

Wentworth Irrigation Act 1890 No 7

[1890-7]



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—

- **Previously named**
Wentworth Irrigation Act
- **Does not include amendments by**
[Civil and Administrative Legislation \(Repeal and Amendment\) Act 2013 No 95](#) (not commenced — to commence on 1.1.2014)

Authorisation

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New South Wales

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Wentworth Irrigation Act 1890 No 7



New South Wales

An Act to provide for the administration of certain land vested in the Water Administration Ministerial Corporation, to establish and administer works thereon and elsewhere for Conserving and Utilizing Water for Irrigation, and to lease such lands, and for other purposes incidental thereto.

Preamble

WHEREAS it is expedient, and would be for the advantage of the inhabitants of Wentworth, in the Colony of New South Wales, and the public generally, to establish a system whereby the waters of the lake known as Fletcher's Lake, and other waters contained or flowing in the rivers, creeks, streams, and watercourses adjacent to the town of Wentworth, may be conserved and utilized for irrigation, watering of stock, and other purposes: And whereas, for the purposes and in pursuance of the "[Commons Regulation Act of 1873](#)", and the "[Commons Regulation Act Amendment Act of 1886](#)", the lands described in Schedule 1 to this Act, with other lands, are vested in the Council of the Municipality of Wentworth as a temporary common:

Be it therefore 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 1 Preliminary

1 Name of Act

This Act may for all purposes be cited as the [Wentworth Irrigation Act 1890](#).

2, 3 (Repealed)

4 Definitions

In the construction of this Act, unless the context requires a different meaning, the expression:

Area means land described in Schedule 1 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](#).

The Governor means the Governor, with the advice of the Executive Council.

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

Owner includes lessee or occupier but does not include the Ministerial Corporation.

Prescribed means prescribed by this Act or by regulations or by-laws under this Act.

Part 2 Administration

5-9 (Repealed)

10 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.

11-21 (Repealed)

22 Ministerial Corporation may lease

The Ministerial Corporation may let or lease any land vested in it by this Act for a term not exceeding 30 years.

22A (Repealed)

22B 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 were not 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.

22C Purchase price of leased lands

- (1) The purchase price, for the purposes of section 22B, 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.

22D Payment of other amounts in respect of conversion of leaseholds

(1) On the commencement of title to a purchase of land under section 22B, 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 clause 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

23 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)

24 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.

25 Invalidation of certain dealings

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

26 Application for consent

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

27 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)

28-31A (Repealed)

Part 4 Miscellaneous

32 (Repealed)

33 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 form of lease to be used under 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), (f) (Repealed)

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

34 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).

35 Savings and transitional provisions

Schedules 2 and 3 have effect.

36-46 (Repealed)

Part 5

47-53 (Repealed)

Schedule 1

All that piece or parcel of land in the Colony of New South Wales and county and parish of Wentworth: Commencing at a point bearing north seventy-one degrees west twenty chains from the north-east

corner of reserve two hundred and eighty-seven, notified in the Government Gazette of fifteenth March, one thousand eight hundred and seventy-seven, and known as the Police Paddock; and bounded thence partly on the west by a line north two hundred and two chains; thence partly on the south by a line west about forty-six chains to the left bank of the river Darling, at a place known as the Two-mile Point; thence on the south-west by that river north-westerly to the south-west corner of Messrs Ormond and Brooke Brothers purchased land, portion number eighteen, in the parish of Tiltao; thence partly on the north by the southern boundary of portion number eighteen, a line and the southern boundaries of portions numbers seventeen, fifteen, sixteen, and forty-two, and by part of the north boundary of the Wentworth population area, proclaimed in Government Gazette of twentieth March, one thousand eight hundred and eighty-five, bearing east in all about three hundred and thirty-eight chains to the north-east corner of that population area, at a peg bearing south fourteen degrees fifty minutes east thirty-four links from a box-tree marked broad-arrow over P.R. over sixty-five; thence on the north-east and remainder of the north by a five-wired fence, being a north-east and north boundary of the temporary common extension, notified in the Government Gazette of seventeenth April, one thousand eight hundred and eighty-two, bearing about south-east about sixty chains and easterly about two hundred and five chains to a point due north of a point on the right bank of the Murray River, situated eight chains north-easterly from the junction of Tchilltaulcurra Creek with that river; thence on the east by a line south about one hundred and forty-five chains to the river Murray; and on the south by that river downwards to the north-east corner of reserve two hundred and eighty-seven aforesaid; and thence on the south-west by part of the north-east boundary of that reserve bearing north seventy-one degrees west twenty chains, to the point of commencement, and containing an area of ten thousand six hundred acres, be the same more or less, exclusive of alienated and measured portions numbers five, seventeen, nineteen, and twenty, in the parish of Wentworth aforesaid.

Schedule 2

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 22B 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 22B 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*.

Schedule 3 Savings and transitional provisions

(Section 35)

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

Schedule 3 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 1A Effect of repeal of Act

1A Repeal of Act does not affect operation of certain provision

- (1) Despite the repeal of the *Wentworth Irrigation (Amendment) Act 1979*, section 4 of that Act continues to have effect and is taken to have been transferred to this Act.
- (2) Section 4 of the *Wentworth Irrigation (Amendment) Act 1979* is a transferred provision to which section 30A of the *Interpretation Act 1987* applies.

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 22A that was not determined before the repeal of that section by Schedule 3 [2] to the amending Act is taken to be an application made under section 26 as inserted by Schedule 3 [3] 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 26 that was not determined before the amendment of section 27 by Schedule 3 [10] to the amending Act is to be dealt with under section 27 as so amended.