land situate within a distance of two chains measured horizontally from the top of the bank of a river; or
- (b) remove or cause or allow to be removed any soil from the bank of a river or from any land situate within a distance of two chains measured horizontally from the top of the bank of a river.

(2) (a) Application for a permit under this section shall be made in writing to the Constructing Authority and shall specify the land in respect of which the permit is desired and supply full particulars of the work proposed to be undertaken.

(b) The Constructing Authority may, after such investigation as the Constructing Authority may deem necessary, refuse any permit applied for under this section or may grant the same subject to such limitations and conditions (including a condition limiting the time the permit shall remain in force) as the Constructing Authority may think fit.

(c)

(c) The Constructing Authority may at any time revoke or vary any permit issued under the provisions of this section. No. 12, 1955.

(3) Any owner or occupier of land or other person whomsoever who, in respect of any land—

(a) makes or causes or allows to be made any excavation or removes or causes or allows to be removed any soil contrary to the provisions of this section; or

(b) fails to comply with any of the limitations or conditions for the time being attached to any permit granted under the provisions of this section,

shall be guilty of an offence and shall be liable, for the first offence, to a penalty not exceeding fifty pounds and for a subsequent offence to a penalty not exceeding one hundred pounds.

(4) Where—

(a) any excavation has been or is being made or any soil has been or is being removed contrary to the provisions of this section after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955; or

(b) the Constructing Authority is of the opinion that any excavation on, in or under any land or the removal of soil from any land, although not contrary to the provisions of this section and whether made or effected before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955—

(i) is damaging or detrimentally affecting or is likely to damage or detrimentally affect the bank of a river; or

(ii) is likely to cause, whether directly or indirectly, a river to change its course,

the

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**No. 12, 1955.
—

the Constructing Authority may by notice in writing direct the owner or occupier of the land on which such excavation has been or is being made or from which soil has been or is being removed to take such measures and in such manner and within such time as may be specified in such notice as the Constructing Authority deems necessary to ensure that the bank of the river will not be damaged or detrimentally affected or that the river will not be caused, whether directly or indirectly, to change its course, as the case may be, by reason of such excavation or removal of soil.

(5) If any owner or occupier fails to comply with the terms of any notice given to him pursuant to subsection four of this section, the Constructing Authority may authorise any person to enter upon the land in respect of which such notice has been given and there to carry out the measures specified in such notice and may recover the cost incurred in so doing from such owner or occupier in any court of competent jurisdiction as a debt due and owing by him to the Constructing Authority and until repayment such cost shall be a charge on the land.

(6) The provisions of subsections one, two, three, four and five of this section shall not apply to or in respect of the exercise of any rights lawfully exercisable—

- (a) under any license, permit or authority for a joint water supply scheme issued under any of the provisions of the Water Act, 1912, as amended by subsequent Acts;
- (b) under any lease, license, permit or other right issued under the provisions of the Acts relating to mining or under the provisions of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, or of any other Act; or
- (c) by any statutory body or by any council.

(7) Where the Constructing Authority is of the opinion that the making of any excavation on, in or under the bank of a river, or on, in or under any

any land, or the removal of soil from the bank of a river, or from any land, in the exercise of any of the rights referred to in subsection six of this section whether before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955—

- (a) is damaging or detrimentally affecting or is likely to damage or detrimentally affect the bank of a river; or
- (b) is likely to cause, whether directly or indirectly, a river to change its course,

the Constructing Authority may by notice in writing direct the person, statutory body or council by whom or on whose behalf any such excavation has been or is being made or any such soil has been or is being removed to take such measures and in such manner and within such time as may be specified in such notice as the Constructing Authority deems necessary to ensure that the bank of the river will not be damaged or detrimentally affected or that the river will not be caused, whether directly or indirectly, to change its course, as the case may be, by reason of such excavation or removal of soil and such person, statutory body or council shall comply with the terms of such notice accordingly.

(8) If any person or council fails to comply with the terms of any notice given pursuant to subsection seven of this section the Constructing Authority may authorise any person to enter upon the land in respect of which such notice has been given and there to carry out the measures specified in such notice and may recover the cost incurred in so doing from such firstmentioned person or from such council, as the case may be, in any court of competent jurisdiction as a debt due and owing by him or by it to the Constructing Authority.

(9) For the purposes of this section the Constructing Authority, or any person authorised by it, may enter upon and inspect any land.

(10)

108 **Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955.

(10) In this section—

“Constructing Authority” means the Minister for Public Works or the Commission, respectively, according as to whether the waters of the river immediately adjacent to the land on which an excavation has been or is being made or from which soil has been or is being removed are tidal waters or are not tidal waters, as the case may be.

“Soil” means the surface of any land and all matter or material whatsoever lying beneath that surface.

PART VI.

AMENDMENT OF THE WESTERN LANDS ACT OF 1901.

Amendment of
Act No. 70,
1901.

18. The Western Lands Act of 1901, as amended by subsequent Acts, is amended—

Sec. 31.

(Determina-
tion of value
of improve-
ments.)

(a) by omitting from subsection five of section thirty-one the word “shallow” wherever occurring;

(b) by omitting from the same subsection the words “one hundred” and by inserting in lieu thereof the words “two hundred”.

PART VII.

AMENDMENT OF THE MURRUMBIDGEE IRRIGATION AREAS
OCCUPIERS RELIEF ACT, 1934.

Amendment
of Act No.
52, 1934.
Secs. 12
and 14.

(Determina-
tion of
water rights
attached to
holdings and
the prices
thereof;
numbers and
prices not to
be altered,
etc.)

19. The Murrumbidgee Irrigation Areas Occupiers Relief Act, 1934, as amended by subsequent Acts, is amended by omitting sections twelve and fourteen.

PART

PART VIII.

No. 12, 1955.

MISCELLANEOUS.

20. (1) Except as hereinafter provided this section shall apply to—

Reduction
of rentals
of certain
leases.

(a) any lease from the Crown—

- (i) within an irrigation area constituted under the Irrigation Act, 1912, as amended by subsequent Acts;
- (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;
- (iii) made under or by operation of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, before the first day of January, one thousand nine hundred and thirty-three; and
- (iv) being in respect of land notified in the Gazette as available for disposal for the purpose of residence, or described in the Gazette as suitable for residential purposes, or comprising an irrigation farm lease of an area not exceeding five acres;

(b) any lease from the Water Conservation and Irrigation Commission—

- (i) within the irrigation area constituted under the provisions of the Wentworth Irrigation Act;
- (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;
- (iii) made under or by operation of the Wentworth Irrigation Act;
- (iv) being in respect of land which in the opinion of the Water Conservation and Irrigation Commission is mainly suitable for residential purposes; and

(v)

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**No. 12, 1955.

(v) being in respect of land which has throughout the whole of the period from the thirty-first day of December, one thousand nine hundred and thirty-two, to the first day of January, one thousand nine hundred and forty-eight—

(a) been leased land under the Wentworth Irrigation Act by way of lease subsisting at the said thirty-first day of December and of any new lease granted from time to time during such period; and

(b) been held by—

(i) the lessee under the lease subsisting at the said thirty-first day of December; or

(ii) that lessee and any lessee who became lessee by transfer or assignment from or devolution under the will or intestacy of any immediately prior lessee.

(2) This section shall not apply to any lease referred to in paragraph (a) of subsection one of this section—

(a) being in respect of land notified in the Gazette as available for disposal for the purpose of residence and in respect of which the Water Conservation and Irrigation Commission has, before the commencement of this section, pursuant to the provisions of subsection ten of section 142D of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to the land comprised in such lease being used for any of the purposes specified in the said subsection ten; or

(b)

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

111

- (b) in respect of which the annual rental has before No. 12, 1955.
the commencement of this section been deter-
mined consequent upon the addition of land
thereto.

(3) Subject to this section the annual rental of any lease to which this section applies shall as on and from the first day of January, one thousand nine hundred and forty-eight, be the annual rental of such lease as at the thirty-first day of December, one thousand nine hundred and thirty-two, reduced by twenty-two and one-half per centum:

Provided that where in pursuance of the provisions of section one hundred and forty-three of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, the annual rental for the second or any succeeding period of any lease referred to in paragraph (a) of subsection one of this section has been determined as in the said section one hundred and forty-three provided—

- (a) before the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the first day of January, one thousand nine hundred and forty-eight, and for the unexpired portion of the current period of such lease be the annual rental as so determined reduced by twenty-two and one-half per centum;
- (b) after the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the commencement of such second or succeeding period and for such period be the annual rental as so determined reduced by twenty-two and one-half per centum.

(4) Where by reason of any reduction made in pursuance of any enactment other than this section the annual rental under any lease to which this section applies has been decreased, the reduction prescribed by subsection three of this section shall not be in addition
to

**Irrigation, Water and Rivers and Foreshores Improvement
(Amendment) Act.**

No. 12, 1955. to the amount of such decrease, but such decrease shall be taken into account in determining the annual rental to be paid consequent upon the reduction so prescribed.

(5) Where after the commencement of this section—

- (a) the Water Conservation and Irrigation Commission has, pursuant to the provisions of subsection ten of section 142b of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to any land comprised in a lease referred to in paragraph (a) of subsection one of this section and notified in the Gazette as available for disposal for the purpose of residence being used for any of the purposes specified in the said subsection ten; or
- (b) the annual rental of any lease referred to in paragraph (a) of subsection one of this section has been determined consequent upon the addition of land thereto; or
- (c) the Water Conservation and Irrigation Commission decides that the land comprised in any lease to which this section applies is used mainly or substantially for any business purpose,

the provisions of this section shall cease to apply to the lease referred to in paragraph (a), (b) or (c) of this subsection as from the date of such consent, determination or decision, as the case may require.

(6) This section shall be deemed to have commenced upon the first day of January, one thousand nine hundred and forty-eight.