

Hay Irrigation Act 1902 No 57

[1902-57]



New South Wales

Status Information

Currency of version

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Justices Legislation Repeal and Amendment Act 2001 No 121](#) (not commenced)
- **See also**
[Statute Law \(Miscellaneous Provisions\) Bill \(No 2\) 2002](#)

Authorisation

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Contents

Long title	4
Part 1 Preliminary	4
1 Name of Act	4
2-4 (Repealed)	4
5 Definitions	4
Part 2 Administration	5
6-10 (Repealed)	5
11 Property vested in the Ministerial Corporation	5
12-16 (Repealed)	5
17 Ministerial Corporation may lease	5
17A, 18 (Repealed)	5
19 Tenant-right in improvements	5
19A Power to sell land	6
19B Purchase price of leased lands	7
19C Payment of other amounts in respect of conversion of leaseholds	7
Part 3 Transfer restrictions	8
20 Application of Part	8
21 Consent to transfer	8
22 Invalidation of certain dealings	9
23 Application for consent	9
24 Dealing with applications	9

25-28 (Repealed)	9
Part 4 Miscellaneous	9
28A (Repealed)	9
29 Regulations	9
30 Savings and transitional provisions	10
31 Delegation	10
32-41 (Repealed)	10
Part 5 (Repealed)	10
First Schedule	10
Second Schedule	10
Third Schedule	12
Fourth Schedule Savings and transitional provisions	13

Hay Irrigation Act 1902 No 57



New South Wales

An Act to consolidate enactments relating to the Conserving and Utilising Water for Irrigation in the Land District of Hay.

Part 1 Preliminary

1 Name of Act

This Act may for all purposes be cited as the *Hay Irrigation Act 1902*.

2-4 (Repealed)

5 Definitions

In the construction of this Act, unless the context or subject-matter otherwise indicates, or requires:

Area means land described in the Second Schedule to this Act that is not land held in fee simple by a person (other than the Water Administration Ministerial Corporation) at the commencement of the *Irrigation Corporations Act 1994*.

Domestic use, when employed with reference to water, means use for household purposes, but does not include use for the irrigation of gardens or land, or for the watering of stock or the washing of sheep.

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

Justice means justice of the peace.

Ministerial Corporation means the Lands Administration Ministerial Corporation constituted by the *Crown Lands Act 1989*.

Owner includes lessee or occupier.

Regulations means the regulations made under this Act.

Stock means cattle, horses, sheep, and all other domestic animals.

Part 2 Administration

6-10 (Repealed)

11 Property vested in the Ministerial Corporation

- (1) Land comprising the Area is vested in the Ministerial Corporation on and from the substitution of this section by the *Irrigation Corporations Act 1994*, together with any works constructed on that land, or for the purposes of this Act, which were vested in the Water Administration Ministerial Corporation immediately before that substitution.
- (2) Subsection (1) does not apply to:
 - (a) land that has been set apart for public purposes by the Water Administration Ministerial Corporation before the appointed day, or that is from time to time set apart by the Lands Administration Ministerial Corporation after that day for those purposes, or
 - (b) land that is resumed or disposed of from time to time under this or any other Act.

12-16 (Repealed)

17 Ministerial Corporation may lease

The Ministerial Corporation may let or lease any land vested in it by this Act for a term not exceeding 99 years.

17A, 18 (Repealed)

19 Tenant-right in improvements

- (1) Upon the determination of the lease of any lot, the lessee shall be entitled to receive the value to an incoming tenant of the improvements from any person who takes a lease of the land containing the improvements. And in the event of such person not paying the amount then due and unpaid for the value of such improvements, such amount or so much thereof as remains unpaid for the time being shall, until payment thereof, be and remain a charge upon the land containing such improvements while in the hands of a lessee. The value of the improvements to an incoming tenant shall be appraised by the local land board in the manner prescribed by section 44 of the *Crown Lands Act of 1889*, but shall be calculated on the basis of the value of such improvements to the land leased, and the payment of the value shall be made by such instalments, and at such dates, as may be prescribed by regulations.

The improvements, in respect of which tenant-right is conferred by this Act, shall in all cases be:

- (a) of a permanent, fixed, and substantial character, and necessary for the profitable occupation of the land, and

(b) the property of the person claiming to have tenant-right in respect thereof, and improvements which were forfeited or forfeitable to, or vested in, the Ministerial Corporation immediately prior to the accruing of the tenant-right shall not be included:

(2) Provided that:

(a) the tenant-right shall lapse after the expiration of twelve years from the date of its first accruing, and thereafter the improvements shall be the property of the Ministerial Corporation; but such lapsing shall not affect any agreement, appraisalment, or order for payment previously made, and

(b) the holder of the lease of the land containing improvements shall be liable to pay any instalments of the value thereof, as appraised by the local land board, which may accrue due during his or her holding.

19A Power to sell land

- (1) The Ministerial Corporation may from time to time dispose of for an estate in fee-simple by sale any land comprising the Area not demised or assigned by the Ministerial Corporation.
- (2) The holder of a lease under this Act may purchase from the Ministerial Corporation the land comprised in the lease, but only with the consent in writing of any mortgagee.
- (3) The purchase price for the land, together with interest at the annual rate of 4 per cent, or such other rate as may be prescribed by the regulations, is payable by 74 equal half-yearly instalments. The first instalment is payable on the date of purchase.
- (4) The purchaser is to execute a contract of sale in a form approved by the Ministerial Corporation and enter into such covenants as the Ministerial Corporation considers necessary.
- (5) The covenants are to include a covenant to execute, if required by the Ministerial Corporation, a mortgage over the land to the mortgagee preserving the rights, powers and remedies that the mortgagee would have had if the purchase had not been effected.
- (6) The contract may, with the concurrence of the Ministerial Corporation, also provide for the transfer of the land after payment of the whole of the purchase money and interest or before the payment.
- (7) If the contract provides for the transfer of the land before the payment of the purchase money and interest, the contract is to contain provisions for:
 - (a) performance of any covenant specified to be performed before the transfer, and
 - (b) a mortgage of the land to the Ministerial Corporation to secure the payment of the

purchase money and interest.

- (8) The purchaser of leased land under this section is, if required by the Ministerial Corporation, to execute a surrender of the purchaser's lease of the land to the Ministerial Corporation in a form approved by the Ministerial Corporation.

19B Purchase price of leased lands

- (1) The purchase price, for the purposes of section 19A, of land (excluding any improvements owned by a lessee who is purchasing the land) is to be determined by the Ministerial Corporation as at the date of notification of a person's intention to purchase the land.
- (2) The Ministerial Corporation is, on determining a purchase price for the land, to give notice of the determination to the person intending to purchase the land.
- (3) The notice must include information to the effect that the intended purchaser may object to the purchase price determined by the Ministerial Corporation.
- (4) The Ministerial Corporation is to consider any objection lodged and by notice inform the objector:
 - (a) whether the determination of the purchase price is to stand or be varied, and
 - (b) that the objector, if dissatisfied with the Ministerial Corporation's decision, may appeal as provided by subsection (5).
- (5) An appeal against the Ministerial Corporation's decision lies:
 - (a) to the local land board (within the meaning of the [Crown Lands Act 1989](#)) if the purchase price determined does not exceed \$150,000 or such greater amount as may be prescribed, or
 - (b) in any other case, to the Land and Environment Court.
- (6) The local land board, or the Court, on hearing the appeal, may affirm the Ministerial Corporation's determination or substitute its own.

19C Payment of other amounts in respect of conversion of leaseholds

- (1) On the commencement of title to a purchase of land under section 19A, the following amounts are payable to the Ministerial Corporation:
 - (a) any stamp duty payable under the [Stamp Duties Act 1920](#) in respect of the purchase,
 - (b) in the case of leased land, any rent (including rent for Crown improvements) payable on the lease up to the commencement of title to the land,

- (c) in the case of leased land, any outstanding postponed or funded debts in respect of the lease (whether or not due for payment) together with interest up to the commencement of title to the land,
 - (d) the cost of any necessary survey carried out by the Ministerial Corporation,
 - (e) any other amounts determined by the Ministerial Corporation as payable on the commencement of title.
- (2) Failing payment of any such amount within 3 months of demand, the purchase may be declared by the Ministerial Corporation to be forfeited and any money paid in connection with the purchase may (by the declaration) be forfeited to the Ministerial Corporation.
- (3) Any other debts outstanding in respect of a lease of the land continue (subject to this section and any increased rate of interest required by this Act) to be payable to the Ministerial Corporation in the same manner as they were payable before the commencement of title to the land.

Part 3 Transfer restrictions

20 Application of Part

This Part applies to the following land:

- (a) a lease from the Ministerial Corporation of land within the Area,
- (b) land within the Area in course of purchase in fee simple from the Ministerial Corporation.
- (c) (Repealed)

21 Consent to transfer

- (1) Land to which this Part applies may not be transferred, leased, subleased, assigned or otherwise dealt with without the written consent of the Ministerial Corporation.
- (2) Subsection (1) does not apply to:
- (a) a mortgage or discharge of mortgage, or
 - (b) (Repealed)
 - (c) a transfer to a Minister on behalf of the Crown or to a public authority.
- (3) In this section:
- public authority** means:
- (a) a council within the meaning of the [Local Government Act 1993](#), or

- (b) a public body declared by the Minister, by order published in the Gazette, to be a public authority for the purposes of this section.

22 Invalidation of certain dealings

A transfer, lease, sublease, assignment or other dealing in contravention of this Part is not valid for any purpose.

23 Application for consent

An application for consent is to be made as prescribed by the regulations.

24 Dealing with applications

- (1) The Ministerial Corporation has discretion to give or refuse consent to a dealing with land to which this Part applies.
- (2) The Ministerial Corporation may not consent to a dealing unless and until the Ministerial Corporation is satisfied that:
 - (a) the whole of any money due to the Ministerial Corporation in respect of the land the subject of the dealing, or such portion of that sum as may be required by the Ministerial Corporation to be paid, has been paid, and
 - (b) if the land is land in the course of purchase in fee simple from the Ministerial Corporation, the proposed transferee or assignee:
 - (i) has signed an agreement that all money (if any) remaining owing to the Ministerial Corporation in respect of the land is to be paid by that person and that the person will execute such security for the payment of all money owing to the Ministerial Corporation as the Ministerial Corporation may require, and
 - (ii) has executed such security.

(3)-(7) (Repealed)

25-28 (Repealed)

Part 4 Miscellaneous

28A (Repealed)

29 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that, by this Act, is required or permitted to be prescribed by regulations or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:
 - (a) the administration and maintenance of the works constructed pursuant to this Act,

and

- (b) advertisements and notifications relating to the sale of land under this Act, and
- (c) applications to purchase land under this Act, including the form and determination of those applications, and
- (d) the charging of interest on a daily basis on unpaid rent (whether or not the subject of a judgment by a court) and the times and manner of its payment.
- (e) (Repealed)

(2) A regulation may create an offence punishable by a penalty not exceeding 10 penalty units.

30 Savings and transitional provisions

The Third and Fourth Schedules have effect.

31 Delegation

The Ministerial Corporation may delegate to a person the exercise of any of its functions under this Act (other than this or any other power of delegation).

32-41 (Repealed)

Part 5

42-49 (Repealed)

First Schedule

Reference to Act	Short title	Extent of repeal
55 Vic No 25	<i>Hay Irrigation Act</i>	The unrepealed portion
60 Vic No 30	<i>Hay Irrigation (Amendment) Act 1896</i>	The whole.
No 15, 1902	<i>Hay Irrigation (Amending) Act 1902</i>	The whole.

Second Schedule

Land District—Hay; Shire—Hay

All that area or tract of country comprising part of the parish of Hay county of Waradgery and State of New South Wales being part of the land shown on plan catalogued 10929 (L) in the office of the Registrar General Sydney commencing on the right bank of the Murrumbidgee River at the south-western corner of lot 3 as shown on that plan and bounded thence on the west by the western boundary of that lot a line the western boundary of lot 2 a line the western boundary of lot 1 and its northerly prolongation to its intersection with the south-eastern boundary of the land comprised in Certificate of Title registered volume 4132 folio 204 thence generally on the south by part of that

boundary the south-eastern boundary of lot 26 the western boundary of that lot and its northerly prolongation to its intersection with the south-eastern boundary of lot 30 part of that boundary a line the south-eastern boundary of lot 32 part of the western boundary of that lot to the easternmost south-eastern corner of lot 34 a southern boundary of that lot the southern boundary of lot 33 another southern boundary of said lot 34 the southern boundary of lot 35 a line to the south-eastern corner of lot 76 a southern boundary of that lot the southern boundary of lot 77 a southern boundary of lot 78 the southern boundaries of lots 79 and 80 a southern boundary of lot 81 the southern boundary of lot 82 a southern boundary of lot 83 the southern boundary of lot 84 a line the southern, western and northern boundaries of lot 85 the north-eastern boundaries of Travelling Stock and Camping Reserve 53388 the easternmost eastern boundary of lot 113 an eastern boundary and a southern boundary of lot 115 the northern boundaries of the 25 acres 2 roods 20 1/2 perches of land resumed by Hay Municipal Council by notification in the Government Gazette of 20 December 1957, the western boundary of that land another eastern boundary the south-western boundary and part of another southern boundary of said lot 115 to its intersection with the northerly prolongation of the southernmost eastern boundary of lot 116 thence generally on the east by that prolongation and that boundary the eastern boundary of lot 119 a line to the north-eastern corner of portion M.L. 1 the north-western, western and south-eastern boundaries of that portion and the southernmost eastern boundary of lot 120 to the easternmost north-eastern corner of Reserve 61732 for Public Recreation and Access thence generally on the south-east by generally north-western boundaries of that reserve to the westernmost south-western corner of said lot 120 thence again on the west by the western boundary of that lot a line the western boundaries of lots 118 and 117 a line and the western boundaries of lots 112, 111, 107, 105 and 104 thence on the north by the northern boundary of the last-mentioned lot and the northern boundary of lot 103 thence again on the west by part of the western side of a road 300 links wide to its intersection with the westerly prolongation of the westernmost northern boundary of lot 102 thence generally on the north by that prolongation and that boundary the south-western boundary and another northern boundary of that lot thence again generally on the south-east by the north-eastern and south-eastern boundaries of that lot and the south-eastern boundaries of lots 101, 100 and 97 thence again on the north by a line to the south-western corner of lot 62 thence on the north-west by the north-western boundary of that lot and the north-western boundary of lot 61 thence on the north-east by north-eastern boundaries of the lastmentioned lot and a line to the north-eastern corner of lot 63 thence again generally on the north by the easterly prolongation of the northern boundary of that lot to its intersection with the south-western boundary of lot 55 part of that boundary a line the south-western boundaries of lots 60 and 59 the northern boundary of the lastmentioned lot a line the northern and eastern boundaries of lot 58 the eastern boundary of lot 57 a line to the north-western corner of lot 48 the northern boundary of that lot the northern boundary of lot 47 a line to the south-eastern corner of portion 149 part of the eastern boundary of that portion to its intersection with the westerly prolongation of the northernmost northern boundary of lot 15 that prolongation and that boundary and the northern boundary of lot 14 thence again generally on the south-east by the eastern boundary of that lot and lot 122 an eastern boundary of lot 13 the eastern and south-eastern boundaries of lot 12 the south-eastern boundary of lot 11 the south-easterly prolongation of the south-western boundary of that lot to its intersection with a north-western boundary of the Hay to Narrandera Railway land a line to the western corner of part of Travelling Stock and Camping Reserve 26876 the south-western boundary of that part of that reserve the northern and eastern boundaries of lot 10 to the aforesaid right bank of the Murrumbidgee River part of that bank of that river downwards to the southernmost corner of the 3 roods 34 1/4 perches of land resumed by notification in the Government Gazette of 8th August, 1958, the south-western boundaries of that resumed land part of the southern boundary of lot 9 the southern boundary of lot 7 a line to the northernmost corner of lot 5 the eastern boundary of that lot a line and the eastern

boundary of lot 4 and thence again generally on the south by the southern and western boundaries of the lastmentioned lot a line the western boundary of said lot 5 a line to the intersection of the eastern boundary of the aforesaid lot 1 with the south-eastern side of the road 300 links wide within that lot part of that boundary and its southerly prolongation to its intersection with the southern side of the road 150 links wide adjoining the southern boundary of that lot part of that side of that road to the north-eastern corner of the aforesaid lot 2 the eastern boundary of that lot a line the eastern and southern boundaries of the aforesaid lot 3 to the said right bank of the Murrumbidgee River and part of that bank of that river downwards to the point of commencement and as shown on plan catalogued 33/349 in the office of the Ministerial Corporation Sydney but exclusive of the road of variable width from Maude to Hay, Travelling Stock and Camping Reserve 53387, the Hay to Narrandera Railway land and the road 100 links wide separating that railway land from the northern part of that reserve.

Also all that piece or parcel of land situated in the parish of Hay county of Waradgery and State of New South Wales being a lot 131 deposited plan 215830 and as shown on plan catalogued 33/319 in the office of the Ministerial Corporation Sydney.

Third Schedule

1 Construction of certain references to the Water Administration Ministerial Corporation

On and from the commencement of this clause, a reference (other than a reference prescribed by the regulations) in any instrument or document executed or made for the purposes of this Act to the Water Administration Ministerial Corporation constituted by the [Water Administration Act 1986](#) is taken to be a reference to the Lands Administration Ministerial Corporation constituted by the [Crown Lands Act 1989](#).

2 Conversion of leasehold contracts

- (1) A contract under section 11C of the [Irrigation Act 1912](#) (as in force immediately before its repeal) in respect of land within the Area is taken to be a contract under section 19A of this Act.
- (2) A reference in any such contract:
 - (a) to section 11C of the [Irrigation Act 1912](#) is taken to be a reference to section 19A of this Act, and
 - (b) to the Water Administration Ministerial Corporation constituted by the [Water Administration Act 1986](#) is taken to be a reference to the Lands Administration Ministerial Corporation constituted by the [Crown Lands Act 1989](#).

Fourth Schedule Savings and transitional provisions

(Section 30)

Part 1 General

1 Savings and transitional regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of:

Schedule 2 to the *Crown Lands and Irrigation Legislation Amendment (Transfer Restrictions) Act 1997*

Schedule 2 to the *Crown Lands and Irrigation Legislation Amendment (Removal of Transfer Restrictions) Act 1997*

- (2) Such a provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which such a provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of **Crown Lands and Irrigation Legislation Amendment (Transfer Restrictions) Act 1997**

2 Definition

In this Part:

amending Act means the *Crown Lands and Irrigation Legislation Amendment (Transfer Restrictions) Act 1997*.

3 Applications for consent to transfer

An application for consent made under section 17A that was not determined before the repeal of that section by Schedule 2 [1] to the amending Act is taken to be an application made under section 23 as inserted by Schedule 2 [2] to the amending Act.

Part 3 Provisions consequent on enactment of **Crown Lands and Irrigation Legislation Amendment (Removal of Transfer**

Restrictions) Act 1997

4 Definition

In this Part:

amending Act means the *Crown Lands and Irrigation Legislation Amendment (Removal of Transfer Restrictions) Act 1997*.

5 Applications for consent to transfer

An application for consent made under section 23 that was not determined before the amendment of section 24 by Schedule 2 [10] to the amending Act is to be dealt with under section 24 as so amended.