

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. S. MOWLE,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 17 December, 1924.

New South Wales.



ANNO QUINTO DECIMO

GEORGI V REGIS.

Act No. 51, 1924.

An Act to make provision for the setting apart and sale of lands with freehold tenure within irrigation areas, and to enable the holders of certain leases within such areas to convert their holdings into freehold tenures; to make provision for the extension of the provisions of the Local Government Act, 1919, to irrigation areas; to amend the Crown Lands Consolidation Act, 1913, the Irrigation Act, 1912, and certain other Acts; and for purposes connected therewith. [Assented to, 23rd December, 1924.]

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

Preliminary.

1. This Act may be cited as the "Irrigation Short title. Holdings (Freehold) Act, 1924." **2.**

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

R. B. WALKER,
Chairman of Committees of the Legislative Assembly.

Irrigation Holdings (Freehold).

Principal Act,
No. 7 of
1913, as
amended. **2.** In this Act the expression "the Principal Act" means the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

Amendments of the Principal Act.

Amendments of
Principal Act,
No. 7 of 1913.

3. The Principal Act is amended as follows:—

Sec. 5.

(a) Section five: By omitting from the last paragraph the word "leases" wherever occurring before the words "within irrigation areas," and by inserting in lieu thereof the word "holdings."

Sec. 33.

(b) Section thirty-three: By omitting from the last paragraph the words "leases within irrigation areas which are forfeited, or surrendered, or which expire" and by inserting in lieu thereof the words "holdings within irrigation areas which are forfeited, or surrendered, or the titles to which expire."

New Part VI.

(c) Part VI: By omitting the Part and substituting the following new Part VI:—

PART VI.

IRRIGATION AREAS.

Application of this Part.

Application
of this Part.

137. The enactments contained in this Part shall apply to any irrigation area and to lands within such area.

Special land board.

Special land
board.

138. (1) The Minister may under and subject to the provisions of section eight of this Act define the boundaries of a land district as being coincident with the boundaries of an irrigation area.

(2) The Governor may, for the purposes of the provisions of this Act relating to holdings within an irrigation area, constitute a special land board which may be composed of officers of the Commission, and which shall within such district have the powers and duties of a local land board.

(3)

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(3) Notwithstanding section eleven of this Act, the fact that a duly appointed member of the special land board is an officer of the Commission shall not be deemed to render such officer in any way interested or liable to penalty under the provisions of that section.

(4) The Commission may also delegate to such special land board all or any of its powers under the provisions of the Crown Lands Acts, or any Acts amending the same.

Subdivision of irrigation areas.

139. (1) Land within an irrigation area shall be dealt with in accordance with the provisions of this section. Irrigation area, how dealt with.

(2) (a) The land shall from time to time be subdivided by the Commission into such areas as it may determine.

(b) The purchase money or annual rental, as the case may be, of any land notified as available for disposal as provided in paragraph (d) of this subsection, and the value of any improvements thereon, which are the property of the Crown, shall be determined by the Commission.

In determining such purchase money and annual rental, due regard shall be had to the additional value given or to be given to the land by reason of the works constructed or to be constructed for irrigation or other purposes, and to the benefits derived or to be derived therefrom ;

(c) The Ministers shall determine the special conditions, if any, as to improvements, cultivation, preservation or planting of timber, and such other matters as require to be regulated in the public interest. The conditions and matters so determined shall be conditions attaching to the purchase or lease of any land notified as available for disposal in pursuance of paragraph (d) of this subsection ;

(d)

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(d) the Minister shall have power to declare by notification in the Gazette and in a local newspaper that lands are available for disposal by way of—

- (i) purchase in fee-simple as irrigation farm purchases, non-irrigable purchases, or town land purchases; or
 - (ii) lease as irrigation farm leases, non-irrigable leases, or town land leases,
- and shall specify a date on and after which such purchases or leases may be applied for.

(3) Any notification under the last preceding subsection may be corrected, amended, modified, or revoked, whether as to the whole or any part thereof, by notification in the Gazette.

(4) Notwithstanding anything to the contrary in this Act, or the Mining Act, 1906, or the Forestry Act, 1916, any notification under subsection two of this section shall have the effect of revoking any reserves, or parts of reserves, or population areas within the boundaries of the land which is the subject of the notification, unless the contrary is expressly declared by the terms of the notification. Such revocation shall take immediate effect on the expiration of the day next preceding the day upon which the lands become available for purchase or lease in pursuance of the notification: Provided that the revocation of any reserve for mining or mining purposes or any timber reserve shall not be so effected unless in the case of a reserve for mining or mining purposes the consent thereto of the Secretary for Mines, or in the case of a timber reserve of the Forestry Commission, has been obtained.

Such notification as aforesaid shall also have the effect of revoking any previous notification of the like nature affecting the same land unless the contrary is expressly declared by the terms of the notification.

(5)

Irrigation Holdings (Freehold).

(5) The provisions of this section shall extend to any irrigation area constituted before the passing of this Act if and so far as the lands comprised within such area have not been dealt with in a manner analogous to that provided by this section.

Applications for holdings.

140. (1) On or after the date notified for that purpose any person who is not incompetent by reason of his or her age, as provided in Part VII of this Act, or two or more of such persons jointly, may apply to the Commission for a purchase or lease of any lands notified for disposal in pursuance of section one hundred and thirty-nine of this Act. ^{Applications for holdings.}

(2) The application shall be made and lodged in the prescribed manner, and shall be accompanied by—

- (a) a deposit as prescribed ;
- (b) a survey fee according to prescribed scale ;
- (c) the whole or such instalment as may be notified of the notified value of the improvements which are the property of the Crown.

Dealing with applications.

141. (i) Applications for holdings within an irrigation area shall be dealt with in the prescribed manner. The granting of any such application shall be entirely at the discretion of the Commission, which may give preference to any applicant or to groups of applicants or to an applicant who does not hold any land. ^{Applications, how dealt with.}

(2) Where simultaneous applications are deemed to have equal claims the order of their priority may be determined by lot.

(3)

Irrigation Holdings (Freehold).

(3) The Commission may permit withdrawal of any application at any time: Provided that upon withdrawal or refusal of any application the Commission may towards meeting the cost of dealing with the matter retain the whole or part of the deposit lodged.

(4) The Commission may permit any defect or error in any application lodged with it in pursuance of the provisions of this Act to be amended, or any omissions therefrom to be supplied, and any such amendment or omission shall be verified by the initials of such officer as the Commission authorises in that behalf.

Irrigation farm purchases.

Conditions,
&c., of
irrigation
farm
purchases.

142. (1) The provisions and conditions set out in this section shall apply to an irrigation farm purchase.

(2) The holder shall effect on the irrigation farm purchase to the satisfaction of the Commission improvements to the value and within the period specified in the Gazette notification making the land available for disposal, or in any Gazette notification correcting, amending, or modifying the same published before the application is finally dealt with.

(3) Where the holding is a conversion of a lease the required improvements shall be of such value and shall be effected within such period as may be determined by the Commission, which shall take into account any improvements already effected on the holding.

(4) Where the Commission has certified under the provisions of section 142D that the required improvements have been effected on the lease prior to conversion, the provisions of subsection two of this section shall not apply to the irrigation farm purchase.

(5)

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(5) A condition of residence, the performance of which by the holder shall commence within six months after the date upon which the application is granted, shall attach to the purchase until the Commission under its seal certifies in the prescribed form that improvements of the required value have been effected thereon to its satisfaction. The Commission may refuse to give such certificate if, in its opinion, the irrigation farm purchase is not being satisfactorily developed, or if it does not, in the opinion of the Commission, provide sufficient security for any moneys owing to the Commission in respect thereof.

The provisions of this subsection shall not apply to an irrigation farm purchase which is a conversion of a lease in respect of which a certificate has been issued as provided in section 142D of this Act.

(6) (a) Land described as suitable for horticulture in the Gazette notifying it as available for disposal shall not be used to depasture any stock in excess of that required for purely domestic and horticultural purposes.

(b) Land described as suitable for dairying in the Gazette notifying it as available for disposal shall not be used to plant any area of orchard or vineyard to a greater extent than one acre.

(c) Upon the conversion under the provisions of section one hundred and forty-five of this Act into an irrigation farm purchase of any irrigation farm lease which is subject to either of the conditions mentioned in paragraph (a) or (b) hereof (or either of the said conditions with the addition of a provision respecting the consent of the Commission or some condition to the like effect), the condition to attach to the purchase after the conversion shall be in terms of paragraph (a) or paragraph (b) as the case may require.

(d)

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(d) A condition mentioned in this subsection shall be a covenant running with the land, and shall bind the land and the successive owners thereof.

(e) The Minister may at any time, with the consent of the holder by instrument, under his hand in the prescribed form release or vary the covenant on such terms and conditions as he thinks fit, and the covenant as so varied shall bind the land and the successive owners thereof.

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

(7) The balance of the purchase money after payment of deposit shall be paid by seventy-three equal half-yearly consecutive instalments, including principal and interest at such rate as may be prescribed.

Interest at such rate on the balance of the purchase money from the date of granting of the application to the thirtieth day of June or the thirty-first day of December, whichever first follows such date of granting, shall be due on and payable on or before such thirtieth day of June or thirty-first day of December.

The first of such instalments shall be paid on or before the thirtieth day of June or thirty-first day of December whichever first follows the date on which the said interest is due.

The holder may pay the whole or any part of such purchase money at any time, and the Commission may waive interest on the amount so paid from such date as it may fix or may place such amount to the credit of the holder in its books and allow him interest thereon from such date as the Commission may fix and at such rates as may be prescribed, provided that where portion only of the purchase money is paid no such payment or credit shall affect the obligation of the holder to continue paying

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paying the instalments as provided for in this subsection, but when the sum repaid with interest thereon amounts to the balance owing as principal and interest the Commission shall apply such sum in repayment of the purchase money.

In this subsection the expression "date of granting" includes the date upon which a conversion takes effect, and in the case of a purchase by auction or tender the date of the sale or the acceptance of the tender.

(8) Upon payment of any moneys due in respect of Crown improvements, and of the purchase money and interest as provided in this section, together with deed fee and stamp duty, and if the Commission is satisfied that all conditions relating to residence and improvements attaching to the irrigation farm purchase have been complied with, the Governor shall issue a Crown grant in the prescribed form to the holder of such purchase.

(9) The Crown grant shall be for an estate in fee-simple, and shall contain—

- (a) a reservation of minerals in the land, such minerals to be those defined by or under the Mining Act, 1906, and any Act amending or replacing the same;
- (b) conditions securing upon the land all rates and charges for water imposed under the provisions of the Irrigation Act, 1912, and Acts amending the same;
- (c) such of the conditions mentioned in subsection six of this section as are applicable to the case.

Non-irrigable purchases.

142A. The provisions and conditions provided for in section one hundred and forty-two with respect to irrigation farm purchases shall, with

Conditions,
&c., of
non-irrigable
purchases.

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with the exception of subsection six thereof, apply mutatis mutandis to a non-irrigable purchase, provided that—

- (a) a condition of residence shall not attach to a non-irrigable purchase where it is so provided in the Gazette notification making the land available for disposal;
- (b) the balance of purchase money shall be paid by such number of instalments as may be stated in the Gazette notification making the land available for disposal, or in the case of a conversion, as the Minister may determine.

Town land purchases.

142B. (1) The provisions and conditions set out in this section shall apply to a town land purchase.

(2) The holder of any town land purchase shall effect thereon to the satisfaction of the Commission improvements to the value and within the period specified in the Gazette notification making the land available for disposal, or in any Gazette notification correcting, amending, or modifying the same published before the purchase.

(3) Where the holding is a conversion of a lease, the required improvements shall be of such value and shall be effected within such period as may be determined by the Commission, which shall take into account any improvements already effected on the holding.

(4) Where the Commission has certified under the provisions of section 142D that the required improvements have been effected on the lease prior to conversion, the provisions of subsection two of this section shall not apply to the town land purchase.

(5)

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(5) The terms and conditions in respect of payment of purchase money shall be determined by the Minister and shall be notified in the Gazette making the holding available for disposal.

In the case of a conversion the terms and conditions shall be as so determined and shall be notified in writing to the lessee.

(6) In no case shall the time allowed for payment of purchase money exceed five years, and in all cases where time is allowed for payment interest at the prescribed rate shall, until the whole of the purchase money is paid, be paid in such manner as the Minister may decide.

(7) Upon payment of any moneys due in respect of Crown improvements and of the purchase money and interest, together with deed fee and stamp duty, and if the Commission be satisfied that all other conditions attaching to the town land purchase have been duly complied with, the Governor shall issue a Crown grant in the prescribed form to the holder of such purchase.

(8) The Crown grant shall be for an estate in fee-simple, and shall contain—

- (a) a reservation of minerals in the land, such minerals to be those defined by or under the Mining Act, 1906, and any Act amending or replacing the same; and
- (b) conditions securing upon the land all rates and charges for water imposed under the provisions of the Irrigation Act, 1912, and any Act amending the same; and
- (c) the conditions contained in subsection nine of this section, and where applicable those contained in subsection ten of this section.

(9) No more than—

- (a) three adjoining blocks for the purpose of residence, or
- (b)

Irrigation Holdings (Freehold).

(b) four adjoining blocks for the purpose of business,

may be held by any one person or in his interest.

This provision shall not cease to apply after the issue of the grant in fee-simple, and any breach of this provision shall render the land held in excess liable to forfeiture.

(10) Land notified in the Gazette, as available for disposal for the purpose of residence shall not, except with the written consent of the Commission, be used as a place of amusement or meeting, or for any business which involves the manufacturing, repairing, selling, buying or cleansing of any article or commodity, or for any other business purpose.

Issue of certificates of conformity.

Certificate of conformity.

142c. The Commission may at any time, if it be satisfied that all conditions except the payment of balance of purchase money have been duly complied with, and on payment of the prescribed fee, issue a certificate of conformity in the prescribed form in respect of any purchase, and may, upon satisfactory proof being given of the loss or destruction of any certificate, and upon payment of the prescribed fee, issue in lieu a certificate to the person entitled thereto.

Conditions attaching to leases within irrigation areas.

Conditions, &c., of leases within irrigation areas.

142d. (1) The provisions and conditions set out in this section shall apply to leases within irrigation areas.

(2) The title to an irrigation farm lease and town land lease shall be a lease in perpetuity and the title to a non-irrigable lease shall be a lease in perpetuity or for such term as may be determined by the Minister.

(3)

Irrigation Holdings (Freehold).

(3) The holder of any lease shall effect thereon to the satisfaction of the Commission improvements to the value and within the period specified in the Gazette notification making the land available for disposal, or in any Gazette notification correcting, amending, or modifying the same published before the application is finally dealt with.

(4) A condition of residence, the performance of which by the holder of the lease shall commence within six months after the date of granting of the application, shall attach to the lease (other than a town land lease) until the Commission, under its seal, certifies in the prescribed form that improvements of the required value have been effected thereon to its satisfaction. The Commission may refuse to give such a certificate if, in its opinion, the lease is not being satisfactorily developed or does not in the opinion of the Commission provide sufficient security for any moneys owing to the Commission in respect thereof.

A condition of residence shall not attach to a non-irrigable lease where it is so provided in the Gazette notification making the land available for disposal.

(5) In the case of a lease subsisting at the passing of the Irrigation Holdings (Freehold) Act, 1924, the holder of the lease may apply to the Commission—

(a) for a certificate that all conditions relating to improvements upon the land the subject of the lease have been duly performed; or

(b) for the release of the condition of residence affecting the land the subject of the lease.

The Commission may grant the application and certify accordingly;

Provided

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Provided, however, that the Commission may refuse the application—

- (i) if the improvements are not in the opinion of the Commission a sufficient compliance with the terms (if any) of the lease; or
- (ii) if the improvements effected have been so effected out of moneys advanced by the Commission, and any amount due in respect thereof remains unpaid; or
- (iii) if in the opinion of the Commission the holding has not been sufficiently developed.

(6) Any provision in a perpetual lease grant requiring the performance by the grantee, his heirs and assigns for ever, of an obligation to live on the land leased and there have his principal place of abode shall cease to have effect upon the issue by the Commission of a certificate in that behalf in the prescribed form.

(7) (a) Land which after the passing of the Irrigation Holdings (Freehold) Act, 1924, is described as suitable for horticulture in the Gazette notifying it as available for disposal, shall not be used to depasture any stock in excess of that required for purely domestic and horticultural purposes.

(b) Land which after the passing of the Irrigation Holdings (Freehold) Act, 1924, is described as suitable for dairying in the Gazette notifying it as available for disposal, shall not be used to plant any area of orchard or vineyard to a greater extent than one acre.

(8) With respect to any lease to which at the passing of the Irrigation Holdings (Freehold) Act, 1924, is attached a condition that, or to the effect that—

- (a) it shall not be used to depasture any stock in excess of that required for purely domestic and horticultural purposes; or
- (b)

Irrigation Holdings (Freehold).

(b) it shall not be used to plant any area of orchard or vineyard to a greater extent than one acre, such condition shall continue to attach to such lease.

Rent for perpetual leases.

143. (1) The first period of the lease, the term of which is in perpetuity, shall expire twenty-five years after the date of the granting of the application therefor, the date of purchase or the date of acceptance of after-auction tender as the case may be, and each succeeding period shall be of twenty years. Rental of perpetual leases.

(2) The annual rental of the lease for the first period shall be the annual rental as notified in the Gazette in pursuance of the provisions hereinbefore contained or the annual rental realised at public auction or offered in an accepted tender as the case may be.

(3) The annual rental of the lease for each succeeding period shall be such sum as may be agreed upon by the Commission and the lessee for each respective period, or, failing such agreement within the time allowed by the Commission (not being less than two months), such sum as shall be determined by the Land and Valuation Court on application by the Commission as prescribed by rules of court. The said court shall be deemed to have jurisdiction to hear and determine any matter arising under this subsection and shall have regard to the following provisions:—

(a) The annual rental shall be the fair market annual rental value of the lease irrespective of any improvements thereon.

(b) Where the value of the land has become reduced by any acts, defaults, or neglects of the lessee thereof, the annual rental of the land shall be determined as if the reduction in the value had not taken place.

(4)

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(4) The provisions of subsection three of this section shall apply to the fixing of the rent for the second or any later period of any lease subsisting at the passing of the Irrigation Holdings (Freehold) Act, 1924.

Issue of perpetual lease grants.

Perpetual
lease grants.

144. (1) Upon compliance with the conditions of any lease, the term of which is in perpetuity, requiring the lessee to effect improvements of a certain value, and if the Commission is satisfied that all the other conditions have so far been duly complied with, the Governor shall issue a grant in the prescribed form to the lessee his heirs and assigns for ever.

(2) The grant shall be made subject to the conditions attaching under this or any other Act to the lease, including—

(a) a reservation of minerals in the land, such minerals to be those defined by or under the Mining Act, 1906, and any Act amending or replacing the same; and

(b) conditions securing upon the land all rates and charges for water imposed under the provisions of the Irrigation Act, 1912, and any Act amending the same,

and shall also contain such special conditions as have been duly notified in the Gazette making the land available for disposal.

Additions to holdings.

Additional
holdings.

144A. (1) The Commission, subject to such conditions as it may deem fit to impose, may by notification in the Gazette, in any case where it deems advisable, add to any holding, after application by the holder thereof in the form

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form and manner prescribed, any available Crown lands, including any land reserved in pursuance of section two hundred and six of this Act, within an irrigation area, either adjoining or separated from the original holding, and such original area and additional area shall be deemed to be one holding.

(2) The Commission shall disallow any application for the addition of an area not adjoining the original holding if in its opinion such area is not within reasonable working distance of the holding.

(3) The addition of any reserved land referred to in subsection one of this section shall have the effect of revoking the reserve of such land. This subsection shall be deemed to have been in force as from the date of passing of the Irrigation (Amendment) Act, 1918.

(4) Upon lands being added in pursuance of this section to a holding in respect of which a perpetual lease grant has been issued, the grant shall be surrendered and a perpetual lease grant for the holding as added to shall be issued containing the conditions specified in the Gazette notifying the addition: Provided that the estate granted by the last-mentioned grant shall be deemed to be subject to all equities affecting the land surrendered.

*Increases of irrigable area, surrender, &c.,
of leases within an irrigation area.*

144B. (1) Where the irrigable area of a holding is, or has been prior to the passing of the Irrigation Holdings (Freehold) Act, 1924, increased by the construction of additional works, or additional facilities for watering are, or have been prior to the passing of that Act, provided by the Commission, or where the area of a lease is altered by addition thereto or surrender of part thereof, or where a lease is

Alterations
of area.

is

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is subdivided, the annual rental of the lease, or of the lease as added to, or remaining, or of each portion of the subdivided lease which is transferred consequent on the subdivision, shall be determined in accordance with this section.

(2) The annual rental shall be such sum as may be agreed upon by the Commission and the holder of the lease, or, failing such agreement within the time allowed by the Commission (not being less than two months), such sum as shall be determined by the Land and Valuation Court upon application by the Commission as prescribed by rules of court. The said court shall be deemed to have jurisdiction to hear and determine any matter arising under this subsection, and shall have regard to the following provisions:—

- (a) The annual rental shall be the fair market annual rental value of the land irrespective of any improvements thereon.
- (b) The annual rental of the part or parts, if any, of the land retained by a lessee who has so subdivided shall be at the same rate per acre as before subdivision.

(3) The Commission shall adjust the amount, if any, owing on account of survey fee and the amount to be paid for Crown improvements and for improvements effected or provided by the Commission, and shall fix the terms under which such payments are to be made.

(4) The annual rental so determined, the date such rental commences, the date the addition, surrender, or subdivision takes effect, particulars of any adjustment made, terms fixed, and the date from which such payments shall be due and payable, shall be notified in the Gazette, and payments in accordance with such notification shall be a condition attached to the lease, and the non-performance or breach of such condition shall render it liable to forfeiture.

(5)

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(5) Upon determination in pursuance of this section of the annual rental of the lease in connection with which an additional area has been granted under the provisions of section 144A, the first period of the lease referred to in section one hundred and forty-three of this Act may be extended to expire twenty-five years after the date such addition takes effect, and with this exception the provisions of section one hundred and forty-three shall apply to such lease.

(6) Where the annual rental of any lease has been determined in accordance with the provisions of this section the determination shall, save as provided in subsection five of this section, be deemed to be for the unexpired portion of the then current period of the lease.

(7) This section shall be deemed to have been in force from the date of the passing of the Irrigation (Amendment) Act, 1918.

Purchase money of a purchase the area of which is increased.

144c. (1) If the area of any purchase within an irrigation area be increased under the provisions of section 144A of this Act, the purchase money of the additional land shall be determined as set out in subsection two of section one hundred and thirty-nine of this Act, and the purchase money of the holding as added to shall be the purchase money of the additional land plus the balance of the purchase money outstanding in respect of the original holding at the date the increase in area takes effect.

Purchase
money where
area altered.

(2) The Commission shall adjust the amount, if any, owing or to be paid on account of survey fee and Crown improvements and improvements effected or provided by the Commission,

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Commission, and shall fix the terms under which such payments and payment for the land are to be made.

(3) Any addition to a holding shall be notified in the Gazette, and the notification shall specify the purchase money determined as aforesaid, particulars of any adjustments made, terms fixed, the date on and from which payments in respect of purchase money, Crown improvements and survey fee shall be due and payable, the date the increase in area takes effect, the period within which improvements shall be effected on the holding as added to, and the value thereof. Payments and the effecting of improvements in accordance with such notification shall be conditions attached to the purchase, and non-performance or breach of any of such conditions shall render it liable to forfeiture.

(1) Interest on the amount outstanding at the date the increase in area takes effect in respect of the purchase money of the original holding from the last due date of payment of an instalment of such purchase money to the former date shall be paid by the holder of the purchase within one month after the date the increase in area takes effect; and interest at the prescribed rate on the purchase money of the holding as added to from the date the increase in area takes effect to the thirtieth day of June or thirty-first day of December, whichever of these dates first follows the date such increase in area takes effect, shall be paid on such thirtieth day of June or thirty-first day of December as the case may be.

The purchase money shall thereafter be paid by equal half-yearly consecutive instalments, including principal and interest at the prescribed rate extending over the balance of the period fixed for payment of the purchase money in respect of the holding prior to its
being

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being increased in area, and the first of such instalments shall be paid on the thirtieth day of June or thirty-first day of December next following the date on which the last-mentioned interest is payable.

Increase of irrigable area of a purchase.

144D. If the irrigable area of any purchase is increased with the consent of the purchaser by the construction of additional works by the Commission, the added value given to the area so made irrigable shall be determined by the Commission in accordance with the provisions of subsection two of section one hundred and thirty-nine, and shall be payable on such terms and conditions as the Commission may deem fit to impose, and the non-performance of any of such terms and conditions shall render the purchase liable to forfeiture.

Sale by auction or on tender.

144E. (1) The Commission may sell by public auction or by tender—

- (a) irrigation farm purchases,
- (b) non-irrigable purchases,
- (c) irrigation farm leases,
- (d) non-irrigable leases.

The Commission may also sell in a similar manner land within any city, town, or village, by way of—

- (a) town land purchase, or
- (b) town land lease.

(2) The Commission shall in the case of a purchase fix the upset price (which shall include the value of Crown improvements, if any), and in the case of a lease the upset annual rental and the value of the Crown improvements. Such upset price and annual rental shall be fixed in accordance with the provisions of subsection two of section one hundred and thirty-nine.

(3)

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(3) The Minister shall fix the special conditions (which shall be conditions attaching to the holding) as to improvements and such other matters as require to be regulated in the public interest.

(4) The Minister shall cause a notification to be published in the Gazette and a local newspaper not less than one month before the day of sale or day fixed for closing of tenders, stating the special conditions, the time, date, and place of sale or date of closing of tenders, and particulars of upset price, and in the case of a lease the upset annual rental, and value of the Crown improvements, if any, and the terms and conditions upon which payment for the improvements shall be made.

(5) In the case of a purchase a deposit, as notified in the Gazette making the land available for disposal, and in the case of a lease, the upset rental for one year, shall be paid at the time of sale or with the tender, together in each case with the full amount of survey fee and the whole or such portion of the value of the Crown improvements as may be specified in the Gazette notification.

(6) The Commission may grant any purchase or lease (which has been offered for sale at auction or by tender under this section and not sold) to any person who may tender for same in the prescribed form at not less than the upset purchase money in the case of a purchase, or the upset annual rental in the case of a lease. With every such tender there shall be lodged such amount of money as would have been required had the land or lease been purchased at the auction sale or sale by tender.

(7) The title to a purchase or lease under this section shall commence from the date of sale or acceptance of tender, as the case may be.

Conversion

Irrigation Holdings (Freehold).

Conversion of (i) an irrigation farm lease into an irrigation farm purchase; (ii) non-irrigable lease into a non-irrigable purchase; (iii) town land lease into a town land purchase.

145. (1) The holder of an irrigation farm lease, a non-irrigable lease, or a town land lease, the conditions of which have in the opinion of the Commission been complied with, may, subject to the provisions of this section, with the consent in writing of any mortgagee or person holding a security thereover, convert the same as follows namely:—

Conversion
of I.F.L. to
I.F.P., &c.

- (a) an irrigation farm lease into an irrigation farm purchase;
- (b) a non-irrigable lease into a non-irrigable purchase;
- (c) a town land lease into a town land purchase.

(2) The holder shall, as prescribed, notify his intention to convert, and with such notification shall lodge the prescribed deposit. Where a perpetual lease grant has issued, the grant shall be lodged with the notice, together with a surrender in the prescribed form which shall take effect only upon the conversion being effected.

(3) The purchase money shall be such sum as may be agreed upon by the Commission and the lessee, or, failing such agreement within the time allowed by the Commission (not being less than two months), such sum as shall be determined by the Land and Valuation Court upon application by the Commission as prescribed by rules of court. The said court shall

Irrigation Holdings (Freehold).

shall be deemed to have jurisdiction to hear and determine any matter arising under this subsection, and shall have regard to the following provisions:—

- (a) The purchase money shall be the fair market value of the land at date of notification by the lessee of his intention to convert, irrespective of any improvements thereon.
- (b) Where the value of the land has become reduced by any acts, defaults or neglects of the lessee thereof, the purchase money of such land shall be determined as if such reduction in the value had not taken place.

(4) The conversion shall take effect at the expiration of thirty days after agreement between the Commission and the lessee, or determination by the Land and Valuation Court, as the case may be, unless the lessee has at any time previously notified the Commission in the prescribed form of his desire that the conversion shall not take effect. Where the lessee so notifies the Commission it may, towards meeting the cost of dealing with the matter, retain the whole or part of the deposit lodged.

(5) (a) With respect to any special or other conditions which were attached to any lease before conversion, the Minister may, by notification in the Gazette, specify which of such conditions shall apply to the purchase.

(b) The Commission may, by similar notification, specify within what period the holder of the purchase shall pay any moneys not yet paid in connection with the lease in respect of—

- (i) rent for the period from the thirtieth day of June immediately preceding the date on which the conversion takes effect to that date;

(ii)

Irrigation Holdings (Freehold).

(ii) balance owing for survey fee or for Crown improvements and interest on such balances for the period from the said thirtieth day of June to the date on which the conversion takes effect.

(c) The payment of such moneys within the period so notified shall be a condition attaching to the purchase.

(d) Where any lease converted under this section is subject to a mortgage or other security the mortgagee or other person to whom the mortgage or security has been given shall be deemed to have similar rights, powers, and remedies in respect of the purchase as he had in respect of the lease if the conversion had not been effected, and the covenants, conditions, stipulations, and provisions of the mortgage or security shall be deemed to apply and be in force in respect of the holding into which the lease has been converted; and the Crown grant shall be delivered to the mortgagee or other person holding security or as he shall direct.

Dealings with holdings within irrigation areas.

145A. (1) Application for permission to transfer or otherwise deal with in any manner whatsoever a holding, other than a holding within a city, town, or village, shall be made in the prescribed form to the Commission. The granting or refusing of any application shall be entirely at the discretion of the Commission. Such transfer or other dealing shall not be effected, or, if effected, shall not be valid for any purpose whatsoever, unless the consent thereto of the Commission in writing has been obtained.

Restrictions
on transfer
of holdings.

(2) Where a lease is transferred or otherwise dealt with within the first fifteen years

Irrigation Holdings (Freehold).

years of its currency, the Commission may require the annual rental for the unexpired portion of the then current period to be determined in the manner provided in section one hundred and forty-three of this Act.

(3) A transfer of, or other dealing with, any holding other than a town land lease or town land purchase shall not be registered in the books of the Commission or recognised until—

(a) the whole of any moneys owing to the Commission or the Crown in respect of the holding or such portion thereof, as may be required to be paid by the Commission, shall have been paid; and

(b) (i) the proposed transferee shall have signed an agreement that all amounts (if any) remaining owing to the Commission in respect of the holding, or for any goods supplied by the Commission to the holder or his predecessors in title, shall be paid by him, and that he will execute such security as the Commission may require for payment of all moneys owing as aforesaid; or

(ii) the proposed transferee executes such security.

(4) A town land lease and a town land purchase may be transferred or otherwise dealt with at any time without the consent of the Commission having been obtained, provided that no such transfer shall be registered in the books of the Commission or recognised if any payments due to the Crown or Commission are in arrear. The provisions of this subsection shall be deemed to have been in force as from the date of the passing of the Irrigation (Amendment) Act, 1918.

(5)

Irrigation Holdings (Freehold).

(5) No person shall, except by way of mortgage acquire by transfer any land within an irrigation area, which either of itself, or together with such land already held by him, would substantially exceed, in the opinion of the Commission, an area which, when used for any purpose for which it is reasonably fitted, is sufficient to maintain in average seasons and in average circumstances an average family.

(6) In the event of the Commission refusing to consent to a transfer to any person, as referred to in subsection five of this section, either party may, on payment of the prescribed fee and in the prescribed manner, cause the matter to be referred to the special land board for inquiry and report to the Minister, whose decision in the matter shall be final.

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

(8) No transfer or other dealing whatsoever in contravention of the provisions of subsection five of this section shall be valid for any purpose whatsoever.

Alteration or suspension of conditions.

145B. (1) The Commission in the case of any lease or purchase may grant—

- (a) suspension of the condition of residence;
- (b) exemption either wholly or partly from compliance with, or extension of time for performance of, any special or other condition; or

(c) alteration, modification or cancellation of any such special or other condition, subject to such terms and stipulations as it may deem fit, and the breach of any such term or stipulation or of any term or stipulation lawfully imposed by the Commission or the Minister under this Act shall render the holding liable to be forfeited. (2)

Suspension,
&c., of
condition.

Irrigation Holdings (Freehold).

(2) The condition of residence may, with the consent of the Commission, be performed by a tenant, employee, or agent of the holder, or by one or more of joint holders.

Subdivision of holdings.

Application
for sub-
division of
holding.

146. (1) The holder of a lease in respect of which the conditions of improvements and residence, if any, have been fulfilled, or the holder of a purchase in respect of which the certificate of conformity has issued, may make application to the Commission for the subdivision of his holding into two or more portions.

(2) The application shall be made in the prescribed manner and be accompanied by the prescribed deposit, which deposit shall be available for the payment of the costs of any survey, inspections, or reports which may be required.

(3) The Commission may grant any application under this section, and may in granting the application do so with or without modification thereof, and on such terms and conditions as it may deem fit to impose, and shall settle the lines of subdivision so as to conform to any regulations made or to be made in that behalf.

(4) The holder shall effect improvements of such value and within such period as may be set out in written notification to him by the Commission, which may also decide that improvements already effected shall be a compliance with sections one hundred and forty-two, 142A, or 142D as the case may be.

(5) The holder of the lease or purchase shall surrender such land as may be deemed necessary by the Commission to provide roads of access to such subdivided portions, and for channels

Irrigation Holdings (Freehold).

channels and drainage, which land shall thereupon become Crown land free from any claim thereto by such holder or to any compensation in respect thereof, or to tenant-right in any improvements thereon.

(6) After the subdivision of a perpetual lease grant has been approved the grant shall be surrendered to the Crown in exchange for perpetual lease grants of the portions of the subdivided holding containing the same special conditions mutatis mutandis as were included in the grant surrendered together with such other terms and conditions as may be imposed under and by virtue of the provisions of this section.

(7) After subdivision the certificate of conformity in respect of a purchase shall be surrendered.

(8) The Commission shall adjust the amount, if any, owing or to be paid on account of survey fee, and the amount to be paid for Crown improvements and improvements effected or provided by the Commission, and shall fix the terms under which such payments are to be made.

Conditions attaching to subdivisions of purchases.

146A. (1) In the case of a purchase which has been subdivided in pursuance of section one hundred and forty-six of this Act, the unpaid purchase money shall be apportioned by the Commission as on the date the subdivision takes effect, which date shall be determined by the Commission. Conditions attaching to subdivisions of purchases.

(2) Interest, from the last due date of payment of an instalment of the purchase money of the original holding to the date subdivision takes effect, on the balance of the purchase money, shall be paid by the holder of the purchase within one month after gazettal of the approval of the subdivision.

(3)

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(3) Interest on the purchase money of each subdivided portion from the date subdivision takes effect to the thirtieth day of June or the thirty-first day of December, whichever of these dates first follows the date such subdivision takes effect, shall be paid on such thirtieth day of June or thirty-first day of December, as the case may be.

The purchase money shall thereafter be paid by equal half-yearly consecutive instalments, including principal and interest, extending over the balance of the period fixed for payment of the purchase money in respect of the holding prior to its being subdivided.

The first of such instalments shall be paid on the thirtieth day of June or thirty-first day of December next following the date on which the last-mentioned interest is payable.

(4) The total cost of all works carried out by the Commission for the purpose of or incidental to a subdivision as referred to in this section shall be paid by the person applying for approval of the subdivision, and shall be made at such times and upon such terms and conditions as the Commission may deem fit to impose, and until payment shall be a charge upon the land subdivided.

(5) Particulars of the purchase moneys determined as aforesaid, of any adjustments made, terms fixed, and the date as from which payments shall be due and payable, and the cost of works constructed by the Commission, shall be notified in the Gazette, and payments in accordance with such notification shall be conditions attaching to every portion of the land subdivided under and by virtue of this section, and the non-performance or breach of any such condition shall render any such portion liable to forfeiture.

Forfeiture

Irrigation Holdings (Freehold).

Forfeiture for non-performance of conditions.

147. (1) The Commission may report to the chairman of the special land board any non-performance or breach of the conditions attaching to a holding, and thereupon the board shall proceed to inquire into the matter. If the special land board after due inquiry finds that any of the conditions attaching to a holding have not been or are not being duly performed, and so reports to the Commission, it shall be lawful for the Commission by notification in the Gazette to declare the holding, together with any moneys paid in respect thereof and all improvements on the land, to be forfeited, and the same shall be forfeited accordingly.

(2) Where in respect of a holding any sums are payable as instalments of purchase money, rent, survey fee, for improvements, interest or otherwise, under or by virtue of this Act or the special conditions attached to the holding or for any rate or charge for water or interest thereon payable under the Irrigation Act, 1912, as amended by any Act, or for any interest or instalment payable on account of any of the powers conferred under section nineteen of the Irrigation Act, 1912, as amended by any Act, having been exercised, and are not paid upon the date or within the period prescribed or allowed, then and in such case the holding may be declared to be forfeited by the Commission without reference to the special land board. The forfeiture shall not operate to extinguish the obligation to make any such payment as is before-mentioned.

(3) The Commission may defer or postpone payment of any of the said sums due, or to become due, for such period and subject to such terms and conditions as it may deem fit to impose; such terms and conditions shall be conditions

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conditions attaching to the holding, and the breach or non-performance of any such conditions shall render the holding liable to forfeiture.

(4) Nothing in this section shall affect the power of the Commission to take possession under and subject to the provisions of section sixteen of the Irrigation Act, 1912, as amended by any Act, of any holding which has been abandoned or in respect of which rates or charges for water or any interest thereon have been unpaid for four years.

(5) If satisfied that any condition attaching to any holding made available for disposal in connection with any agreement entered into between the Imperial Government and the Government of the Commonwealth of Australia or of the State of New South Wales respectively, or under and by virtue of any Act giving effect to such agreement, has not been or is not being complied with, or that reasonably full use of the holding for the purposes for which it has been made available is not being made, the Commission may, by notification in the Gazette forfeit the holding and all improvements thereon and all moneys paid in respect of the holding or improvements.

Amendment
of Act No. 7,
1913.

4. The Principal Act is further amended as follows:—

Secs 150,
151, 154, 157,
175, 208, 209,
211, 236, 237,
250, 269.

(a) Sections one hundred and fifty, one hundred and fifty-one, one hundred and fifty-four, one hundred and fifty-seven, one hundred and seventy-five, two hundred and eight, two hundred and nine, two hundred and eleven, two hundred and thirty-six, two hundred and thirty-seven, two hundred and fifty, and two hundred and sixty-nine: By omitting the word "leases" wherever it occurs before the words "within irrigation areas," and by inserting in lieu thereof the word "holdings."

(b)

Irrigation Holdings (Freehold).

- (b) Section one hundred and fifty-two: By Sec. 152.
omitting subsection two.
- (c) Section one hundred and fifty-seven: By Sec. 157.
omitting subsection five and by inserting the
following subsection in lieu thereof:—
- (5) The provisions of this section shall not
apply to an applicant for a non-irrigable lease
or a non-irrigable purchase where such appli-
cant holds, at the date of his application
therefor, a holding within an irrigation area.
- (d) Section one hundred and sixty-one: By Sec. 161.
omitting all words following the words "survey
fees."
- (e) Section one hundred and ninety-nine: By Sec. 199
inserting after the words "homestead selection"
where firstly occurring the words "holding
within an irrigation area."
- (f) Sections two hundred and fifteen and two Secs. 215,
hundred and sixteen: By omitting the words 216.
"lease within an irrigation area" wherever
occurring and by inserting in lieu thereof the
words "holding within an irrigation area."
- (g) Section two hundred and fifty-six:— Sec. 256.
- (i) By inserting after the words "home-
stead selection" where firstly occurring
the words "holding within an irrigation
area."
- (ii) By omitting the words "lease within
an irrigation area" and by inserting in
lieu thereof the words "holding within
an irrigation area."
- (h) Section 258A: By omitting the section. Sec. 258A.
- (i) Section two hundred and fifty-nine: By Sec. 259.
omitting from subsection three the words
"farm or block" and by inserting in lieu
thereof the word "holdings."
- (j) Section two hundred and seventy-three:— Sec. 273
- (i) By omitting the words "Crown leases
and leases within irrigation areas" from
the heading of the section and by
inserting in lieu thereof the words "and
Crown leases." (ii)

Irrigation Holdings (Freehold).

- (ii) By omitting subsections two, four, and five.
- Sec. 274. (k) Section two hundred and seventy-four:—
- (i) By omitting the words "Crown leases and leases within irrigation areas" from the heading of the section and by inserting in lieu thereof the words "and Crown leases."
- (ii) By omitting from subsection one the words "Crown leases and holdings within irrigation areas other than town lands blocks" and by inserting in lieu thereof the words "and Crown leases."
- (iii) By omitting from paragraph (a) of subsection one the words "and in the case of a holding within an irrigation area of the Commissioner."
- (iv) By omitting from subsection two the words "and in the case of a holding within an irrigation area to the Commissioner" and the words "or of the Commissioner as the case may require," and by omitting the words "or Commissioner" wherever occurring in the second paragraph.
- (v) By omitting paragraph (b) of subsection three.
- (vi) By omitting subsection five.

Amendment
of Act No. 73,
1912.

5. The Irrigation Act, 1912, as amended by the Crown Lands and Irrigation (Amendment) Act, 1914, the Irrigation (Amendment) Act, 1916, and the Irrigation (Amendment) Act, 1918, is further amended as follows, and as so amended may be cited as the Irrigation Act, 1912-1924:—

- (a) Section seven: By omitting the word "farms" and by inserting in lieu thereof the words "farm purchases or irrigation farm leases under the provisions of the Crown Lands Consolidation Act, 1913."

(b)

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(b) Section eleven: By inserting after the section New ss. 11A, 11B, and 11C. new sections 11A, 11B, and 11C as follows:—

11A. The following sections 11B and 11C Application of ss. 11B, 11C. shall be deemed to apply to lands within the irrigation areas constituted under the provisions of the Wentworth Irrigation Act and the Hay Irrigation Act, 1902.

11B. The Commission may from time to time dispose of for an estate in fee-simple by Power to sell lands in fee-simple. sale any lands not demised or assigned by it, on the terms and conditions hereinafter provided for.

11C. (1) The lessee of any irrigated lot, in Conversion of leaseholds. respect of the lease of which all conditions and covenants binding on the lessee have so far in the opinion of the Commission been complied with, may purchase from the Commission such lot in accordance with the provisions hereinafter mentioned. He shall notify the Commission on the form and in the manner prescribed of his intention to purchase, and shall forward with such notification a deposit as prescribed, which may be applied by the Commission on behalf of the lessee towards payment of the purchase money.

(2) If the lease of the land is mortgaged, then unless the mortgagee signifies to the Commission his consent in writing to the application a sale shall not be effected.

(3) The sale of land under either section 11B or section 11C shall be subject to the following conditions:—

(a) the purchaser shall execute a contract of sale in form approved by the Commission and shall enter into such covenants as the Commission may consider necessary or as may be prescribed, and where the land is mortgaged such covenants shall include a covenant to execute when called upon by

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by the Commission a mortgage over the land to the mortgagee, preserving to him the rights, powers, and remedies which he would have had if the purchase were not effected. The contract may, with the concurrence of the Commission, provide also for the transfer of the land either after payment of the whole of the purchase money and interest thereon or before such payment. In the latter case the contract shall contain provisions for—

- (i) performance of any covenant specified to be performed prior to such transfer; and
 - (ii) a mortgage of the land to the Commission to secure the payment of the said purchase money and interest;
- (b) the purchaser shall covenant to comply with the provisions of the Wentworth Irrigation Act and regulations and by-laws thereunder if the land purchased be within the irrigation area constituted under that Act; and with the provisions of the Hay Irrigation Act, 1902, and regulations and by-laws thereunder if the land purchased be within the irrigation area constituted under that Act; and to pay all rates and taxes imposed under the Wentworth Irrigation Act if the land purchased is in the first-mentioned irrigation area, and under the Hay Irrigation Act, 1902, if it is in the last-mentioned irrigation area;
- (c) in the case of leased land the purchaser shall, if so required by the Commission, execute a surrender of his lease of the land to the Commission;

(d)

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- (d) the purchase money shall be paid by seventy-three equal half-yearly consecutive instalments including principal and interest at such rate as may be prescribed: Provided that the purchaser may pay the whole or any part of such purchase money at any time; and the Commission may waive interest on the amount so paid from such date as it may fix, or may place such amount to the credit of the purchaser in its books and allow him interest thereon from such date as the Commission may fix and at such rates as may be prescribed: Provided that where portion only of the purchase money is paid no such payment or credit shall affect the obligation of the purchaser to continue paying the instalments as provided for in this subsection, but when the sum paid with interest thereon amounts to the balance owing as principal and interest the Commission shall apply such sum in payment of the purchase money;
- (e) in the case of leased land the purchase money shall be such sum as the Commission and the purchaser agree upon, or, failing such agreement within the time allowed by the Commission (not being less than two months), such sum as shall be determined by the Land and Valuation Court upon application by the Commission as prescribed by rules of court. The said court shall be deemed to have jurisdiction to hear and determine any matter arising under this paragraph, and shall have regard to the following provisions:—
- (i) in the case of leased land such sum shall be the fair market value of the land

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land at the date of notification by the lessee of his intention to purchase irrespective of any improvements thereon ;

- (ii) where the value of the land has become reduced by any acts, defaults, or neglects of the lessee thereof, the purchase money of such land shall be determined as if such reduction in the value had not taken place;
- (f) the lessee may before the expiration of thirty days after agreement between the Commission and the lessee, or determination of the Land and Valuation Court, as the case may be, notify the Commission in the prescribed form that he does not intend to proceed. Where the lessee so notifies the Commission, it may, towards meeting the cost of dealing with the matter, retain the whole or part of the deposit lodged ;
- (g) the Commission shall apply, in such manner as the Governor may direct, the purchase money arising from any sale.

(4) For the purposes of section 11c the expression "irrigated lot" means any area of land within the said irrigation areas classified by the Commission as an irrigated lot.

Sec. 20.

- (c) Section twenty :—
 - (i) By omitting the words "provided that the Governor may constitute an irrigation area as a shire under the Local Government Act, 1906";
 - (ii) by adding at the end the following new subsections :—

Local Government.

(2) Notwithstanding the provisions of subsection one of this section the Governor may (without regard to the provisions of sections fifteen, sixteen, seventeen, eighteen, nineteen, and twenty of the

the

Irrigation Holdings (Freehold).

the Local Government Act, 1919), by proclamation published in the Gazette, constitute any irrigation area or portion thereof as a municipality or shire; and thereupon on and from a date to be specified in such proclamation such municipality or shire shall be a municipality or shire as if constituted in accordance with the provisions of the said Act; and the said Act shall apply to such municipalities and shires, subject to such alterations as may be made by regulation as hereinafter provided.

(3) Notwithstanding the provisions of subsection one of this section, the Governor may (without regard to the provisions of sections fifteen, sixteen, seventeen, eighteen, nineteen, and twenty of the Local Government Act, 1919), add the whole or a portion of any irrigation area to any municipality or shire to which such area or portion adjoins; and thereupon, on and from a date to be specified in such proclamation, such area or portion of an irrigation area shall be a portion of such municipality or shire as if added thereto in accordance with the provisions of the said Act; and the said Act shall apply to such area or portion subject to such alterations as may be made by regulations as hereinafter provided.

(4) For the purposes of the constitution of a municipality or shire, or the addition of portion or the whole of an irrigation area to a municipality or shire under this section, the following provisions of the Local Government Act, 1919, shall apply, namely, section sixteen (paragraphs (g) and (k)), section twenty-one (paragraphs (k), (q), (r) of subsection one and subsection two). (5)

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(5) Prior to the issue of any proclamation under subsection two or subsection three of this section the Governor may appoint a Commission of Inquiry, which shall consist of the judge of the Land and Valuation Court, who shall preside, a representative of the Local Government Department, and a representative of the occupiers under this Act: and such Commission shall make inquiry and report as to whether any sections of the Local Government Act, 1919, are inapplicable to the peculiar conditions of an irrigation area, and if so, whether any such sections require to be altered, modified, amended, or suspended, and whether any additional provisions should be included.

(6) Upon receipt of the recommendations of the Commission of Inquiry the Governor may make regulations under this Act altering, modifying, amending, or suspending any of the provisions of the Local Government Act, 1919, or including any additional provisions for the purpose of its application to any municipalities and shires, or portions of municipalities and shires, which may be within an irrigation area.

(7) Upon the constitution of a municipality or shire, or upon the addition of part or the whole of an irrigation area to a municipality or shire under this section, the Commission may transfer to the control of the council, upon such terms and conditions as may be mutually agreed, any works the property of the Commission which are ordinarily Local Government works (such as electricity works, domestic water supply works, sanitary service works,

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works, garbage works, parks, reserves, quarries, road construction depots, offices, and the like), and in default of mutual agreement the matter shall be decided by arbitration under the Arbitration Act, 1902, and pending such decision the Commission may continue to carry on such works and to perform the related services and to make charges therefor. In this section the word "works" includes not only the works under consideration, but also any land, buildings, machinery, plant, appliances, materials, and other things held by the Commission and necessary or advisable for the purpose of carrying on such works.

(8) For the purposes of any inquiry under this section the Commission of Inquiry may through its president summon witnesses and take evidence on oath.

(9) (a) Pending the constitution of an irrigation area or portion thereof as a municipality or shire, the Commission may by notification in the Gazette make on the prescribed basis and levy a general rate and special or local rates on any land within that area or portion, and may also impose charges as prescribed for local government services in respect of which the aforesaid rates are not made and levied. The general rate shall be made and levied for the purpose of meeting the cost of local government services generally, and the special or local rates for street lighting and other similar particular services.

(b) The Commission may from time to time by notice in the Gazette define the lands on which such rates shall

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shall be levied. The amount due for any such rates shall be a charge upon the land upon which it is levied, and may be recovered from and shall bind the occupier of the land for the time being.

(c) The Commission may in its discretion exempt any lands either wholly or partially from rates imposed by it.

(d) In connection with the making and levying of the rates and imposition of the charges aforesaid, the Commission shall take steps as hereinafter provided for the constitution of an Executive Board in respect of an irrigation area, which Board shall consist of seven members, four of whom shall be elected by the occupiers and three of whom shall be nominated by the Commission. For the election of the four members mentioned a poll shall be taken of the occupiers in manner prescribed, and only occupiers shall be eligible for election. The members so elected and nominated shall hold office for two years, at the expiration of which period and each successive period of two years thereafter there shall be a reconstitution of the Board in connection with which the members holding office at that date shall be eligible for re-election and renomination. Any vacancy which may occur on the board shall be filled by nomination or election as the case requires.

(e) The members of the board shall be paid fees as may be approved by the Governor.

(f) The Commission shall from time to time refer to the Executive Board for consideration and report to the
the

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the Commission any proposal to make and levy the rates or to impose the charges as aforesaid. Where the board deems it necessary or desirable a poll may be taken by the Commission in manner prescribed of the occupiers to ascertain their views as to the making and levying of any of the rates or imposing any of the charges.

(g) The Commission may from time to time refer to an Executive Board for recommendation any question affecting the irrigation areas.

(h) Where the Commission has determined to make and levy any rate or impose any charge in respect of any local government service in connection with an irrigation area, it may entrust to the Executive Board constituted for that area the administration of the service, including the collection of the rate or charge and the expenditure on the administration of the services of the moneys collected subject to the payment thereof to the Commission of an amount to be fixed by the Commission to meet the cost of providing the service.

(i) In this subsection the word "service" includes any work, undertaking, and such other matters or things as the Commission may prescribe.

(d) Section twenty-eight: By adding at the end of ^{Sec. 28.} subsection one the following:—

The Governor may from time to time make regulations altering, modifying, amending, or suspending the provisions of the Local Government Act, 1919, for the purpose of its application to any municipalities or shires or portions of municipalities or shires which may be within an irrigation area.

In the name and on behalf of His Majesty I assent to this Act.

D. R. S. DE CHAIR,
Government House, Sydney, 23rd December, 1924. Governor.

(h) Section 101(a)(2)(B) of the Act

in the event of a change of control

to the extent of the value of the stock

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. S. MOWLE,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 17 December, 1924, A.M.

New South Wales.



ANNO QUINTO DECIMO

GEORGI V REGIS.

Act No. , 1924.

An Act to make provision for the setting apart and sale of lands with freehold tenure within irrigation areas, and to enable the holders of certain leases within such areas to convert their holdings into freehold tenures; to make provision for the extension of the provisions of the Local Government Act, 1919, to irrigation areas; to amend the Crown Lands Consolidation Act, 1913, the Irrigation Act, 1912, and certain other Acts; and for purposes connected therewith.

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

Preliminary.

1. This Act may be cited as the "Irrigation Short title, Holdings (Freehold) Act, 1924."

Irrigation Holdings (Freehold).

2. In this Act the expression "the Principal Act" means the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts. Principal Act, No. 7 of 1913, as amended.

Amendments of the Principal Act.

- 5 3. The Principal Act is amended as follows :— Amendments Principal Act, No. 7 of 1913.
- (a) Section five: By omitting from the last para- Sec. 5.
graph the word "leases" wherever occurring
before the words "within irrigation areas,"
and by inserting in lieu thereof the word
10 "holdings."
 - (b) Section thirty-three: By omitting from the last Sec. 33.
paragraph the words "leases within irrigation
areas which are forfeited, or surrendered, or
which expire" and by inserting in lieu thereof
15 the words "holdings within irrigation areas
which are forfeited, or surrendered, or the
titles to which expire."
 - (c) Part VI: By omitting the Part and substi- New Part VI.
tuting the following new Part VI :—

PART VI.

IRRIGATION AREAS.

Application of this Part.

137. The enactments contained in this Part shall apply to any irrigation area and to lands within such area. Application of this Part

Special land board.

138. (1) The Minister may under and subject to the provisions of section eight of this Act define the boundaries of a land district as being coincident with the boundaries of an irrigation area. Special land board.

(2) The Governor may, for the purposes of the provisions of this Act relating to holdings within an irrigation area, constitute a special land board which may be composed of officers of the Commission, and which shall within such district have the powers and duties of a local land board. (3)

Irrigation Holdings (Freehold).

5 (3) Notwithstanding section eleven of this Act, the fact that a duly appointed member of the special land board is an officer of the Commission shall not be deemed to render such officer in any way interested or liable to penalty under the provisions of that section.

10 (4) The Commission may also delegate to such special land board all or any of its powers under the provisions of the Crown Lands Acts, or any Acts amending the same.

Subdivision of irrigation areas.

15 139. (1) Land within an irrigation area shall be dealt with in accordance with the provisions of this section. Irrigation area, how dealt with.

(2) (a) The land shall from time to time be subdivided by the Commission into such areas as it may determine.

20 (b) The purchase money or annual rental, as the case may be, of any land notified as available for disposal as provided in paragraph (d) of this subsection, and the value of any improvements thereon, which are the property of the Crown, shall be determined by the Commission.

25 In determining such purchase money and annual rental, due regard shall be had to the additional value given or to be given to the land by reason of the works constructed or to be constructed for irrigation or other purposes, and to the benefits derived or to be derived therefrom ;

30 (c) The Ministers shall determine the special conditions, if any, as to improvements, cultivation, preservation or planting of timber, and such other matters as require to be regulated in the public interest. The conditions and matters so determined shall be conditions attaching to the purchase or lease of any land notified as available for disposal in pursuance of paragraph (d) of this subsection ;

(d)

Irrigation Holdings (Freehold).

(d) the Minister shall have power to declare by notification in the Gazette and in a local newspaper that lands are available for disposal by way of—

- 5 (i) purchase in fee-simple as irrigation farm purchases, non-irrigable purchases, or town land purchases; or
- (ii) lease as irrigation farm leases, non-irrigable leases, or town land leases,

10 and shall specify a date on and after which such purchases or leases may be applied for.

(3) Any notification under the last preceding subsection may be corrected, amended, modified, or revoked, whether as to the whole

15 or any part thereof, by notification in the Gazette.

(4) Notwithstanding anything to the contrary in this Act, or the Mining Act, 1906, or the Forestry Act, 1916, any notification

20 under subsection two of this section shall have the effect of revoking any reserves, or parts of reserves, or population areas within the boundaries of the land which is the subject of the notification, unless the contrary is expressly

25 declared by the terms of the notification. Such revocation shall take immediate effect on the expiration of the day next preceding the day upon which the lands become available for purchase or lease in pursuance of the notification: Provided that the revocation of any

30 reserve for mining or mining purposes or any timber reserve shall not be so effected unless in the case of a reserve for mining or mining purposes the consent thereto of the Secretary for Mines, or in the case of a timber reserve of the Forestry Commission, has been obtained.

35

Such notification as aforesaid shall also have the effect of revoking any previous notification of the like nature affecting the same land unless the contrary is expressly declared by

40 the terms of the notification.

(5)

Irrigation Holdings (Freehold).

5 (5) The provisions of this section shall extend to any irrigation area constituted before the passing of this Act if and so far as the lands comprised within such area have not been dealt with in a manner analogous to that provided by this section.

Applications for holdings.

10 140. (1) On or after the date notified for that purpose any person who is not incompetent by reason of his or her age, as provided in Part VII of this Act, or two or more of such persons jointly, may apply to the Commission for a purchase or lease of any lands notified for disposal in pursuance of section one hundred and thirty-nine of this Act. Applications for holdings.

15 (2) The application shall be made and lodged in the prescribed manner, and shall be accompanied by—

- 20 (a) a deposit as prescribed ;
(b) a survey fee according to prescribed scale ;
(c) the whole or such instalment as may be notified of the notified value of the improvements which are the property of the Crown.
- 25

Dealing with applications.

30 141. (1) Applications for holdings within an irrigation area shall be dealt with in the prescribed manner. The granting of any such application shall be entirely at the discretion of the Commission, which may give preference to any applicant or to groups of applicants or to an applicant who does not hold any land. Applications, how dealt with.

35 (2) Where simultaneous applications are deemed to have equal claims the order of their priority may be determined by lot.

(3)

Irrigation Holdings (Freehold).

5 (3) The Commission may permit withdrawal of any application at any time: Provided that upon withdrawal or refusal of any application the Commission may towards meeting the cost of dealing with the matter retain the whole or part of the deposit lodged.

10 (4) The Commission may permit any defect or error in any application lodged with it in pursuance of the provisions of this Act to be amended, or any omissions therefrom to be supplied, and any such amendment or omission shall be verified by the initials of such officer as the Commission authorises in that behalf.

Irrigation farm purchases.

15 142. (1) The provisions and conditions set out in this section shall apply to an irrigation farm purchase. Conditions, &c., of irrigation farm purchases.

20 (2) The holder shall effect on the irrigation farm purchase to the satisfaction of the Commission improvements to the value and within the period specified in the Gazette notification making the land available for disposal, or in any Gazette notification correcting, amending, or modifying the same published before the application is finally dealt with.

25 (3) Where the holding is a conversion of a lease the required improvements shall be of such value and shall be effected within such period as may be determined by the Commission, which shall take into account any improvements already effected on the holding.

30 (4) Where the Commission has certified under the provisions of section 142D that the required improvements have been effected on the lease prior to conversion, the provisions of subsection two of this section shall not apply to the irrigation farm purchase.

(5)

Irrigation Holdings (Freehold).

5 (5) A condition of residence, the performance of which by the holder shall commence within six months after the date upon which the application is granted, shall attach to the purchase until the Commission under its seal certifies in the prescribed form that improvements of the required value have been effected thereon to its satisfaction. The Commission may refuse to give such certificate 10 if, in its opinion, the irrigation farm purchase is not being satisfactorily developed, or if it does not, in the opinion of the Commission, provide sufficient security for any moneys owing to the Commission in respect thereof.

15 The provisions of this subsection shall not apply to an irrigation farm purchase which is a conversion of a lease in respect of which a certificate has been issued as provided in section 142D of this Act.

20 (6) (a) Land described as suitable for horticulture in the Gazette notifying it as available for disposal shall not be used to depasture any stock in excess of that required for purely domestic and horticultural purposes.

25 (b) Land described as suitable for dairying in the Gazette notifying it as available for disposal shall not be used to plant any area of orchard or vineyard to a greater extent than one acre.

30 (c) Upon the conversion under the provisions of section one hundred and forty-five of this Act into an irrigation farm purchase of any irrigation farm lease which is subject to either of the conditions mentioned in 35 paragraph (a) or (b) hereof (or either of the said conditions with the addition of a provision respecting the consent of the Commission or some condition to the like effect), the condition to attach to the purchase after the conversion shall be in terms of paragraph (a) or paragraph 40 (b) as the case may require.

(d)

Irrigation Holdings (Freehold).

(d) A condition mentioned in this subsection shall be a covenant running with the land, and shall bind the land and the successive owners thereof.

5 (e) The Minister may at any time, with the consent of the holder by instrument, under his hand in the prescribed form release or vary the covenant on such terms and conditions as he thinks fit, and the covenant as so varied shall bind the land and the successive owners thereof.

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

15 (7) The balance of the purchase money after payment of deposit shall be paid by seventy-three equal half-yearly consecutive instalments, including principal and interest at such rate as may be prescribed.

20 Interest at such rate on the balance of the purchase money from the date of granting of the application to the thirtieth day of June or the thirty-first day of December, whichever first follows such date of granting, shall be due on and payable on or before such thirtieth day

25 of June or thirty-first day of December. The first of such instalments shall be paid on or before the thirtieth day of June or thirty-first day of December whichever first follows the date on which the said interest is due.

30 The holder may pay the whole or any part of such purchase money at any time, and the Commission may waive interest on the amount so paid from such date as it may fix or may place such amount to the credit of the holder in its books and allow him interest thereon from such date as the Commission may fix and at such rates as may be prescribed, provided that where portion only of the purchase money is paid no such payment or credit shall affect the obligation of the holder to continue

paying

Irrigation Holdings (Freehold).

5 paying the instalments as provided for in this subsection, but when the sum repaid with interest thereon amounts to the balance owing as principal and interest the Commission shall apply such sum in repayment of the purchase money.

10 In this subsection the expression "date of granting" includes the date upon which a conversion takes effect, and in the case of a purchase by auction or tender the date of the sale or the acceptance of the tender.

15 (8) Upon payment of any moneys due in respect of Crown improvements, and of the purchase money and interest as provided in this section, together with deed fee and stamp duty, and if the Commission is satisfied that all conditions relating to residence and improvements attaching to the irrigation farm purchase have been complied with, the
20 Governor shall issue a Crown grant in the prescribed form to the holder of such purchase.

(9) The Crown grant shall be for an estate in fee-simple, and shall contain—

- 25 (a) a reservation of minerals in the land, such minerals to be those defined by or under the Mining Act, 1906, and any Act amending or replacing the same ;
- 30 (b) conditions securing upon the land all rates and charges for water imposed under the provisions of the Irrigation Act, 1912, and Acts amending the same ;
- (c) such of the conditions mentioned in subsection six of this section as are applicable to the case.

35 *Non-irrigable purchases.*

142A. The provisions and conditions provided for in section one hundred and forty-two with respect to irrigation farm purchases shall, with

Conditions, &c., of non-irrigable purchases.

Irrigation Holdings (Freehold).

with the exception of subsection six thereof, apply mutatis mutandis to a non-irrigable purchase, provided that—

- 5 (a) a condition of residence shall not attach to a non-irrigable purchase where it is so provided in the Gazette notification making the land available for disposal;
- 10 (b) the balance of purchase money shall be paid by such number of instalments as may be stated in the Gazette notification making the land available for disposal, or in the case of a conversion, as the Minister may determine.

Town land purchases.

15 142B. (1) The provisions and conditions set out in this section shall apply to a town land purchase.

20 (2) The holder of any town land purchase shall effect thereon to the satisfaction of the Commission improvements to the value and within the period specified in the Gazette notification making the land available for disposal, or in any Gazette notification correcting, amending, or modifying the same published before the purchase.

25 (3) Where the holding is a conversion of a lease, the required improvements shall be of such value and shall be effected within such period as may be determined by the Commission, which shall take into account any improvements already effected on the holding.

30 (4) Where the Commission has certified under the provisions of section 142D that the required improvements have been effected on the lease prior to conversion, the provisions of subsection two of this section shall not apply to the town land purchase.

(5)

Irrigation Holdings (Freehold).

5 (5) The terms and conditions in respect of payment of purchase money shall be determined by the Minister and shall be notified in the Gazette making the holding available for disposal.

In the case of a conversion the terms and conditions shall be as so determined and shall be notified in writing to the lessee.

10 (6) In no case shall the time allowed for payment of purchase money exceed five years, and in all cases where time is allowed for payment interest at the prescribed rate shall, until the whole of the purchase money is paid, be paid in such manner as the Minister may decide.

15 (7) Upon payment of any moneys due in respect of Crown improvements and of the purchase money and interest, together with deed fee and stamp duty, and if the Commission be satisfied that all other conditions attaching to the town land purchase have been duly complied with, the Governor shall issue a Crown grant in the prescribed form to the holder of such purchase.

20 (8) The Crown grant shall be for an estate in fee-simple, and shall contain—

25 (a) a reservation of minerals in the land, such minerals to be those defined by or under the Mining Act, 1906, and any Act amending or replacing the same; and

30 (b) conditions securing upon the land all rates and charges for water imposed under the provisions of the Irrigation Act, 1912, and any Act amending the same; and

35 (c) the conditions contained in subsection nine of this section, and where applicable those contained in subsection ten of this section.

40 (9) No more than—

(a) three adjoining blocks for the purpose of residence, or

(b)

Irrigation Holdings (Freehold).

(b) four adjoining blocks for the purpose of business,
may be held by any one person or in his interest.

5 This provision shall not cease to apply after the issue of the grant in fee-simple, and any breach of this provision shall render the land held in excess liable to forfeiture.

10 (10) Land notified in the Gazette, as available for disposal for the purpose of residence shall not, except with the written consent of the Commission, be used as a place of amusement or meeting, or for any business which involves the manufacturing, repairing, selling, buying or cleansing of any article or commodity, or for any other business purpose.

Issue of certificates of conformity.

20 142c. The Commission may at any time, if it be satisfied that all conditions except the payment of balance of purchase money have been duly complied with, and on payment of the prescribed fee, issue a certificate of conformity in the prescribed form in respect of any purchase, and may, upon satisfactory proof being given of the loss or destruction of any certificate, and upon payment of the prescribed fee, issue in lieu a certificate to the person entitled thereto.

Conditions attaching to leases within irrigation areas.

30 142d. (1) The provisions and conditions set out in this section shall apply to leases within irrigation areas.

35 (2) The title to an irrigation farm lease and town land lease shall be a lease in perpetuity and the title to a non-irrigable lease shall be a lease in perpetuity or for such term as may be determined by the Minister.

(3)

Irrigation Holdings (Freehold).

5 (3) The holder of any lease shall effect thereon to the satisfaction of the Commission improvements to the value and within the period specified in the Gazette notification making the land available for disposal, or in any Gazette notification correcting, amending, or modifying the same published before the application is finally dealt with.

10 (4) A condition of residence, the performance of which by the holder of the lease shall commence within six months after the date of granting of the application, shall attach to the lease (other than a town land lease) until the Commission, under its seal, certifies in the prescribed form that
15 improvements of the required value have been effected thereon to its satisfaction. The Commission may refuse to give such a certificate if, in its opinion, the lease is not being satisfactorily developed or does not in the opinion of
20 the Commission provide sufficient security for any moneys owing to the Commission in respect thereof.

25 A condition of residence shall not attach to a non-irrigable lease where it is so provided in the Gazette notification making the land available for disposal.

30 (5) In the case of a lease subsisting at the passing of the Irrigation Holdings (Freehold) Act, 1924, the holder of the lease may apply to the Commission—

- 35 (a) for a certificate that all conditions relating to improvements upon the land the subject of the lease have been duly performed; or
(b) for the release of the condition of residence affecting the land the subject of the lease.

40 The Commission may grant the application and certify accordingly;

Provided

Irrigation Holdings (Freehold).

Provided, however, that the Commission may refuse the application—

5 (i) if the improvements are not in the opinion of the Commission a sufficient compliance with the terms (if any) of the lease; or

10 (ii) if the improvements effected have been so effected out of moneys advanced by the Commission, and any amount due in respect thereof remains unpaid; or

(iii) if in the opinion of the Commission the holding has not been sufficiently developed.

15 (6) Any provision in a perpetual lease grant requiring the performance by the grantee, his heirs and assigns for ever, of an obligation to live on the land leased and there have his principal place of abode shall cease to have effect upon the issue by the Commission of a certificate in that behalf in the prescribed form.

20 (7) (a) Land which after the passing of the Irrigation Holdings (Freehold) Act, 1924, is described as suitable for horticulture in the Gazette notifying it as available for disposal, shall not be used to depasture any stock in excess of that required for purely domestic and horticultural purposes.

25 (b) Land which after the passing of the Irrigation Holdings (Freehold) Act, 1924, is described as suitable for dairying in the Gazette notifying it as available for disposal, shall not be used to plant any area of orchard or vineyard to a greater extent than one acre.

30 (8) With respect to any lease to which at the passing of the Irrigation Holdings (Freehold) Act, 1924, is attached a condition that, or to the effect that—

35 (a) it shall not be used to depasture any stock in excess of that required for purely domestic and horticultural purposes; or
40 (b)

Irrigation Holdings (Freehold).

(b) it shall not be used to plant any area of orchard or vineyard to a greater extent than one acre,
 such condition shall continue to attach to such lease.

Rent for perpetual leases.

143. (1) The first period of the lease, the term of which is in perpetuity, shall expire twenty-five years after the date of the granting of the application therefor, the date of purchase or the date of acceptance of after-auction tender as the case may be, and each succeeding period shall be of twenty years.

(2) The annual rental of the lease for the first period shall be the annual rental as notified in the Gazette in pursuance of the provisions hereinbefore contained or the annual rental realised at public auction or offered in an accepted tender as the case may be.

(3) The annual rental of the lease for each succeeding period shall be such sum as may be agreed upon by the Commission and the lessee for each respective period, or, failing such agreement within the time allowed by the Commission (not being less than two months), such sum as shall be determined by the Land and Valuation Court on application by the Commission as prescribed by rules of court. The said court shall be deemed to have jurisdiction to hear and determine any matter arising under this subsection and shall have regard to the following provisions:—

(a) The annual rental shall be the fair market annual rental value of the lease irrespective of any improvements thereon.

(b) Where the value of the land has become reduced by any acts, defaults, or neglects of the lessee thereof, the annual rental of the land shall be determined as if the reduction in the value had not taken place.

(4)

Irrigation Holdings (Freehold).

5 (4) The provisions of subsection three of this section shall apply to the fixing of the rent for the second or any later period of any lease subsisting at the passing of the Irrigation Holdings (Freehold) Act, 1924.

Issue of perpetual lease grants.

10 144. (1) Upon compliance with the con- Perpetual lease grants. ditions of any lease, the term of which is in perpetuity, requiring the lessee to effect improvements of a certain value, and if the Commission is satisfied that all the other conditions have so far been duly complied with, the Governor shall issue a grant in the prescribed form to the lessee his heirs and assigns for ever.

15 (2) The grant shall be made subject to the conditions attaching under this or any other Act to the lease, including—

20 (a) a reservation of minerals in the land, such minerals to be those defined by or under the Mining Act, 1906, and any Act amending or replacing the same; and

25 (b) conditions securing upon the land all rates and charges for water imposed under the provisions of the Irrigation Act, 1912, and any Act amending the same,

30 and shall also contain such special conditions as have been duly notified in the Gazette making the land available for disposal.

Additions to holdings.

35 144A. (1) The Commission, subject to such conditions as it may deem fit to impose, may Additional holdings. by notification in the Gazette, in any case where it deems advisable, add to any holding, after application by the holder thereof in the form

Irrigation Holdings (Freehold).

5 form and manner prescribed, any available Crown lands, including any land reserved in pursuance of section two hundred and six of this Act, within an irrigation area, either adjoining or separated from the original holding, and such original area and additional area shall be deemed to be one holding.

10 (2) The Commission shall disallow any application for the addition of an area not adjoining the original holding if in its opinion such area is not within reasonable working distance of the holding.

15 (3) The addition of any reserved land referred to in subsection one of this section shall have the effect of revoking the reserve of such land. This subsection shall be deemed to have been in force as from the date of passing of the Irrigation (Amendment) Act, 1918.

20 (4) Upon lands being added in pursuance of this section to a holding in respect of which a perpetual lease grant has been issued, the grant shall be surrendered and a perpetual lease grant for the holding as added to shall be issued containing the conditions specified in the Gazette notifying the addition: Provided that the estate granted by the last-mentioned grant shall be deemed to be subject to all equities affecting the land surrendered.

30 *Increases of irrigable area, surrender, &c.,
of leases within an irrigation area.*

35 144B. (1) Where the irrigable area of a holding is, or has been prior to the passing of the Irrigation Holdings (Freehold) Act, 1924, increased by the construction of additional works, or additional facilities for watering are, or have been prior to the passing of that Act, provided by the Commission, or where the area of a lease is altered by addition thereto or surrender of part thereof, or where a lease

Irrigation Holdings (Freehold).

5 is subdivided, the annual rental of the lease, or of the lease as added to, or remaining, or of each portion of the subdivided lease which is transferred consequent on the subdivision, shall be determined in accordance with this section.

10 (2) The annual rental shall be such sum as may be agreed upon by the Commission and the holder of the lease, or, failing such agreement within the time allowed by the Commission (not being less than two months), such sum as shall be determined by the Land and Valuation Court upon application by the Commission as prescribed by rules of court. The said court shall be deemed to have jurisdiction to hear and determine any matter arising under this subsection, and shall have regard to the following provisions:—

15 (a) The annual rental shall be the fair market annual rental value of the land irrespective of any improvements thereon.

20 (b) The annual rental of the part or parts, if any, of the land retained by a lessee who has so subdivided shall be at the same rate per acre as before subdivision.

25 (3) The Commission shall adjust the amount, if any, owing on account of survey fee and the amount to be paid for Crown improvements and for improvements effected or provided by the Commission, and shall fix the terms under which such payments are to be made.

30 (4) The annual rental so determined, the date such rental commences, the date the addition, surrender, or subdivision takes effect, particulars of any adjustment made, terms fixed, and the date from which such payments shall be due and payable, shall be notified in the Gazette, and payments in accordance with such notification shall be a condition attached to the lease, and the non-performance or breach of such condition shall render it liable to forfeiture.

35

40

(5)

Irrigation Holdings (Freehold).

5 (5) Upon determination in pursuance
of this section of the annual rental of the lease
in connection with which an additional area
has been granted under the provisions of
section 144A, the first period of the lease
referred to in section one hundred and forty-
three of this Act may be extended to expire
twenty-five years after the date such addition
takes effect, and with this exception the pro-
visions of section one hundred and forty-three
shall apply to such lease.

10 (6) Where the annual rental of any
lease has been determined in accordance with
the provisions of this section the determination
shall, save as provided in subsection five of this
section, be deemed to be for the unexpired
portion of the then current period of the lease.

15 (7) This section shall be deemed to
have been in force from the date of the passing
of the Irrigation (Amendment) Act, 1918.

*Purchase money of a purchase the area of which
is increased.*

25 144c. (1) If the area of any purchase
within an irrigation area be increased under
the provisions of section 144A of this Act,
the purchase money of the additional land
shall be determined as set out in subsection
two of section one hundred and thirty-nine
of this Act, and the purchase money of the
holding as added to shall be the purchase
money of the additional land plus the balance
of the purchase money outstanding in respect
of the original holding at the date the increase
in area takes effect.

30 (2) The Commission shall adjust the
amount, if any, owing or to be paid on account
of survey fee and Crown improvements and
improvements effected or provided by the
Commission,

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Commission, and shall fix the terms under which such payments and payment for the land are to be made.

5 (3) Any addition to a holding shall be notified in the Gazette, and the notification shall specify the purchase money determined as aforesaid, particulars of any adjustments made, terms fixed, the date on and from which payments in respect of purchase money, Crown improvements and survey fee shall be due and payable, the date the increase in area takes effect, the period within which improvements shall be effected on the holding as added to, and the value thereof. Payments and the effecting of improvements in accordance with such notification shall be conditions attached to the purchase, and non-performance or breach of any of such conditions shall render it liable to forfeiture.

20 (4) Interest on the amount outstanding at the date the increase in area takes effect in respect of the purchase money of the original holding from the last due date of payment of an instalment of such purchase money to the former date shall be paid by the holder of the purchase within one month after the date the increase in area takes effect; and interest at the prescribed rate on the purchase money of the holding as added to from the date the increase in area takes effect to the thirtieth day of June or thirty-first day of December, whichever of these dates first follows the date such increase in area takes effect, shall be paid on such thirtieth day of June or thirty-first day of December as the case may be.

35 The purchase money shall thereafter be paid by equal half-yearly consecutive instalments, including principal and interest at the prescribed rate extending over the balance of the period fixed for payment of the purchase money in respect of the holding prior to its
40 being

Irrigation Holdings (Freehold).

5 being increased in area, and the first of such instalments shall be paid on the thirtieth day of June or thirty-first day of December next following the date on which the last-mentioned interest is payable.

Increase of irrigable area of a purchase.

10 144D. If the irrigable area of any purchase is increased with the consent of the purchaser by the construction of additional works by the Commission, the added value given to the area so made irrigable shall be determined by the Commission in accordance with the provisions of subsection two of section one hundred and thirty-nine, and shall be payable on such terms and conditions as the Commission may deem fit to impose, and the non-performance of any of such terms and conditions shall render the purchase liable to forfeiture.

Sale by auction or on tender.

20 144E. (1) The Commission may sell by public auction or by tender—

(a) irrigation farm purchases,
 (b) non-irrigable purchases,
 (c) irrigation farm leases,
 25 (d) non-irrigable leases.

The Commission may also sell in a similar manner land within any city, town, or village, by way of—

30 (a) town land purchase, or
 (b) town land lease.

35 (2) The Commission shall in the case of a purchase fix the upset price (which shall include the value of Crown improvements, if any), and in the case of a lease the upset annual rental and the value of the Crown improvements. Such upset price and annual rental shall be fixed in accordance with the provisions of subsection two of section one hundred and thirty-nine. (3)

Irrigation Holdings (Freehold).

5 (3) The Minister shall fix the special conditions (which shall be conditions attaching to the holding) as to improvements and such other matters as require to be regulated in the public interest.

10 (4) The Minister shall cause a notification to be published in the Gazette and a local newspaper not less than one month before the day of sale or day fixed for closing of tenders, stating the special conditions, the time, date, and place of sale or date of closing of tenders, and particulars of upset price, and in the case of a lease the upset annual rental, and value of the Crown improvements, if any, and the terms and conditions upon which payment for the improvements shall be made.

15 (5) In the case of a purchase a deposit, as notified in the Gazette making the land available for disposal, and in the case of a lease, the upset rental for one year, shall be paid at the time of sale or with the tender, together in each case with the full amount of survey fee and the whole or such portion of the value of the Crown improvements as may be specified in the Gazette notification.

20 (6) The Commission may grant any purchase or lease (which has been offered for sale at auction or by tender under this section and not sold) to any person who may tender for same in the prescribed form at not less than the upset purchase money in the case of a purchase, or the upset annual rental in the case of a lease. With every such tender there shall be lodged such amount of money as would have been required had the land or lease been purchased at the auction sale or sale by tender.

25 (7) The title to a purchase or lease under this section shall commence from the date of sale or acceptance of tender, as the case may be.

Conversion

Irrigation Holdings (Freehold).

5 *Conversion of (i) an irrigation farm lease into
an irrigation farm purchase; (ii) non-
irrigable lease into a non-irrigable pur-
chase; (iii) town land lease into a town
land purchase.*

10 145. (1) The holder of an irrigation farm lease, a non-irrigable lease, or a town land
lease, the conditions of which have in the opinion of the Commission been complied with,
may, subject to the provisions of this section, with the consent in writing of any mortgagee
or person holding a security thereover, convert the same as follows namely :—

- 15 (a) an irrigation farm lease into an irrigation farm purchase ;
(b) a non-irrigable lease into a non-irrigable purchase ;
(c) a town land lease into a town land purchase.

20 (2) The holder shall, as prescribed, notify his intention to convert, and with such
notification shall lodge the prescribed deposit. Where a perpetual lease grant has issued, the
grant shall be lodged with the notice, together with a surrender in the prescribed form which
25 shall take effect only upon the conversion being effected.

30 (3) The purchase money shall be such sum as may be agreed upon by the Commission
and the lessee, or, failing such agreement within the time allowed by the Commission (not
being less than two months), such sum as shall be determined by the Land and Valuation
Court upon application by the Commission as prescribed by rules of court. The said court
35 shall

Irrigation Holdings (Freehold).

shall be deemed to have jurisdiction to hear and determine any matter arising under this subsection, and shall have regard to the following provisions:—

5 (a) The purchase money shall be the fair market value of the land at date of notification by the lessee of his intention to convert, irrespective of any improvements thereon.

10 (b) Where the value of the land has become reduced by any acts, defaults or neglects of the lessee thereof, the purchase money of such land shall be determined as if such reduction in the value had not taken place.

15 (1) The conversion shall take effect at the expiration of thirty days after agreement between the Commission and the lessee, or determination by the Land and Valuation Court, as the case may be, unless the lessee has at any time previously notified the Commission in the prescribed form of his desire that the conversion shall not take effect. Where the lessee so notifies the Commission it may, towards meeting the cost of dealing with the matter, retain the whole or part of the deposit lodged.

20 (5) (a) With respect to any special or other conditions which were attached to any lease before conversion, the Minister may, by notification in the Gazette, specify which of such conditions shall apply to the purchase.

25 (b) The Commission may, by similar notification, specify within what period the holder of the purchase shall pay any moneys not yet paid in connection with the lease in respect of—

30 (i) rent for the period from the thirtieth day of June immediately preceding the date on which the conversion takes effect to that date;

(ii)

Irrigation Holdings (Freehold).

5 (ii) balance owing for survey fee or for Crown improvements and interest on such balances for the period from the said thirtieth day of June to the date on which the conversion takes effect.

(c) The payment of such moneys within the period so notified shall be a condition attaching to the purchase.

10 (d) Where any lease converted under this section is subject to a mortgage or other security the mortgagee or other person to whom the mortgage or security has been given shall be deemed to have similar rights, powers, and remedies in respect of the purchase as he had in respect of the lease if the conversion had not been effected, and the covenants, conditions, stipulations, and provisions of the mortgage or security shall be deemed to apply and be in force in respect of the holding into which the lease has been converted; and the Crown grant shall be delivered to the mortgagee or other person holding security or as he shall direct.

15

20

Dealings with holdings within irrigation areas.

25

145A. (1) Application for permission to transfer or otherwise deal with in any manner whatsoever a holding, other than a holding within a city, town, or village, shall be made in the prescribed form to the Commission. The granting or refusing of any application shall be entirely at the discretion of the Commission. Such transfer or other dealing shall not be effected, or, if effected, shall not be valid for any purpose whatsoever, unless the consent thereto of the Commission in writing has been obtained.

30

35

Restrictions
on transfer
of holdings.

(2) Where a lease is transferred or otherwise dealt with within the first fifteen years

Irrigation Holdings (Freehold).

5 years of its currency, the Commission may require the annual rental for the unexpired portion of the then current period to be determined in the manner provided in section one hundred and forty-three of this Act.

10 (3) A transfer of, or other dealing with, any holding other than a town land lease or town land purchase shall not be registered in the books of the Commission or recognised until—

15 (a) the whole of any moneys owing to the Commission or the Crown in respect of the holding or such portion thereof, as may be required to be paid by the Commission, shall have been paid; and

20 (b) (i) the proposed transferee shall have signed an agreement that all amounts (if any) remaining owing to the Commission in respect of the holding, or for any goods supplied by the Commission to the holder or his predecessors in title, shall be paid by him, and that he will execute such security as the Commission may require for payment of all moneys owing as aforesaid; or

25 (ii) the proposed transferee executes such security.

30 (4) A town land lease and a town land purchase may be transferred or otherwise dealt with at any time without the consent of the Commission having been obtained, provided that no such transfer shall be registered in the books of the Commission or recognised if any payments due to the Crown or Commission are in arrear. The provisions of this subsection shall be deemed to have been in force as from the date of the passing of the Irrigation (Amendment) Act, 1918.

(5)

Irrigation Holdings (Freehold).

(5) No person shall, except by way of mortgage acquire by transfer any land within an irrigation area, which either of itself, or together with such land already held by him, would substantially exceed, in the opinion of the Commission, an area which, when used for any purpose for which it is reasonably fitted, is sufficient to maintain in average seasons and in average circumstances an average family.

(6) In the event of the Commission refusing to consent to a transfer to any person, as referred to in subsection five of this section, either party may, on payment of the prescribed fee and in the prescribed manner, cause the matter to be referred to the special land board for inquiry and report to the Minister, whose decision in the matter shall be final.

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

(8) No transfer or other dealing whatsoever in contravention of the provisions of subsection five of this section shall be valid for any purpose whatsoever.

Alteration or suspension of conditions.

145B. (1) The Commission in the case of any lease or purchase may grant—

(a) suspension of the condition of residence ;

(b) exemption either wholly or partly from compliance with, or extension of time for performance of, any special or other condition ; or

(c) alteration, modification or cancellation of any such special or other condition,

subject to such terms and stipulations as it may deem fit, and the breach of any such term or stipulation or of any term or stipulation lawfully imposed by the Commission or the Minister under this Act shall render the holding liable to be forfeited.

(2)

Suspension,
&c., of
condition.

Irrigation Holdings (Freehold).

(2) The condition of residence may, with the consent of the Commission, be performed by a tenant, employee, or agent of the holder, or by one or more of joint holders.

5

Subdivision of holdings.

10 146. (1) The holder of a lease in respect of which the conditions of improvements and residence, if any, have been fulfilled, or the holder of a purchase in respect of which the certificate of conformity has issued, may make application to the Commission for the subdivision of his holding into two or more portions.

Application
for sub-
division of
holding.

15 (2) The application shall be made in the prescribed manner and be accompanied by the prescribed deposit, which deposit shall be available for the payment of the costs of any survey, inspections, or reports which may be required.

20 (3) The Commission may grant any application under this section, and may in granting the application do so with or without modification thereof, and on such terms and conditions as it may deem fit to impose, and shall settle the lines of subdivision so as to conform to any regulations made or to be made in that behalf.

25 (4) The holder shall effect improvements of such value and within such period as may be set out in written notification to him by the Commission, which may also decide that improvements already effected shall be a compliance with sections one hundred and forty-two, 142A, or 142D as the case may be.

35 (5) The holder of the lease or purchase shall surrender such land as may be deemed necessary by the Commission to provide roads of access to such subdivided portions, and for channels

Irrigation Holdings (Freehold).

channels and drainage, which land shall there-
upon become Crown land free from any claim
thereto by such holder or to any compensation
in respect thereof, or to tenant-right in any
improvements thereon.

5

(6) After the subdivision of a perpetual
lease grant has been approved the grant shall
be surrendered to the Crown in exchange for
perpetual lease grants of the portions of the
subdivided holding containing the same special
conditions mutatis mutandis as were included
in the grant surrendered together with such
other terms and conditions as may be imposed
under and by virtue of the provisions of this
section.

10

15

(7) After subdivision the certificate of
conformity in respect of a purchase shall be
surrendered.

20

(8) The Commission shall adjust the
amount, if any, owing or to be paid on account
of survey fee, and the amount to be paid
for Crown improvements and improvements
effected or provided by the Commission, and
shall fix the terms under which such payments
are to be made.

25

Conditions attaching to subdivisions of purchases.

146A. (1) In the case of a purchase which has
been subdivided in pursuance of section one
hundred and forty-six of this Act, the unpaid
purchase money shall be apportioned by the
Commission as on the date the subdivision
takes effect, which date shall be determined
by the Commission.

30

35

(2) Interest, from the last due date
of payment of an instalment of the purchase
money of the original holding to the date
subdivision takes effect, on the balance of the
purchase money, shall be paid by the holder of
the purchase within one month after gazettal
of the approval of the subdivision.

40

(3)

Irrigation Holdings (Freehold).

5 (3) Interest on the purchase money of each subdivided portion from the date subdivision takes effect to the thirtieth day of June or the thirty-first day of December, whichever of these dates first follows the date such subdivision takes effect, shall be paid on such thirtieth day of June or thirty-first day of December, as the case may be.

10 The purchase money shall thereafter be paid by equal half-yearly consecutive instalments, including principal and interest, extending over the balance of the period fixed for payment of the purchase money in respect of the holding prior to its being subdivided.

15 The first of such instalments shall be paid on the thirtieth day of June or thirty-first day of December next following the date on which the last-mentioned interest is payable.

20 (4) The total cost of all works carried out by the Commission for the purpose of or incidental to a subdivision as referred to in this section shall be paid by the person applying for approval of the subdivision, and shall be made at such times and upon such terms and conditions as the Commission may deem fit to impose, and until payment shall be a charge upon the land subdivided.

25 (5) Particulars of the purchase moneys determined as aforesaid, of any adjustments made, terms fixed, and the date as from which payments shall be due and payable, and the cost of works constructed by the Commission, shall be notified in the Gazette, and payments in accordance with such notification shall be conditions attaching to every portion of the land subdivided under and by virtue of this section, and the non-performance or breach of any such condition shall render any such portion liable to forfeiture.

Forfeiture

Irrigation Holdings (Freehold).

Forfeiture for non-performance of conditions.

147. (1) The Commission may report to the chairman of the special land board any non-performance or breach of the conditions attaching to a holding, and thereupon the board shall proceed to inquire into the matter. If the special land board after due inquiry finds that any of the conditions attaching to a holding have not been or are not being duly performed, and so reports to the Commission, it shall be lawful for the Commission by notification in the Gazette to declare the holding, together with any moneys paid in respect thereof and all improvements on the land, to be forfeited, and the same shall be forfeited accordingly.

(2) Where in respect of a holding any sums are payable as instalments of purchase money, rent, survey fee, for improvements, interest or otherwise, under or by virtue of this Act or the special conditions attached to the holding or for any rate or charge for water or interest thereon payable under the Irrigation Act, 1912, as amended by any Act, or for any interest or instalment payable on account of any of the powers conferred under section nineteen of the Irrigation Act, 1912, as amended by any Act, having been exercised, and are not paid upon the date or within the period prescribed or allowed, then and in such case the holding may be declared to be forfeited by the Commission without reference to the special land board. The forfeiture shall not operate to extinguish the obligation to make any such payment as is before-mentioned.

(3) The Commission may defer or postpone payment of any of the said sums due, or to become due, for such period and subject to such terms and conditions as it may deem fit to impose; such terms and conditions shall be conditions

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conditions attaching to the holding, and the breach or non-performance of any such conditions shall render the holding liable to forfeiture.

5 (4) Nothing in this section shall affect the power of the Commission to take possession under and subject to the provisions of section sixteen of the Irrigation Act, 1912, as amended by any Act, of any holding which has been
10 abandoned or in respect of which rates or charges for water or any interest thereon have been unpaid for four years.

15 (5) If satisfied that any condition attaching to any holding made available for disposal in connection with any agreement entered into between the Imperial Government and the Government of the Commonwealth of Australia or of the State of New South Wales respectively, or under and by virtue of any Act
20 giving effect to such agreement, has not been or is not being complied with, or that reasonably full use of the holding for the purposes for which it has been made available is not being made, the Commission may, by notification in
25 the Gazette forfeit the holding and all improvements thereon and all moneys paid in respect of the holding or improvements.

4. The Principal Act is further amended as follows:—

Amendment
of Act No. 7,
1913.

30 (a) Sections one hundred and fifty, one hundred and fifty-one, one hundred and fifty-four, one hundred and fifty-seven, one hundred and seventy-five, two hundred and eight, two hundred and nine, two hundred and eleven,
35 two hundred and thirty-six, two hundred and thirty-seven, two hundred and fifty, and two hundred and sixty-nine: By omitting the word "leases" wherever it occurs before the words "within irrigation areas," and by inserting in lieu thereof the word "holdings."

Secs. 150,
151, 154, 157,
175, 208, 209,
211, 236, 237,
250, 269.

(b)

40

Irrigation Holdings (Freehold).

- (b) Section one hundred and fifty-two: By Sec. 152.
omitting subsection two.
- (c) Section one hundred and fifty-seven: By Sec. 157.
omitting subsection five and by inserting the
5 following subsection in lieu thereof:—
(5) The provisions of this section shall not
apply to an applicant for a non-irrigable lease
or a non-irrigable purchase where such appli-
cant holds, at the date of his application
10 therefor, a holding within an irrigation area.
- (d) Section one hundred and sixty-one: By Sec. 161.
omitting all words following the words “survey
fees.”
- (e) Section one hundred and ninety-nine: By Sec. 199.
15 inserting after the words “homestead selection”
where firstly occurring the words “holding
within an irrigation area.”
- (f) Sections two hundred and fifteen and two Secs. 215,
20 hundred and sixteen: By omitting the words 216.
“lease within an irrigation area” wherever
occurring and by inserting in lieu thereof the
words “holding within an irrigation area.”
- (g) Section two hundred and fifty-six:— Sec. 256.
25 (i) By inserting after the words “home-
stead selection” where firstly occurring
the words “holding within an irrigation
area.”
(ii) By omitting the words “lease within
30 an irrigation area” and by inserting in
lieu thereof the words “holding within
an irrigation area.”
- (h) Section 258A: By omitting the section. Sec. 258A.
- (i) Section two hundred and fifty-nine: By Sec. 259.
35 omitting from subsection three the words
“farm or block” and by inserting in lieu
thereof the word “holdings.”
- (j) Section two hundred and seventy-three:— Sec. 273.
40 (i) By omitting the words “Crown leases
and leases within irrigation areas” from
the heading of the section and by
inserting in lieu thereof the words “and
Crown leases.” (ii)

Irrigation Holdings (Freehold).

(ii) By omitting subsections two, four, and five.

(k) Section two hundred and seventy-four:— Sec. 274.

5

(i) By omitting the words "Crown leases and leases within irrigation areas" from the heading of the section and by inserting in lieu thereof the words "and Crown leases."

10

(ii) By omitting from subsection one the words "Crown leases and holdings within irrigation areas other than town lands blocks" and by inserting in lieu thereof the words "and Crown leases."

15

(iii) By omitting from paragraph (a) of subsection one the words "and in the case of a holding within an irrigation area of the Commissioner."

20

(iv) By omitting from subsection two the words "and in the case of a holding within an irrigation area to the Commissioner" and the words "or of the Commissioner as the case may require," and by omitting the words "or Commissioner" wherever occurring in the second paragraph.

25

(v) By omitting paragraph (b) of subsection three.

(vi) By omitting subsection five.

5. The Irrigation Act, 1912, as amended by the ^{Amendment} Crown Lands and Irrigation (Amendment) Act, 1914, ^{of Act No. 73,} the Irrigation (Amendment) Act, 1916, and the Irrigation (Amendment) Act, 1918, is further amended as follows, and as so amended may be cited as the Irrigation Act, 1912-1924:—

35

(a) Section seven: By omitting the word "farms" Sec. and by inserting in lieu thereof the words "farm purchases or irrigation farm leases under the provisions of the Crown Lands Consolidation Act, 1913."

(b)

Irrigation Holdings (Freehold).

(b) Section eleven:—By inserting after the section New ss. 11A, 11B, and 11C.
 new sections 11A, 11B, and 11C as follows:—

5 11A. The following sections 11B and 11C Application of ss. 11B, 11C.
 shall be deemed to apply to lands within
 the irrigation areas constituted under the
 provisions of the Wentworth Irrigation Act
 and the Hay Irrigation Act, 1902.

10 11B. The Commission may from time to Power to sell lands in fee-simple.
 time dispose of for an estate in fee-simple by
 sale any lands not demised or assigned by it, on
 the terms and conditions hereinafter provided
 for.

15 11C. (1) The lessee of any irrigated lot, in Conversion of leasehold.
 respect of the lease of which all conditions and
 covenants binding on the lessee have so far in
 the opinion of the Commission been complied
 with, may purchase from the Commission such
 lot in accordance with the provisions herein-
 after mentioned. He shall notify the Com-
 mission on the form and in the manner pre-
 scribed of his intention to purchase, and shall
 forward with such notification a deposit as
 prescribed, which may be applied by the
 Commission on behalf of the lessee towards
 25 payment of the purchase money.

(2) If the lease of the land is mortgaged,
 then unless the mortgagee signifies to the
 Commission his consent in writing to the
 application a sale shall not be effected.

30 (3) The sale of land under either
 section 11B or section 11C shall be subject to
 the following conditions:—

35 (a) the purchaser shall execute a contract
 of sale in form approved by the Com-
 mission and shall enter into such
 covenants as the Commission may
 consider necessary or as may be pre-
 scribed, and where the land is mort-
 gaged such covenants shall include a
 covenant to execute when called upon
 40 by

Irrigation Holdings (Freehold).

- 5 by the Commission a mortgage over
the land to the mortgagee, preserving
to him the rights, powers, and remedies
which he would have had if the pur-
10 purchase were not effected. The contract
may, with the concurrence of the
Commission, provide also for the trans-
fer of the land either after payment of
the whole of the purchase money and
interest thereon or before such payment.
In the latter case the contract shall
contain provisions for—
- 15 (i) performance of any covenant speci-
fied to be performed prior to such
transfer; and
- (ii) a mortgage of the land to the Com-
mission to secure the payment of
the said purchase money and
interest;
- 20 (b) the purchaser shall covenant to comply
with the provisions of the Wentworth
Irrigation Act and regulations and
by-laws thereunder if the land purchased
25 be within the irrigation area constituted
under that Act; and with the provisions
of the Hay Irrigation Act, 1902, and
regulations and by-laws thereunder if the
land purchased be within the irrigation
30 area constituted under that Act; and
to pay all rates and taxes imposed under
the Wentworth Irrigation Act if the
land purchased is in the first-mentioned
irrigation area, and under the Hay
35 Irrigation Act, 1902, if it is in the last-
mentioned irrigation area;
- (c) in the case of leased land the purchaser
shall, if so required by the Commission,
execute a surrender of his lease of the
land to the Commission ;
- (d)

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- 5 (d) the purchase money shall be paid by
seventy-three equal half-yearly con-
secutive instalments including principal
and interest at such rate as may be
prescribed: Provided that the purchaser
may pay the whole or any part of such
purchase money at any time; and the
Commission may waive interest on the
amount so paid from such date as it
10 may fix, or may place such amount
to the credit of the purchaser in its
books and allow him interest thereon
from such date as the Commission
may fix and at such rates as may
15 be prescribed: Provided that where
portion only of the purchase money is
paid no such payment or credit shall
affect the obligation of the purchaser to
continue paying the instalments as pro-
20 vided for in this subsection, but when
the sum paid with interest thereon
amounts to the balance owing as principal
and interest the Commission shall apply
such sum in payment of the purchase
25 money;
- e) in the case of leased land the purchase
money shall be such sum as the Com-
mission and the purchaser agree upon,
or, failing such agreement within the
30 time allowed by the Commission (not
being less than two months), such sum
as shall be determined by the Land and
Valuation Court upon application by
the Commission as prescribed by rules
35 of court. The said court shall be deemed
to have jurisdiction to hear and deter-
mine any matter arising under this
paragraph, and shall have regard to the
following provisions:—
- 40 (i) in the case of leased land such sum
shall be the fair market value of the
land

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- land at the date of notification by the lessee of his intention to purchase irrespective of any improvements thereon ;
- 5 (ii) where the value of the land has become reduced by any acts, defaults, or neglects of the lessee thereof, the purchase money of such land shall be determined as if
- 10 such reduction in the value had not taken place ;
- (f) the lessee may before the expiration of thirty days after agreement between the Commission and the lessee, or determination of the Land and Valuation Court, as the case may be, notify the Commission in the prescribed form that he does not intend to proceed. Where the lessee so notifies the Commission, it may, towards meeting the cost of dealing with the matter, retain the whole or
- 15 part of the deposit lodged ;
- (g) the Commission shall apply, in such manner as the Governor may direct, the purchase money arising from any sale.
- 20 (4) For the purposes of section 11c the expression "irrigated lot" means any area of land within the said irrigation areas classified by the Commission as an irrigated lot.
- 30 (c) Section twenty :— Sec. 20.
- (i) By omitting the words "provided that the Governor may constitute an irrigation area as a shire under the Local Government Act, 1906" ;
- 35 (ii) by adding at the end the following new subsections :—

Local Government.

- 40 (2) Notwithstanding the provisions of subsection one of this section the Governor may (without regard to the provisions of sections fifteen, sixteen, seventeen, eighteen, nineteen, and twenty of the
- the

Irrigation Holdings (Freehold).

5 the Local Government Act, 1919), by
proclamation published in the Gazette,
constitute any irrigation area or portion
thereof as a municipality or shire ; and
thereupon on and from a date to be
specified in such proclamation such
municipality or shire shall be a muni-
cality or shire as if constituted in
10 accordance with the provisions of the
said Act ; and the said Act shall apply
to such municipalities and shires, sub-
ject to such alterations as may be made
by regulation as hereinafter provided.

15 (3) Notwithstanding the provisions
of subsection one of this section, the
Governor may (without regard to the
provisions of sections fifteen, sixteen,
seventeen, eighteen, nineteen, and
20 twenty of the Local Government Act,
1919), add the whole or a portion of
any irrigation area to any municipality
or shire to which such area or portion
adjoins ; and thereupon, on and from a
date to be specified in such proclamation,
25 such area or portion of an irrigation
area shall be a portion of such muni-
cality or shire as if added thereto in
accordance with the provisions of the
said Act ; and the said Act shall apply
30 to such area or portion subject to such
alterations as may be made by
regulations as hereinafter provided.

35 (4) For the purposes of the constitu-
tion of a municipality or shire, or the
addition of portion or the whole of an
irrigation area to a municipality or
shire under this section, the following
provisions of the Local Government
Act, 1919, shall apply, namely, section
40 sixteen (paragraphs (g) and (k)),
section twenty-one (paragraphs (k), (q),
(r) of subsection one and subsection
two), (5)

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5 (5) Prior to the issue of any procla-
mation under subsection two or sub-
section three of this section the
Governor may appoint a Commission of
Inquiry, which shall consist of the judge
of the Land and Valuation Court, who
shall preside, a representative of the
Local Government Department, and a
representative of the occupiers under
10 this Act: and such Commission shall
make inquiry and report as to whether
any sections of the Local Government
Act, 1919, are inapplicable to the
peculiar conditions of an irrigation area,
15 and if so, whether any such sections
require to be altered, modified, amended,
or suspended, and whether any addi-
tional provisions should be included.

20 (6) Upon receipt of the recommenda-
tions of the Commission of Inquiry the
Governor may make regulations under
this Act altering, modifying, amending,
or suspending any of the provisions of
the Local Government Act, 1919, or
25 including any additional provisions for
the purpose of its application to any
municipalities and shires, or portions of
municipalities and shires, which may be
within an irrigation area.

30 (7) Upon the constitution of a muni-
cipality or shire, or upon the addition
of part or the whole of an irrigation
area to a municipality or shire under
this section, the Commission may
35 transfer to the control of the council,
upon such terms and conditions as may
be mutually agreed, any works the
property of the Commission which are
ordinarily Local Government works
40 (such as electricity works, domestic
water supply works, sanitary service
works,

Irrigation Holdings (Freehold).

5

works, garbage works, parks, reserves, quarries, road construction depots, offices, and the like), and in default of mutual agreement the matter shall be decided by arbitration under the Arbitration Act, 1902, and pending such decision the Commission may continue to carry on such works and to perform the related services and to make charges therefor. In this section the word "works" includes not only the works under consideration, but also any land, buildings, machinery, plant, appliances, materials, and other things held by the Commission and necessary or advisable for the purpose of carrying on such works.

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(8) For the purposes of any inquiry under this section the Commission of Inquiry may through its president summon witnesses and take evidence on oath.

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(9) (a) Pending the constitution of an irrigation area or portion thereof as a municipality or shire, the Commission may by notification in the Gazette make on the prescribed basis and levy a general rate and special or local rates on any land within that area or portion, and may also impose charges as prescribed for local government services in respect of which the aforesaid rates are not made and levied. The general rate shall be made and levied for the purpose of meeting the cost of local government services generally, and the special or local rates for street lighting and other similar particular services.

40

(b) The Commission may from time to time by notice in the Gazette define the lands on which such rates shall

Irrigation Holdings (Freehold).

5

shall be levied. The amount due for any such rates shall be a charge upon the land upon which it is levied, and may be recovered from and shall bind the occupier of the land for the time being.

10

(c) The Commission may in its discretion exempt any lands either wholly or partially from rates imposed by it.

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(d) In connection with the making and levying of the rates and imposition of the charges aforesaid, the Commission shall take steps as hereinafter provided for the constitution of an Executive Board in respect of an irrigation area, which Board shall consist of seven members, four of whom shall be elected by the occupiers and three of whom shall be nominated by the Commission. For the election of the four members mentioned a poll shall be taken of the occupiers in manner prescribed, and only occupiers shall be eligible for election. The members so elected and nominated shall hold office for two years, at the expiration of which period and each successive period of two years thereafter there shall be a reconstitution of the Board in connection with which the members holding office at that date shall be eligible for re-election and renomination. Any vacancy which may occur on the board shall be filled by nomination or election as the case requires.

40

(e) The members of the board shall be paid fees as may be approved by the Governor.

(f) The Commission shall from time to time refer to the Executive Board for consideration and report to the

Irrigation Holdings (Freehold).

5 the Commission any proposal to make
and levy the rates or to impose the
charges as aforesaid. Where the board
deems it necessary or desirable a poll
may be taken by the Commission in
manner prescribed of the occupiers to
ascertain their views as to the making
and levying of any of the rates or
imposing any of the charges.

10 (g) The Commission may from
time to time refer to an Executive
Board for recommendation any question
affecting the irrigation areas.

15 (h) Where the Commission has
determined to make and levy any rate
or impose any charge in respect of any
local government service in connection
with an irrigation area, it may entrust
to the Executive Board constituted for
that area the administration of the ser-
vice, including the collection of the rate
or charge and the expenditure on the
administration of the services of the
moneys collected subject to the payment
thereout to the Commission of an
amount to be fixed by the Commission to
meet the cost of providing the service.

25 (i) In this subsection the word
"service" includes any work, under-
taking, and such other matters or things
as the Commission may prescribe.

30 (d) Section twenty-eight: By adding at the end of Sec. 28.
subsection one the following:—

35 The Governor may from time to time make
regulations altering, modifying, amending, or
suspending the provisions of the Local Govern-
ment Act, 1919, for the purpose of its applica-
tion to any municipalities or shires or portions
of municipalities or shires which may be
40 within an irrigation area.

STATE OF NEW YORK

IN SENATE
 January 15, 1877

REPORT
 OF THE
 COMMISSIONERS OF THE LAND OFFICE
 IN ANSWER TO A RESOLUTION PASSED BY THE SENATE
 APRIL 18, 1876

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