

No. , 1923.

A BILL

To make certain provisions as to private irrigation schemes and water and drainage trusts; to amend the Water Act, 1912, as amended by subsequent Acts; and for purposes connected therewith.

[CAPTAIN CHAFFEY;—20 *December*, 1923.]

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:—

1. (1) This Act may be cited as the "Water (Amendment) Act, 1923." Short title.

(2) In this Act the expression "the Principal Act" means the Water Act, 1912, as amended by subsequent Acts.

Amendment
of Parts I and
II of Act No.
44 of 1912.

Sec. 4.

2. The Principal Act is amended as follows:—

(a) Section four: By inserting in its appropriate 5
alphabetical order the following definition:—

"The Commission" means the Water Conservation and Irrigation Commission constituted under the Irrigation Act, 1912, as amended by the Irrigation 10
(Amendment) Act, 1916.

Sec. 5.

(b) Section five: By inserting in its appropriate
alphabetical order the following new definition:—

"Private irrigation scheme" means any 15
scheme under which lands occupied or intended to be occupied by two or more persons are supplied or are proposed to be supplied by a work with water from a river or lake for purposes of irriga- 20
tion. For the purposes of this definition two or more persons holding land in the same interest to which the water is supplied or proposed to be supplied shall be deemed to be one person. 25

Sec. 10.

(c) Section ten: By omitting the section and substituting the following new section:—

Application
for licenses.
No. 51, 1902,
s. 10.

Amended,
Act No. 38,
1918, s. 5.

10. (1) Any occupier of land whereon any work to which this Part extends is constructed or used, or is proposed to be constructed or used, 30
for the purpose of—

(a) water conservation, irrigation, water supply, or drainage; or

(b) the prevention of inundation of land and overflow of water thereon; or 35

(c) changing the course of a river, 35
may apply to the Commission in the form prescribed for a license to construct and use the said work, and to take and use for the purposes specified in the application the water, if any, 40
conserved

conserved or obtained thereby, and to dispose of such water for the use of occupiers of land for any purpose other than irrigation.

5 (d) Section seventeen: By omitting the word ^{Sec. 17.}
"thereby" in the section and substituting
the following words:—"or obtained thereby to
the extent and in respect of the land and in
the manner specified in the license."

10 (e) Division 4: By omitting the Division and ^{Secs. 19, 20.}
substituting the following new Division 4:—

DIVISION 4.—*Private irrigation schemes.*

15 19. (1) No water shall be taken from any
river or lake for the purposes of any private
irrigation scheme, except under authority
granted in pursuance of the provisions of this
Division:

20 Provided that in respect of any private irri-
gation scheme existing at the date of the
passing of the Water (Amendment) Act,
1923, an application for such authority may
be lodged within a period of three months
from such date, in which event, pending a
25 decision of the Commission as to the granting
or otherwise of such application, the Commis-
sion may permit the applicant to take water
from a river or lake in connection with such
scheme, subject to such conditions and for such
period as it may determine.

30 (2) The Commission may, on applica-
tion in the manner prescribed and on
payment of the prescribed fee, grant the
occupier of any land with frontage to a river
or lake an authority for a private irrigation
35 scheme for a period not exceeding five years,
on such terms and conditions as the Com-
mission may consider fit, and subject to
payment to the Commission of the prescribed
charges for water during the currency of the
authority.

(3)

Water (Amendment).

(3) An authority shall operate and ensure for the benefit of the occupier for the time being of the site of the works by which the water is obtained from the river or lake; such occupier shall be bound by the terms and conditions of the authority, and upon breach of any of such terms and conditions or failure in payment of the prescribed charge for water, the authority may be cancelled by the Commission. In the event of the site of the works being occupied by two or more persons they shall be jointly and severally bound by the authority and liable to payment of the said charges. 5

(4) On application by the holder of the authority and on payment of the prescribed fee, the authority shall, subject to this Act, be renewed by the Commission from time to time, for successive periods not exceeding five years each, subject to such terms and conditions as the Commission may think fit to impose, and, further, to the payment to the Commission of the prescribed charges for water. 15

(5) If during the time that an authority under this Division is in force, alterations have been made in or in connection with the work which materially and prejudicially affect the quantity or quality of water flowing in, to, or from, or being in any river or lake, without the previous consent of the Commission, the person who has made the alterations shall be liable to a penalty not exceeding *one hundred* pounds, and, in addition to the imposition of the said penalty, the authority may be cancelled by the Commission. 25

(6) The holder of an authority may, during the currency thereof, in the prescribed manner and on payment of the prescribed fee, apply for an amended authority allowing alterations to the work as originally authorised, and such authority may be granted, subject to such conditions and charges as the Commission thinks fit. 35

No

Water (Amendment).

No such authority shall be required for any repairs or alterations rendered necessary for maintenance or any sudden or unforeseen emergency.

5 (7) Notwithstanding the provisions of this section, the Commission may supply water to the occupiers of any of the lands within a private irrigation scheme by means of works under the Commission's control.

10 20. (1) Any person who contravenes the provisions of section nineteen, or contravenes or fails to carry out any condition of an authority, shall be liable to a penalty not exceeding *fifty* pounds, and a further penalty of *five* pounds for each day during which the contra-
15 vention continues after such conviction; and, in addition to the imposition of the said penalty, the authority may be cancelled by the Commission.

20 (2) An authority under this Division may be cancelled by notification in the Gazette, which shall be conclusive evidence of such cancellation.

25 (f) Section twenty-one: By inserting after the words "licensed work" the following words:—
"or any work authorised under Division 4 of this Act." Sec. 21.

30 (g) Section twenty-two: By omitting the word "Minister" and substituting the word "Commission," and by omitting the word "him" and substituting the word "it." Sec. 22.

(h) Section twenty-seven: By omitting the section and substituting the following new section:— Sec. 27.

35 27. (1) The Governor may make regulations prescribing or relating to— Regulations, No. 51, 1902, s. 21.

(a) forms of application, notices, licenses, renewals of licenses, authorities in connection with private irrigation schemes, renewals of such authorities; Amended, Act No. 38, 1918, s. 5.

(b)

- (b) fees payable in respect of licenses, renewals of licenses, authorities in connection with private irrigation schemes, renewals of such authorities;
- (c) the prevention of the pollution of water and the obstruction or injury to or interference with works;
- (d) the furnishing by licensees, holders of authorities in respect of private irrigation schemes, or persons occupying land comprised within such schemes, of returns specifying the area of their irrigated land, crops watered, number of days on which irrigation is carried on, times of irrigation, and such other particulars as the Governor may consider fit;
- (f) the terms and conditions governing private irrigation schemes;
- (g) the imposition of a penalty not exceeding *fifty* pounds for any breach of the regulations, or where the breach is a continuing one not exceeding *five* pounds for every day during which the breach continues;
- (h) generally for the purposes of carrying out the provisions of this Part and providing for the procedure thereunder.
- (2) Such regulations shall—
- (i) be published in the Gazette;
- (ii) take effect from the date of publication, or from a later date to be specified in such regulations;
- (iii) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within

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fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

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

Amendment of Part III of Act No. 4 of 1912. Sec. 31.

(a) Section thirty-one: By omitting the words "for the construction of such works and" and substituting the following:—"for—

- (a) the construction;
- (b) the acquisition;
- (c) the utilisation; or
- (d) the part construction, part acquisition, and part utilisation of such works; and
- (e)."

(b) Section thirty-five: By omitting the section and substituting the following new section:—

Sec. 35.

35. Upon such notification the conditions of the proposal with such modification, if any, as aforesaid, shall be binding on the trust and on the Crown, and the Minister may—

Construction of works. Act No. 93, 1902, s. 9 (3). Act No. 59, 1906, s. 7. Amended Act No. 48, 1916, s. 2 (a).

- (a) construct;
 - (b) acquire;
 - (c) utilise; or
 - (d) partly construct, acquire, and utilise,
- the works described in the proposal.

The cost of so—

- (a) constructing;
- (b) acquiring;
- (c) utilising; or
- (d) partly constructing, acquiring, and utilising

such works may be defrayed from such loan votes as are now or may hereafter be applicable to the purpose, or out of appropriations from the Public Works Fund.

(c) Section thirty-seven: By inserting after the word "completion" the words "acquisition or the transfer to the trust."

Sec. 37.

(d)

- Sec. 42. (d) Section forty-two: By omitting subsection one and substituting the following subsection:—
 (1) Prior to the notification directed by section thirty-seven of this Act to be made with respect to the trust taking over works, the Minister shall, by notice in the Gazette, appoint trustees and direct the first election of trustees in pursuance of this Part. 5
- Sec. 52. (e) Section fifty-two: By omitting the words "thereafter constructed within the trust district" and by inserting in lieu thereof the words "at any time taken over by the trust." 10
- Sec. 73. (f) Section seventy-three: By omitting the words "shall be carried out" after the words "carry out" and substituting the words "or acquire, shall be respectively carried out or acquired." 15