

FARM WATER SUPPLIES BILL.

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*Schedule of Amendment referred to in Legislative Council's Message  
of 20th March, 1946.*

Page 7, clause 12, lines 13 to 15 inclusive. *After* "owner" on line 13 *omit* all words down to and including "Commission" on line 15, *insert* "**by consecutive half-yearly instalments within a period, not exceeding fifteen years, determined by the Commission, together with interest as aforesaid on the amount owing from time to time,**"





*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. R. McCOURT,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 13 March, 1946.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with an Amendment.*

W. K. CHARLTON,  
*Clerk of the Parliaments.*  
*Legislative Council Chamber,*  
*Sydney, 20th March, 1946.*

## **New South Wales.**



ANNO DECIMO

# GEORGII VI REGIS.

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Act No. , 1946.

An Act to enable farmers to obtain advances for the purposes of carrying out works of water supply; to empower the Water Conservation and Irrigation Commission to carry out such works on behalf of farmers; and for purposes connected therewith.

**B**E 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:—

1. (1) This Act may be cited as the "Farm Water Supplies Act, 1946."

Short  
title and  
commence-  
ment.

(2) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation  
10 published in the Gazette.

123 85—A

2.

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.



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*Farm Water Supplies.*

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**2.** In this Act, unless the context or subject matter otherwise indicates or requires— Interpre-  
tation.

“Bank” means the Rural Bank of New South Wales.

**5** “Commission” means the Water Conservation and Irrigation Commission constituted under the Irrigation Act, 1912, as amended by subsequent Acts.

**10** “Farming lands” means lands used for farming, agricultural, horticultural, viticultural, vegetable-growing, market gardening, pastoral or grazing purposes or any other lands which the Governor by proclamation published in the Gazette declares to be farming lands for the purposes of this Act.

**15** “Owner,” in relation to land, includes every person who, jointly or severally, whether at law or in equity—

**20** (a) is entitled to the land for any estate of freehold in possession; or

(b) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Acts or any other Act relating to the alienation of lands of the Crown; or

**25** (c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise; or

**30** (d) is the holder of a lease from the Crown or any statutory body representing the Crown.

**35** “Works” means works necessary for the provision or improvement of the water supply to farming lands for domestic, stock or irrigation purposes, or for the preparation of land for irrigation.

**3.**



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*Farm Water Supplies.*

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**3.** (1) Any owner of farming lands who desires an advance for the purpose of the carrying out of works may make an application to the Commission for an advance.

Application  
for an  
advance.

**5** (2) Such application shall be in or to the effect of the prescribed form and shall be accompanied by the prescribed deposit as security for the cost of the investigation in connection with such application, and such deposit may be applied by the Commission in pay-  
**10** ment or part payment of the cost of such investigation.

**4.** (1) Upon receipt of an application the Commission shall decide whether or not an advance shall be made.

Commission  
may grant  
or refuse  
application.

(2) In the event of the Commission deciding that an advance shall be made it shall furnish to the applicant  
**15** a statement, setting out a description of the works it has approved should be carried out and, where the Commission so determines, the cost of the works as estimated by the Commission. Where the works are to  
**20** be carried out by any person or body, including the owner, other than the Commission, the Commission shall set out in such statement the amount of the advance, not exceeding ninety per centum of the cost of the works as estimated by the Commission, which it has tentatively approved should be made.

**25** Where the applicant desires the Commission to carry out the works and the Commission is prepared to carry out the works, the Commission shall set out in such statement the terms and conditions under which it is prepared to carry out the works, including the charge to be paid  
**30** therefor or the manner in which such charge shall be assessed, and the amount, not less than ten per centum of the cost of the works as estimated by the Commission, to be paid to the Commission in accordance with subsection three of this section.

**35** (3) If, on receipt of the statement referred to in subsection two of this section, the applicant is desirous of obtaining the advance, he shall notify the Commission to that effect in the prescribed form, and where he desires the works to be carried out by the Commission, the notification



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notification shall be accompanied by the amount set out in the statement referred to in subsection two of this section to be paid to the Commission.

5. (1) In any case where the applicant notifies the Commission under subsection three of section four of this Act that he desires the advance such advance shall, subject to the provisions of this Act, be made by the Bank by way of loan bearing interest at such rate as may be fixed by the Bank and prevailing at the time the advance is made.

Bank to  
make  
advances.

(2) The powers, authorities, duties and functions conferred or imposed upon the Bank by this Act shall be exercised and performed by the Bank through its Irrigation Agency.

(3) To the extent that the same are applicable and are not inconsistent with this Act, the provisions of Division I of Part VI<sub>B</sub> of the Government Savings Bank Act, 1906, as amended by subsequent Acts, shall apply to all moneys which become payable to or recoverable by or which are received by the Bank in pursuance of this Act.

6. No advance shall be made under this Act unless the Commission is satisfied—

Conditions  
precedent  
to  
advances.

(a) that farming operations will be carried on on the farming lands efficiently and with a reasonable prospect of success; and

(b) that the carrying out of the works in respect of such farming lands is necessary to ensure a more efficient carrying on of those operations on such lands.

7. The amount of any advance to be made to any owner where the works are to be carried out by any person or body, including the owner, other than the Commission, shall be finally determined by the Commission upon the completion of the works. Such amount shall not exceed ninety per centum of the actual cost incurred by the owner in respect of the carrying out of the works.

Amount of  
advance  
where work  
not carried  
out by  
Commission.



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8. Where any works in respect of which an advance is to be made under this Act are carried out by any person or body, including the owner, other than the Commission, such advance shall be made in such manner  
5 as the Commission directs and upon the Commission certifying that the works have been carried out or are being carried out in a satisfactory manner and in accordance with the approval of the Commission.

Payment of advance where works not carried out by Commission.

For the purposes of this section, the Commission may  
10 by its officers and servants enter the lands of the owner and inspect the works.

9. (1) In any case where the owner desires the Commission so to do the Commission may for or on behalf of and at the cost of the owner carry out works in respect  
15 of which an advance is to be made under this Act.

Commission may carry out work where advance is made.

(2) Any works carried out by the Commission under this section shall be carried out on such terms and conditions, including the charge to be paid therefor or the manner in which such charge is to be assessed, as may  
20 be agreed upon by the owner and the Commission.

(3) Where the charge to be paid by the owner for any works carried out by the Commission under this section is the actual cost incurred by the Commission in carrying out the works, the amount of the actual cost  
25 shall include all proper supervision costs and overhead expenses and the certificate referred to in subsection five of this section shall be accepted as final and conclusive evidence of such actual cost.

(4) Where any works are carried out by the Commission under this section, the amount of the advance to be made by the Bank shall be the charge agreed to be paid by the owner to the Commission for the carrying out of the works less the amount paid to the Commission by the owner under the provisions of subsection three of  
30 section four of this Act.

(5) On completion of any such works carried out by the Commission, a certificate under the hand of one of the Commissioners constituting the Commission  
setting



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*Farm Water Supplies.*

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setting out the amount of the charge to be paid to the Commission for the carrying out of the works shall be forwarded to the Bank whereupon the amount of the advance shall be paid to the Commission by the Bank  
5 and thereupon the advance shall, for the purposes of this Act, be deemed to have been made to the owner.

**10.** (1) The Commission may let on hire any machinery, plant or equipment for the purpose of the carrying out of works by an owner of farming lands. Commission may let machinery, etc., on hire.

**10** (2) Where the Commission has let out on hire any machinery, plant or equipment for the purpose of carrying out any works in respect of which an advance is to be made under this Act, the Bank shall, out of the moneys to be advanced to the owner, pay to the Commission the  
15 amount of any such hire and any such amount shall, for the purposes of this Act, be deemed to have been advanced to the owner.

**11.** (1) The owners of two or more separate parcels of land who are desirous of having water supplied to  
20 their lands by means of a joint water supply scheme may, whether or not the whole of the works are to be constructed on the land of one owner, make an application for an advance for the carrying out of works for that purpose. The provisions of subsection two of  
25 section three and of section four of this Act shall apply, mutatis mutandis, to and in respect of an application under this section. Works of joint water supply.

(2) The amount of every advance made in pursuance of an application lodged under this section  
30 shall be repaid by the whole of the owners in such proportions as may be agreed upon between them. Notification of such proportions shall be given to the Commission when giving notification in accordance with subsection three of section four of this Act.

**12.** (1) The repayment of every advance made under this Act together with interest as hereinbefore provided shall be secured by a deed of charge over the farming lands of the owner in such form as may be required by  
35 the Bank. Repayment of advance secured by deed of charge.

Where



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*Farm Water Supplies.*

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Where the advance is made to two or more owners under section eleven of this Act, each owner shall execute a deed of charge to secure the repayment of his respective proportion of the amount of the advance.

- 5 (2) Such deed of charge shall, where the works are to be carried out by any person or body, including the owner, other than the Commission, be expressed to be made between the owner of the farming lands and the Bank, and where the works are to be carried out by the  
10 Commission, be expressed to be made between the owner of the farming lands, the Commission and the Bank, and shall provide for the repayment of the amount advanced to such owner together with interest as aforesaid by  
15 consecutive half-yearly instalments within a period, not exceeding fifteen years, determined by the Commission; by consecutive half-yearly instalments within a period, not exceeding fifteen years, determined by the Commission, together with interest as aforesaid on the amount owing from time to time, and shall contain—
- 20 (a) a condition to the effect that in the event of the owner failing to maintain the works in respect of which the advance is made to the satisfaction of the Commission the whole of the principal and interest secured by the charge shall at the option  
25 of the Bank become immediately due and payable; and
- (b) such other powers, covenants, provisions, conditions and clauses as the Bank determines.
- 30 (3) Where any works are to be carried out by the Commission such deed of charge shall be executed by the owner before the commencement of the construction of the works by the Commission and where any works are to be carried out by any person or body, including the owner, other than the Commission, such  
35 deed of charge shall be executed by the owner before any advance is made to the owner.
- (4) Any sum payable under a deed of charge under this section shall be paid to the Bank and shall, until so paid, be and remain a charge in its favour on the  
40 land mentioned in the deed, and shall be recoverable by the Bank in any court of competent jurisdiction from the owner of the land for the time being.



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**13.** (1) Where the owner or occupier of any farming lands desires the Commission to carry out works and is prepared to pay in cash for the carrying out of such works, the Commission may carry out the works on such **b** terms and conditions, including the charge to be paid therefor or the manner in which such charge is to be assessed, as may be agreed upon by the owner or occupier and the Commission.

Commission may carry out work where advance is not made.

(2) A certificate under the hand of one of the **10** Commissioners constituting the Commission of the amount payable by the owner or occupier for any such works shall be forwarded to the owner or occupier, which certificate shall, where the charge to be paid for the works is the actual cost incurred by the Commission **15** in carrying out the works, be accepted as final and conclusive evidence of the charge payable by the owner or occupier.

Such amount until paid shall be and remain a debt due to the Commission and if not paid in accordance **20** with the terms and conditions agreed upon shall be recoverable by the Commission in any court of competent jurisdiction.

**14.** (1) The Commission may—

**25** (a) supervise, on behalf of any owner, the carrying out of any works on any farming lands; and  
(b) carry out surveys and investigations and prepare designs for and estimates of cost of any works proposed to be carried out on any farming lands.

Commission may carry out investigations, prepare estimates, etc.

**30** (2) The charge to be paid to the Commission for any supervision or technical work carried out by it pursuant to the provisions of subsection one of this section may—

**35** (a) where so agreed between the owner and the Commission be paid for in cash by the owner;  
(b) be the subject of an advance under and in accordance with the provisions of this Act; or  
(c) be included in the amount of any advance which **40** is made under and in accordance with the provisions of this Act for the carrying out of any works. (3)



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(3) Where the charge for any supervision or technical work carried out by the Commission under the provisions of subsection one of this section is the subject of an advance under and in accordance with the provisions of this Act, or where any such charge is included in the amount of any advance being made under and in accordance with the provisions of this Act, the Bank shall, out of the moneys to be advanced to the owner, pay to the Commission the amount of such charge and any such amount paid by the Bank to the Commission shall, for the purposes of this Act, be deemed to have been advanced to the owner.

**15.** Where any works are to be carried out by the Commission under this Act the owner and the occupier of the farming lands on which the works are to be carried out shall for the purpose of enabling the Commission to carry out the said works grant to the Commission, its officers, workmen, servants, contractors or agents at all reasonable times, full and free right of ingress, egress and regress in, over or upon all or any of the farming lands and the right to the use of earth, stone, timber, gravel or sand or other materials or things dug, raised or obtained on such lands.

Entry on  
land and  
use of  
materials.

**16.** No work to which Part II of the Water Act, 1912, as amended by subsequent Acts, extends, which is proposed to be constructed or used for the purpose of—

Work to be  
licensed.

- (a) water conservation, irrigation, water supply, or drainage; or
- (b) the prevention of inundation of land and overflow of water thereon; or
- (c) changing the course of a river,

shall be carried out under the provisions of this Act, unless and until a license, permit or authority under the said Part II has been obtained for the work.

**17.** Any person—

- (a) who receives any advance from the Bank under this Act and in any manner directly or indirectly

Offences.



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uses the same or permits the same to be used for any purpose other than the purpose for which the advance was made; or

- 5 (b) who, while any money is owing to the Bank in respect of any advance under this Act, without the consent of the Bank removes, sells or otherwise disposes of any machinery, plant or other thing forming part of any works for the carrying out of which such advance was made,  
10 shall be liable to a penalty not exceeding fifty pounds.

**18.** (1) The Commission may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed  
15 for carrying this Act into effect, and may by such regulations impose a penalty not exceeding twenty pounds for any breach thereof. Regulations.

(2) The regulations shall—

- (a) be submitted to the Governor for his approval;  
20 (b) after approval by the Governor be published in the Gazette;  
(c) take effect from the date of publication thereof, or from a later date to be specified in the regulations; and  
25 (d) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session.

30 (3) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House, disallowing any regulation or part thereof, the regulation or part thereof shall  
35 thereupon cease to have effect.

**19.** Any penalty imposed by this Act or the regulations thereunder may be recovered in a summary manner in a court of petty sessions holden before a stipendiary or police magistrate. Recovery of penalties.



*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. R. McCOURT,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 13 March, 1946.*

## New South Wales.



ANNO DECIMO

GEORGII VI REGIS.

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Act No. , 1946.

An Act to enable farmers to obtain advances for the purposes of carrying out works of water supply; to empower the Water Conservation and Irrigation Commission to carry out such works on behalf of farmers; and for purposes connected therewith.

**B**E 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:—

1. (1) This Act may be cited as the "Farm Water Supplies Act, 1946." Short title and commencement.

(2) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation  
10 published in the Gazette.



*Farm Water Supplies.*

**2.** In this Act, unless the context or subject matter otherwise indicates or requires— Interpre-  
tation.

“Bank” means the Rural Bank of New South Wales.

5 “Commission” means the Water Conservation and Irrigation Commission constituted under the Irrigation Act, 1912, as amended by subsequent Acts.

10 “Farming lands” means lands used for farming, agricultural, horticultural, viticultural, vegetable-growing, market gardening, pastoral or grazing purposes or any other lands which the Governor by proclamation published in the Gazette declares to be farming lands for the purposes of this Act.

15 “Owner,” in relation to land, includes every person who, jointly or severally, whether at law or in equity—

20 (a) is entitled to the land for any estate of freehold in possession; or

25 (b) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Acts or any other Act relating to the alienation of lands of the Crown; or

30 (c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise; or

(d) is the holder of a lease from the Crown or any statutory body representing the Crown.

35 “Works” means works necessary for the provision or improvement of the water supply to farming lands for domestic, stock or irrigation purposes, or for the preparation of land for irrigation.

**3.**



*Farm Water Supplies.*

3. (1) Any owner of farming lands who desires an advance for the purpose of the carrying out of works may make an application to the Commission for an advance. Application for an advance.
- 5 (2) Such application shall be in or to the effect of the prescribed form and shall be accompanied by the prescribed deposit as security for the cost of the investigation in connection with such application, and such deposit may be applied by the Commission in pay-  
10 ment or part payment of the cost of such investigation.
4. (1) Upon receipt of an application the Commission shall decide whether or not an advance shall be made. Commission may grant or refuse application.
- (2) In the event of the Commission deciding that an advance shall be made it shall furnish to the applicant  
15 a statement, setting out a description of the works it has approved should be carried out and, where the Commission so determines, the cost of the works as estimated by the Commission. Where the works are to  
20 be carried out by any person or body, including the owner, other than the Commission, the Commission shall set out in such statement the amount of the advance, not exceeding ninety per centum of the cost of the works as estimated by the Commission, which it has tentatively approved should be made.
- 25 Where the applicant desires the Commission to carry out the works and the Commission is prepared to carry out the works, the Commission shall set out in such statement the terms and conditions under which it is prepared to carry out the works, including the charge to be paid  
30 therefor or the manner in which such charge shall be assessed, and the amount, not less than ten per centum of the cost of the works as estimated by the Commission, to be paid to the Commission in accordance with subsection three of this section.
- 35 (3) If, on receipt of the statement referred to in subsection two of this section, the applicant is desirous of obtaining the advance, he shall notify the Commission to that effect in the prescribed form, and where he desires the works to be carried out by the Commission, the notification



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notification shall be accompanied by the amount set out in the statement referred to in subsection two of this section to be paid to the Commission.

5. (1) In any case where the applicant notifies the Commission under subsection three of section four of this Act that he desires the advance such advance shall, subject to the provisions of this Act, be made by the Bank by way of loan bearing interest at such rate as may be fixed by the Bank and prevailing at the time the advance is made.

Bank to make advances.

(2) The powers, authorities, duties and functions conferred or imposed upon the Bank by this Act shall be exercised and performed by the Bank through its Irrigation Agency.

(3) To the extent that the same are applicable and are not inconsistent with this Act, the provisions of Division I of Part VI B of the Government Savings Bank Act, 1906, as amended by subsequent Acts, shall apply to all moneys which become payable to or recoverable by or which are received by the Bank in pursuance of this Act.

6. No advance shall be made under this Act unless the Commission is satisfied—

Conditions precedent to advances.

(a) that farming operations will be carried on on the farming lands efficiently and with a reasonable prospect of success; and

(b) that the carrying out of the works in respect of such farming lands is necessary to ensure a more efficient carrying on of those operations on such lands.

7. The amount of any advance to be made to any owner where the works are to be carried out by any person or body, including the owner, other than the Commission, shall be finally determined by the Commission upon the completion of the works. Such amount shall not exceed ninety per centum of the actual cost incurred by the owner in respect of the carrying out of the works.

Amount of advance where work not carried out by Commission.

8.



*Farm Water Supplies.*

8. Where any works in respect of which an advance is to be made under this Act are carried out by any person or body, including the owner, other than the Commission, such advance shall be made in such manner as the Commission directs and upon the Commission certifying that the works have been carried out or are being carried out in a satisfactory manner and in accordance with the approval of the Commission.

Payment of advance where works not carried out by Commission.

For the purposes of this section, the Commission may by its officers and servants enter the lands of the owner and inspect the works.

9. (1) In any case where the owner desires the Commission so to do the Commission may for or on behalf of and at the cost of the owner carry out works in respect of which an advance is to be made under this Act.

Commission may carry out work where advance is made.

(2) Any works carried out by the Commission under this section shall be carried out on such terms and conditions, including the charge to be paid therefor or the manner in which such charge is to be assessed, as may be agreed upon by the owner and the Commission.

(3) Where the charge to be paid by the owner for any works carried out by the Commission under this section is the actual cost incurred by the Commission in carrying out the works, the amount of the actual cost shall include all proper supervision costs and overhead expenses and the certificate referred to in subsection five of this section shall be accepted as final and conclusive evidence of such actual cost.

(4) Where any works are carried out by the Commission under this section, the amount of the advance to be made by the Bank shall be the charge agreed to be paid by the owner to the Commission for the carrying out of the works less the amount paid to the Commission by the owner under the provisions of subsection three of section four of this Act.

(5) On completion of any such works carried out by the Commission, a certificate under the hand of one of the Commissioners constituting the Commission setting



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setting out the amount of the charge to be paid to the Commission for the carrying out of the works shall be forwarded to the Bank whereupon the amount of the advance shall be paid to the Commission by the Bank  
5 and thereupon the advance shall, for the purposes of this Act, be deemed to have been made to the owner.

10. (1) The Commission may let on hire any machinery, plant or equipment for the purpose of the carrying out of works by an owner of farming lands.

Commission  
may let  
machinery,  
etc., on  
hire.

10 (2) Where the Commission has let out on hire any machinery, plant or equipment for the purpose of carrying out any works in respect of which an advance is to be made under this Act, the Bank shall, out of the moneys to be advanced to the owner, pay to the Commission the  
15 amount of any such hire and any such amount shall, for the purposes of this Act, be deemed to have been advanced to the owner.

11. (1) The owners of two or more separate parcels of land who are desirous of having water supplied to  
20 their lands by means of a joint water supply scheme may, whether or not the whole of the works are to be constructed on the land of one owner, make an application for an advance for the carrying out of works for that purpose. The provisions of subsection two of  
25 section three and of section four of this Act shall apply, mutatis mutandis, to and in respect of an application under this section.

Works of  
joint  
water  
supply.

(2) The amount of every advance made in pursuance of an application lodged under this section  
30 shall be repaid by the whole of the owners in such proportions as may be agreed upon between them. Notification of such proportions shall be given to the Commission when giving notification in accordance with subsection three of section four of this Act.

35 12. (1) The repayment of every advance made under this Act together with interest as hereinbefore provided shall be secured by a deed of charge over the farming lands of the owner in such form as may be required by the Bank.

Repayment  
of advance  
secured by  
deed of  
charge.

Where



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*Farm Water Supplies.*

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Where the advance is made to two or more owners under section eleven of this Act, each owner shall execute a deed of charge to secure the repayment of his respective proportion of the amount of the advance.

- 5** (2) Such deed of charge shall, where the works are to be carried out by any person or body, including the owner, other than the Commission, be expressed to be made between the owner of the farming lands and the Bank, and where the works are to be carried out by the
- 10** Commission, be expressed to be made between the owner of the farming lands, the Commission and the Bank, and shall provide for the repayment of the amount advanced to such owner together with interest as aforesaid by
- 15** consecutive half-yearly instalments within a period, not exceeding fifteen years, determined by the Commission, and shall contain—

- (a) a condition to the effect that in the event of the owner failing to maintain the works in respect of which the advance is made to the satisfaction of
- 20** the Commission the whole of the principal and interest secured by the charge shall at the option of the Bank become immediately due and payable; and

- (b) such other powers, covenants, provisions, conditions and clauses as the Bank determines.
- 25**

- (3) Where any works are to be carried out by the Commission such deed of charge shall be executed by the owner before the commencement of the construction of the works by the Commission and where
- 30** any works are to be carried out by any person or body, including the owner, other than the Commission, such deed of charge shall be executed by the owner before any advance is made to the owner.

- (4) Any sum payable under a deed of charge
- 35** under this section shall be paid to the Bank and shall, until so paid, be and remain a charge in its favour on the land mentioned in the deed, and shall be recoverable by the Bank in any court of competent jurisdiction from the owner of the land for the time being.



*Farm Water Supplies.*

**13.** (1) Where the owner or occupier of any farming lands desires the Commission to carry out works and is prepared to pay in cash for the carrying out of such works, the Commission may carry out the works on such terms and conditions, including the charge to be paid therefor or the manner in which such charge is to be assessed, as may be agreed upon by the owner or occupier and the Commission.

Commission may carry out work where advance is not made.

(2) A certificate under the hand of one of the Commissioners constituting the Commission of the amount payable by the owner or occupier for any such works shall be forwarded to the owner or occupier, which certificate shall, where the charge to be paid for the works is the actual cost incurred by the Commission in carrying out the works, be accepted as final and conclusive evidence of the charge payable by the owner or occupier.

Such amount until paid shall be and remain a debt due to the Commission and if not paid in accordance with the terms and conditions agreed upon shall be recoverable by the Commission in any court of competent jurisdiction.

**14.** (1) The Commission may—

- (a) supervise, on behalf of any owner, the carrying out of any works on any farming lands; and
- (b) carry out surveys and investigations and prepare designs for and estimates of cost of any works proposed to be carried out on any farming lands.

Commission may carry out investigations, prepare estimates, etc.

(2) The charge to be paid to the Commission for any supervision or technical work carried out by it pursuant to the provisions of subsection one of this section may—

- (a) where so agreed between the owner and the Commission be paid for in cash by the owner;
- (b) be the subject of an advance under and in accordance with the provisions of this Act; or
- (c) be included in the amount of any advance which is made under and in accordance with the provisions of this Act for the carrying out of any works.

(3)



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*Farm Water Supplies.*

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(3) Where the charge for any supervision or technical work carried out by the Commission under the provisions of subsection one of this section is the subject of an advance under and in accordance with the provisions of this Act, or where any such charge is included in the amount of any advance being made under and in accordance with the provisions of this Act, the Bank shall, out of the moneys to be advanced to the owner, pay to the Commission the amount of such charge and any such amount paid by the Bank to the Commission shall, for the purposes of this Act, be deemed to have been advanced to the owner.

**15.** Where any works are to be carried out by the Commission under this Act the owner and the occupier of the farming lands on which the works are to be carried out shall for the purpose of enabling the Commission to carry out the said works grant to the Commission, its officers, workmen, servants, contractors or agents at all reasonable times, full and free right of ingress, egress and regress in, over or upon all or any of the farming lands and the right to the use of earth, stone, timber, gravel or sand or other materials or things dug, raised or obtained on such lands.

Entry on  
land and  
use of  
materials.

**16.** No work to which Part II of the Water Act, 1912, as amended by subsequent Acts, extends, which is proposed to be constructed or used for the purpose of—

Work to be  
licensed.

- (a) water conservation, irrigation, water supply, or drainage; or
- (b) the prevention of inundation of land and overflow of water thereon; or
- (c) changing the course of a river,

shall be carried out under the provisions of this Act, unless and until a license, permit or authority under the said Part II has been obtained for the work.

**17.** Any person—

- (a) who receives any advance from the Bank under this Act and in any manner directly or indirectly

Offences.

85—B

uses



*Farm Water Supplies.*

uses the same or permits the same to be used for any purpose other than the purpose for which the advance was made; or

- 5 (b) who, while any money is owing to the Bank in respect of any advance under this Act, without the consent of the Bank removes, sells or otherwise disposes of any machinery, plant or other thing forming part of any works for the carrying out of which such advance was made,

10 shall be liable to a penalty not exceeding fifty pounds.

18. (1) The Commission may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying this Act into effect, and may by such regulations impose a penalty not exceeding twenty pounds for any breach thereof. Regulations.

(2) The regulations shall—

- 20 (a) be submitted to the Governor for his approval;  
 (b) after approval by the Governor be published in the Gazette;  
 (c) take effect from the date of publication thereof, or from a later date to be specified in the regulations; and  
 25 (d) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session.

30 (3) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House, disallowing any regulation or part thereof, the regulation or part thereof shall  
 35 thereupon cease to have effect.

19. Any penalty imposed by this Act or the regulations thereunder may be recovered in a summary manner in a court of petty sessions holden before a stipendiary or police magistrate. Recovery of penalties.



## Farm Water Supplies Bill, 1946.

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### EXPLANATORY NOTE.

THE objects of this Bill are to facilitate provision of water supplies to individual farms or groups of farms for domestic, stock or irrigation purposes; to enable farmers to obtain advances in money so that they may have works of water supply carried out; and to enable the Water Conservation and Irrigation Commission to carry out such works for farmers.

The Bill makes provision for—

- (1) The applications for assistance and advances to be made to the Water Conservation and Irrigation Commission;
- (2) the Commission to investigate applications and decide whether advances are to be made;
- (3) the Rural Bank of New South Wales to make the advances through its Irrigation Agency;
- (4) determining the amount of any advance to be made in respect of works;
- (5) the works to be carried out by the Commission, or the applicant or by a private contractor;
- (6) repayment of the advance to be secured by deed of charge over the land;
- (7) advances for joint water supply works for two or more farmers;
- (8) the carrying out of works by the Commission for a cash payment where an advance is not made;
- (9) the Commission to carry out surveys and investigations, prepare designs and estimates of cost, and supervise the carrying out of the works;
- (10) other matters of an ancillary nature.







No. , 1946.

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## A BILL

To enable farmers to obtain advances for the purposes of carrying out works of water supply; to empower the Water Conservation and Irrigation Commission to carry out such works on behalf of farmers; and for purposes connected therewith.

[CAPTAIN DUNN;— 20 *February*, 1946.]

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**B**E 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:—

1. (1) This Act may be cited as the "Farm Water Supplies Act, 1946."

Short  
title and  
commence-  
ment.

(2) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation  
10 published in the Gazette.



*Farm Water Supplies.*

**2.** In this Act, unless the context or subject matter otherwise indicates or requires— Interpre-  
tation.

- “Bank” means the Rural Bank of New South Wales.
- 5 “Commission” means the Water Conservation and Irrigation Commission constituted under the Irrigation Act, 1912, as amended by subsequent Acts.
- 10 “Farming lands” means lands used for farming, agricultural, horticultural, viticultural, vegetable-growing, market gardening, pastoral or grazing purposes or any other lands which the Governor by proclamation published in the Gazette declares to be farming lands for the
- 15 purposes of this Act.
- “Owner,” in relation to land, includes every person who, jointly or severally, whether at law or in equity—
- 20 (a) is entitled to the land for any estate of freehold in possession; or
- (b) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Acts or any other Act relating to the alienation of lands of the Crown; or
- 25 (c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise; or
- 30 (d) is the holder of a lease from the Crown or any statutory body representing the Crown.
- 35 “Works” means works necessary for the provision or improvement of the water supply to farming lands for domestic, stock or irrigation purposes, or for the preparation of land for irrigation.

**3.**



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*Farm Water Supplies.*

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3. (1) Any owner of farming lands who desires an advance for the purpose of the carrying out of works may make an application to the Commission for an advance.

Application  
for an  
advance.

5 (2) Such application shall be in or to the effect of the prescribed form and shall be accompanied by the prescribed deposit as security for the cost of the investigation in connection with such application, and such deposit may be applied by the Commission in pay-  
10 ment or part payment of the cost of such investigation.

4. (1) Upon receipt of an application the Commission shall decide whether or not an advance shall be made.

Commission  
may grant  
or refuse  
application.

(2) In the event of the Commission deciding that an advance shall be made it shall furnish to the applicant  
15 a statement, setting out a description of the works it has approved should be carried out and, where the Commission so determines, the cost of the works as estimated by the Commission. Where the works are to  
20 be carried out by any person or body, including the owner, other than the Commission, the Commission shall set out in such statement the amount of the advance, not exceeding ninety per centum of the cost of the works as estimated by the Commission, which it has tentatively approved should be made.

25 Where the applicant desires the Commission to carry out the works and the Commission is prepared to carry out the works, the Commission shall set out in such statement the terms and conditions under which it is prepared to carry out the works, including the charge to be paid  
30 therefor or the manner in which such charge shall be assessed, and the amount, not less than ten per centum of the cost of the works as estimated by the Commission, to be paid to the Commission in accordance with subsection three of this section.

35 (3) If, on receipt of the statement referred to in subsection two of this section, the applicant is desirous of obtaining the advance, he shall notify the Commission to that effect in the prescribed form, and where he desires the works to be carried out by the Commission, the  
notification



*Farm Water Supplies.*

notification shall be accompanied by the amount set out in the statement referred to in subsection two of this section to be paid to the Commission.

5. (1) In any case where the applicant notifies the Commission under subsection three of section four of this Act that he desires the advance such advance shall, subject to the provisions of this Act, be made by the Bank by way of loan bearing interest at such rate as may be fixed by the Bank and prevailing at the time the advance is made.

Bank to make advances.

(2) The powers, authorities, duties and functions conferred or imposed upon the Bank by this Act shall be exercised and performed by the Bank through its Irrigation Agency.

(3) To the extent that the same are applicable and are not inconsistent with this Act, the provisions of Division I of Part VI<sub>B</sub> of the Government Savings Bank Act, 1906, as amended by subsequent Acts, shall apply to all moneys which become payable to or recoverable by or which are received by the Bank in pursuance of this Act.

6. No advance shall be made under this Act unless the Commission is satisfied—

Conditions precedent to advances.

(a) that farming operations will be carried on on the farming lands efficiently and with a reasonable prospect of success; and

(b) that the carrying out of the works in respect of such farming lands is necessary to ensure a more efficient carrying on of those operations on such lands.

7. The amount of any advance to be made to any owner where the works are to be carried out by any person or body, including the owner, other than the Commission, shall be finally determined by the Commission upon the completion of the works. Such amount shall not exceed ninety per centum of the actual cost incurred by the owner in respect of the carrying out of the works.

Amount of advance where work not carried out by Commission.

8.



*Farm Water Supplies.*

8. Where any works in respect of which an advance is to be made under this Act are carried out by any person or body, including the owner, other than the Commission, such advance shall be made in such manner as the Commission directs and upon the Commission certifying that the works have been carried out or are being carried out in a satisfactory manner and in accordance with the approval of the Commission.

Payment of  
advance  
where works  
not carried  
out by  
Commission.

For the purposes of this section, the Commission may by its officers and servants enter the lands of the owner and inspect the works.

9. (1) In any case where the owner desires the Commission so to do the Commission may for or on behalf of and at the cost of the owner carry out works in respect of which an advance is to be made under this Act.

Commission  
may carry  
out work  
where ad-  
vance is  
made.

(2) Any works carried out by the Commission under this section shall be carried out on such terms and conditions, including the charge to be paid therefor and the manner in which such charge is to be assessed, as may be agreed upon by the owner and the Commission.

(3) Where the charge to be paid by the owner for any works carried out by the Commission under this section is the actual cost incurred by the Commission in carrying out the works, the amount of the actual cost shall include all proper supervision costs and overhead expenses and the certificate referred to in subsection five of this section shall be accepted as final and conclusive evidence of such actual cost.

(4) Where any works are carried out by the Commission under this section, the amount of the advance to be made by the Bank shall be the charge agreed to be paid by the owner to the Commission for the carrying out of the works less the amount paid to the Commission by the owner under the provisions of subsection three of section four of this Act.

(5) On completion of any such works carried out by the Commission, a certificate under the hand of one of the Commissioners constituting the Commission setting



*Farm Water Supplies.*

setting out the amount of the charge to be paid to the Commission for the carrying out of the works shall be forwarded to the Bank whereupon the amount of the advance shall be paid to the Commission by the Bank and thereupon the advance shall, for the purposes of this Act, be deemed to have been made to the owner.

**10.** (1) The Commission may let on hire any machinery, plant or equipment for the purpose of the carrying out of works by an owner of farming lands.

Commission may let machinery, etc., on hire.

**10** (2) Where the Commission has let out on hire any machinery, plant or equipment for the purpose of carrying out any works in respect of which an advance is to be made under this Act, the Bank shall, out of the moneys to be advanced to the owner, pay to the Commission the amount of any such hire and any such amount shall, for the purposes of this Act, be deemed to have been advanced to the owner.

**11.** (1) The owners of two or more separate parcels of land who are desirous of having water supplied to their lands by means of a joint water supply scheme may, whether or not the whole of the works are to be constructed on the land of one owner, make an application in the prescribed form for an advance for the carrying out of works for that purpose. Subject as otherwise provided in this section any such application shall be dealt with in like manner as an application by a single owner.

Works of joint water supply.

(2) The amount of every advance made in pursuance of an application lodged under this section shall be repaid by the whole of the owners in such proportions as may be agreed upon between them. Notification of such proportions shall be given to the Commission when giving notification in accordance with subsection three of section four of this Act.

**12.** (1) The repayment of every advance made under this Act together with interest as hereinbefore provided shall be secured by a deed of charge over the farming lands of the owner in such form as may be required by the Bank.

Repayment of advance secured by deed of charge.

Where



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*Farm Water Supplies.*

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Where the advance is made to two or more owners under section eleven of this Act, each owner shall execute a deed of charge to secure the repayment of his respective proportion of the amount of the advance.

- 5 (2) Such deed of charge shall where the works are to be carried out by any person or body, including the owner, other than the Commission be expressed to be made between the owner of the farming lands and the Bank, and where the works are to be carried out by the
- 10 Commission be expressed to be made between the owner of the farming lands, the Commission and the Bank, and shall provide for the repayment of the amount advanced to such owner together with interest as aforesaid by
- 15 consecutive half-yearly instalments within a period, not exceeding ten years, determined by the Commission, and shall contain—
- (a) a condition to the effect that in the event of the owner failing to maintain the works in respect of
- 20 the Commission the whole of the principal and interest secured by the charge shall at the option of the Bank become immediately due and payable; and
- (b) such other powers, covenants, provisions,
- 25 conditions and clauses as the Bank determines.
- (3) Where any works are to be carried out by the Commission such deed of charge shall be executed by the owner before the commencement of the construction of the works by the Commission and where
- 30 any works are to be carried out by any person or body, including the owner, other than the Commission, such deed of charge shall be executed by the owner before any advance is made to the owner.
- (4) Any sum payable under a deed of charge
- 35 under this section shall be paid to the Bank and shall, until so paid, be and remain a charge in its favour on the land mentioned in the deed, and shall be recoverable by the Bank in any court of competent jurisdiction from the owner of the land for the time being.



*Farm Water Supplies.*

**13.** (1) Where the owner or occupier of any farming lands desires the Commission to carry out works and is prepared to pay in cash for the carrying out of such works, the Commission may carry out the works on such **5** terms and conditions, including the charge to be paid therefor or the manner in which such charge is to be assessed, as may be agreed upon by the owner or occupier and the Commission.

Commission  
may carry  
out work  
where  
advance is  
not made.

(2) A certificate under the hand of one of the **10** Commissioners constituting the Commission of the amount payable by the owner or occupier for any such works shall be forwarded to the owner or occupier, which certificate shall, where the charge to be paid for the works is the actual cost incurred by the Commission **15** in carrying out the works, be accepted as final and conclusive evidence of the charge payable by the owner or occupier.

Such amount until paid shall be and remain a debt due to the Commission and if not paid in accordance **20** with the terms and conditions agreed upon shall be recoverable by the Commission in any court of competent jurisdiction.

**14.** (1) The Commission may—

(a) supervise, on behalf of any owner, the carrying **25** out of any works on any farming lands; and  
(b) carry out surveys and investigations and prepare designs for and estimates of cost of any works proposed to be carried out on any farming lands.

Commission  
may carry  
out investi-  
gations,  
prepare  
estimates,  
etc.

(2) The charge to be paid to the Commission for any supervision or technical work carried out by it pursuant to the provisions of subsection one of this section **30** may—

(a) where so agreed between the owner and the **35** Commission be paid for in cash by the owner;  
(b) be the subject of an advance under and in accordance with the provisions of this Act; or  
(c) be included in the amount of any advance which **40** is made under and in accordance with the provisions of this Act for the carrying out of any works.

(3)



*Farm Water Supplies.*

(3) Where the charge for any supervision or technical work carried out by the Commission under the provisions of subsection one of this section is the subject of an advance under and in accordance with the provisions of this Act, or where any such charge is included in the amount of any advance being made under and in accordance with the provisions of this Act, the Bank shall, out of the moneys to be advanced to the owner, pay to the Commission the amount of such charge and any such amount paid by the Bank to the Commission shall, for the purposes of this Act, be deemed to have been advanced to the owner.

**15.** Where any works are to be carried out by the Commission under this Act the owner and the occupier of the farming lands on which the works are to be carried out shall for the purpose of enabling the Commission to carry out the said works grant to the Commission, its officers, workmen, servants, contractors or agents at all reasonable times, full and free right of ingress, egress and regress in, over or upon all or any of the farming lands and the right to the use of earth, stone, timber, gravel or sand or other materials or things dug, raised or obtained on such lands.

Entry on  
land and  
use of  
materials.

**16.** No work to which Part II of the Water Act, 1912, as amended by subsequent Acts, extends, which is proposed to be constructed or used for the purpose of—

Work to be  
licensed.

- (a) water conservation, irrigation, water supply, or drainage; or
- (b) the prevention of inundation of land and overflow of water thereon; or
- (c) changing the course of a river,

shall be carried out under the provisions of this Act, unless and until a license, permit or authority under the said Part II has been obtained for the work.

**17.** Any person—

- (a) who receives any advance from the Bank under this Act and in any manner directly or indirectly

Offences.

—B

uses



*Farm Water Supplies.*

uses the same or permits the same to be used for any purpose other than the purpose for which the advance was made; or

- 5 (b) who, while any money is owing to the Bank in respect of any advance under this Act, without the consent of the Bank removes, sells or otherwise disposes of any machinery, plant or other thing forming part of any works for the carrying out of which such advance was made,  
10 shall be liable to a penalty not exceeding fifty pounds.

18. (1) The Commission may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying this Act into effect, and may by such regulations impose a penalty not exceeding twenty pounds for any breach thereof. Regulations.

(2) The regulations shall—

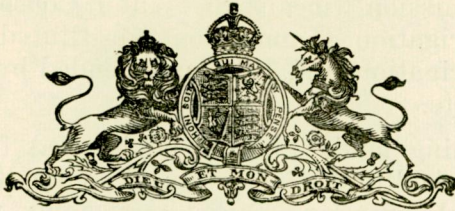
- 20 (a) be submitted to the Governor for his approval;  
(b) after approval by the Governor be published in the Gazette;  
(c) take effect from the date of publication thereof, or from a later date to be specified in the regulations; and  
25 (d) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session.

30 (3) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House, disallowing any regulation or part thereof; the regulation or part thereof shall  
35 thereupon cease to have effect.

19. Any penalty imposed by this Act or the regulations thereunder may be recovered in a summary manner in a court of petty sessions holden before a stipendiary or police magistrate. Recovery of penalties.



New South Wales.



ANNO DECIMO

GEORGII VI REGIS.

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Act No. 22, 1946.

An Act to enable farmers to obtain advances for the purposes of carrying out works of water supply ; to empower the Water Conservation and Irrigation Commission to carry out such works on behalf of farmers ; and for purposes connected therewith. [Assented to, 4th April, 1946.]

**B**E 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 "Farm Water Supplies Act, 1946."

Short title and commencement.

(2) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.



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*Farm Water Supplies.*


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## Interpretation.

**2.** In this Act, unless the context or subject matter otherwise indicates or requires—

“Bank” means the Rural Bank of New South Wales.

“Commission” means the Water Conservation and Irrigation Commission constituted under the Irrigation Act, 1912, as amended by subsequent Acts.

“Farming lands” means lands used for farming, agricultural, horticultural, viticultural, vegetable-growing, market gardening, pastoral or grazing purposes or any other lands which the Governor by proclamation published in the Gazette declares to be farming lands for the purposes of this Act.

“Owner,” in relation to land, includes every person who, jointly or severally, whether at law or in equity—

- (a) is entitled to the land for any estate of freehold in possession; or
- (b) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Acts or any other Act relating to the alienation of lands of the Crown; or
- (c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise; or
- (d) is the holder of a lease from the Crown or any statutory body representing the Crown.

“Works” means works necessary for the provision or improvement of the water supply to farming lands for domestic, stock or irrigation purposes, or for the preparation of land for irrigation.



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*Farm Water Supplies.*

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3. (1) Any owner of farming lands who desires an advance for the purpose of the carrying out of works may make an application to the Commission for an advance. **Application for an advance.**

(2) Such application shall be in or to the effect of the prescribed form and shall be accompanied by the prescribed deposit as security for the cost of the investigation in connection with such application, and such deposit may be applied by the Commission in payment or part payment of the cost of such investigation.

4. (1) Upon receipt of an application the Commission shall decide whether or not an advance shall be made. **Commission may grant or refuse application.**

(2) In the event of the Commission deciding that an advance shall be made it shall furnish to the applicant a statement, setting out a description of the works it has approved should be carried out and, where the Commission so determines, the cost of the works as estimated by the Commission. Where the works are to be carried out by any person or body, including the owner, other than the Commission, the Commission shall set out in such statement the amount of the advance, not exceeding ninety per centum of the cost of the works as estimated by the Commission, which it has tentatively approved should be made.

Where the applicant desires the Commission to carry out the works and the Commission is prepared to carry out the works, the Commission shall set out in such statement the terms and conditions under which it is prepared to carry out the works, including the charge to be paid therefor or the manner in which such charge shall be assessed, and the amount, not less than ten per centum of the cost of the works as estimated by the Commission, to be paid to the Commission in accordance with subsection three of this section.

(3) If, on receipt of the statement referred to in subsection two of this section, the applicant is desirous of obtaining the advance, he shall notify the Commission to that effect in the prescribed form, and where he desires the works to be carried out by the Commission, the notification



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*Farm Water Supplies.*

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notification shall be accompanied by the amount set out in the statement referred to in subsection two of this section to be paid to the Commission.

Bank to  
make  
advances.

5. (1) In any case where the applicant notifies the Commission under subsection three of section four of this Act that he desires the advance such advance shall, subject to the provisions of this Act, be made by the Bank by way of loan bearing interest at such rate as may be fixed by the Bank and prevailing at the time the advance is made.

(2) The powers, authorities, duties and functions conferred or imposed upon the Bank by this Act shall be exercised and performed by the Bank through its Irrigation Agency.

(3) To the extent that the same are applicable and are not inconsistent with this Act, the provisions of Division I of Part VIb of the Government Savings Bank Act, 1906, as amended by subsequent Acts, shall apply to all moneys which become payable to or recoverable by or which are received by the Bank in pursuance of this Act.

Conditions  
precedent  
to  
advances.

6. No advance shall be made under this Act unless the Commission is satisfied—

- (a) that farming operations will be carried on on the farming lands efficiently and with a reasonable prospect of success; and
- (b) that the carrying out of the works in respect of such farming lands is necessary to ensure a more efficient carrying on of those operations on such lands.

Amount of  
advance  
where work  
not carried  
out by  
Commission.

7. The amount of any advance to be made to any owner where the works are to be carried out by any person or body, including the owner, other than the Commission, shall be finally determined by the Commission upon the completion of the works. Such amount shall not exceed ninety per centum of the actual cost incurred by the owner in respect of the carrying out of the works.

8.



*Farm Water Supplies.*

8. Where any works in respect of which an advance is to be made under this Act are carried out by any person or body, including the owner, other than the Commission, such advance shall be made in such manner as the Commission directs and upon the Commission certifying that the works have been carried out or are being carried out in a satisfactory manner and in accordance with the approval of the Commission.

Payment of advance where works not carried out by Commission.

For the purposes of this section, the Commission may by its officers and servants enter the lands of the owner and inspect the works.

9. (1) In any case where the owner desires the Commission so to do the Commission may for or on behalf of and at the cost of the owner carry out works in respect of which an advance is to be made under this Act.

Commission may carry out work where advance is made.

(2) Any works carried out by the Commission under this section shall be carried out on such terms and conditions, including the charge to be paid therefor or the manner in which such charge is to be assessed, as may be agreed upon by the owner and the Commission.

(3) Where the charge to be paid by the owner for any works carried out by the Commission under this section is the actual cost incurred by the Commission in carrying out the works, the amount of the actual cost shall include all proper supervision costs and overhead expenses and the certificate referred to in subsection five of this section shall be accepted as final and conclusive evidence of such actual cost.

(4) Where any works are carried out by the Commission under this section, the amount of the advance to be made by the Bank shall be the charge agreed to be paid by the owner to the Commission for the carrying out of the works less the amount paid to the Commission by the owner under the provisions of subsection three of section four of this Act.

(5) On completion of any such works carried out by the Commission, a certificate under the hand of one of the Commissioners constituting the Commission



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*Farm Water Supplies.*

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setting out the amount of the charge to be paid to the Commission for the carrying out of the works shall be forwarded to the Bank whereupon the amount of the advance shall be paid to the Commission by the Bank and thereupon the advance shall, for the purposes of this Act, be deemed to have been made to the owner.

Commission  
may let  
machinery,  
etc., on  
hire.

**10.** (1) The Commission may let on hire any machinery, plant or equipment for the purpose of the carrying out of works by an owner of farming lands.

(2) Where the Commission has let out on hire any machinery, plant or equipment for the purpose of carrying out any works in respect of which an advance is to be made under this Act, the Bank shall, out of the moneys to be advanced to the owner, pay to the Commission the amount of any such hire and any such amount shall, for the purposes of this Act, be deemed to have been advanced to the owner.

Works of  
joint  
water  
supply.

**11.** (1) The owners of two or more separate parcels of land who are desirous of having water supplied to their lands by means of a joint water supply scheme may, whether or not the whole of the works are to be constructed on the land of one owner, make an application for an advance for the carrying out of works for that purpose. The provisions of subsection two of section three and of section four of this Act shall apply, mutatis mutandis, to and in respect of an application under this section.

(2) The amount of every advance made in pursuance of an application lodged under this section shall be repaid by the whole of the owners in such proportions as may be agreed upon between them. Notification of such proportions shall be given to the Commission when giving notification in accordance with subsection three of section four of this Act.

Repayment  
of advance  
secured by  
deed of  
charge.

**12.** (1) The repayment of every advance made under this Act together with interest as hereinbefore provided shall be secured by a deed of charge over the farming lands of the owner in such form as may be required by the Bank.

Where



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*Farm Water Supplies.*

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Where the advance is made to two or more owners under section eleven of this Act, each owner shall execute a deed of charge to secure the repayment of his respective proportion of the amount of the advance.

(2) Such deed of charge shall, where the works are to be carried out by any person or body, including the owner, other than the Commission, be expressed to be made between the owner of the farming lands and the Bank, and where the works are to be carried out by the Commission, be expressed to be made between the owner of the farming lands, the Commission and the Bank, and shall provide for the repayment of the amount advanced to such owner by consecutive half-yearly instalments within a period, not exceeding fifteen years, determined by the Commission, together with interest as aforesaid on the amount owing from time to time, and shall contain—

- (a) a condition to the effect that in the event of the owner failing to maintain the works in respect of which the advance is made to the satisfaction of the Commission the whole of the principal and interest secured by the charge shall at the option of the Bank become immediately due and payable; and
- (b) such other powers, covenants, provisions, conditions and clauses as the Bank determines.

(3) Where any works are to be carried out by the Commission such deed of charge shall be executed by the owner before the commencement of the construction of the works by the Commission and where any works are to be carried out by any person or body, including the owner, other than the Commission, such deed of charge shall be executed by the owner before any advance is made to the owner.

(4) Any sum payable under a deed of charge under this section shall be paid to the Bank and shall, until so paid, be and remain a charge in its favour on the land mentioned in the deed, and shall be recoverable by the Bank in any court of competent jurisdiction from the owner of the land for the time being.



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*Farm Water Supplies.*


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Commission  
may carry  
out work  
where  
advance is  
not made.

**13.** (1) Where the owner or occupier of any farming lands desires the Commission to carry out works and is prepared to pay in cash for the carrying out of such works, the Commission may carry out the works on such terms and conditions, including the charge to be paid therefor or the manner in which such charge is to be assessed, as may be agreed upon by the owner or occupier and the Commission.

(2) A certificate under the hand of one of the Commissioners constituting the Commission of the amount payable by the owner or occupier for any such works shall be forwarded to the owner or occupier, which certificate shall, where the charge to be paid for the works is the actual cost incurred by the Commission in carrying out the works, be accepted as final and conclusive evidence of the charge payable by the owner or occupier.

Such amount until paid shall be and remain a debt due to the Commission and if not paid in accordance with the terms and conditions agreed upon shall be recoverable by the Commission in any court of competent jurisdiction.

Commission  
may carry  
out investi-  
gations,  
prepare  
estimates,  
etc.

**14.** (1) The Commission may—

- (a) supervise, on behalf of any owner, the carrying out of any works on any farming lands; and
- (b) carry out surveys and investigations and prepare designs for and estimates of cost of any works proposed to be carried out on any farming lands.

(2) The charge to be paid to the Commission for any supervision or technical work carried out by it pursuant to the provisions of subsection one of this section may—

- (a) where so agreed between the owner and the Commission be paid for in cash by the owner;
- (b) be the subject of an advance under and in accordance with the provisions of this Act; or
- (c) be included in the amount of any advance which is made under and in accordance with the provisions of this Act for the carrying out of any works.

(3)



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*Farm Water Supplies.*


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(3) Where the charge for any supervision or technical work carried out by the Commission under the provisions of subsection one of this section is the subject of an advance under and in accordance with the provisions of this Act, or where any such charge is included in the amount of any advance being made under and in accordance with the provisions of this Act, the Bank shall, out of the moneys to be advanced to the owner, pay to the Commission the amount of such charge and any such amount paid by the Bank to the Commission shall, for the purposes of this Act, be deemed to have been advanced to the owner.

**15.** Where any works are to be carried out by the Commission under this Act the owner and the occupier of the farming lands on which the works are to be carried out shall for the purpose of enabling the Commission to carry out the said works grant to the Commission, its officers, workmen, servants, contractors or agents at all reasonable times, full and free right of ingress, egress and regress in, over or upon all or any of the farming lands and the right to the use of earth, stone, timber, gravel or sand or other materials or things dug, raised or obtained on such lands.

Entry on  
land and  
use of  
materials.

**16.** No work to which Part II of the Water Act, 1912, as amended by subsequent Acts, extends, which is proposed to be constructed or used for the purpose of—

Work to be  
licensed.

- (a) water conservation, irrigation, water supply, or drainage; or
- (b) the prevention of inundation of land and overflow of water thereon; or
- (c) changing the course of a river,

shall be carried out under the provisions of this Act, unless and until a license, permit or authority under the said Part II has been obtained for the work.

**17.** Any person—

- (a) who receives any advance from the Bank under this Act and in any manner directly or indirectly

Offences.

uses



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*Farm Water Supplies.*

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uses the same or permits the same to be used for any purpose other than the purpose for which the advance was made; or

(b) who, while any money is owing to the Bank in respect of any advance under this Act, without the consent of the Bank removes, sells or otherwise disposes of any machinery, plant or other thing forming part of any works for the carrying out of which such advance was made, shall be liable to a penalty not exceeding fifty pounds.

Regulations.

**18.** (1) The Commission may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying this Act into effect, and may by such regulations impose a penalty not exceeding twenty pounds for any breach thereof.

(2) The regulations shall—

- (a) be submitted to the Governor for his approval;
- (b) after approval by the Governor be published in the Gazette;
- (c) take effect from the date of publication thereof, or from a later date to be specified in the regulations; and
- (d) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session.

(3) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House, disallowing any regulation or part thereof, the regulation or part thereof shall thereupon cease to have effect.

Recovery  
of  
penalties.

**19.** Any penalty imposed by this Act or the regulations thereunder may be recovered in a summary manner in a court of petty sessions holden before a stipendiary or police magistrate.

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By Authority:

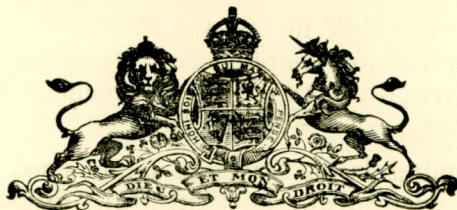
THOMAS HENRY TENNANT, Government Printer, Sydney, 1946.



*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. R. McCOURT,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 26 March, 1946.*

## New South Wales.



ANNO DECIMO

# GEORGII VI REGIS.

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## Act No. 22, 1946.

An Act to enable farmers to obtain advances for the purposes of carrying out works of water supply; to empower the Water Conservation and Irrigation Commission to carry out such works on behalf of farmers; and for purposes connected therewith. [Assented to, 4th April, 1946.]

**B**E 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 "Farm Water Supplies Act, 1946."

Short title and commencement.

(2) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

2.

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

G. BOOTH,  
*Chairman of Committees of the Legislative Assembly.*



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*Farm Water Supplies.*

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Interpre-  
tation.

**2.** In this Act, unless the context or subject matter otherwise indicates or requires—

“Bank” means the Rural Bank of New South Wales.

“Commission” means the Water Conservation and Irrigation Commission constituted under the Irrigation Act, 1912, as amended by subsequent Acts.

“Farming lands” means lands used for farming, agricultural, horticultural, viticultural, vegetable-growing, market gardening, pastoral or grazing purposes or any other lands which the Governor by proclamation published in the Gazette declares to be farming lands for the purposes of this Act.

“Owner,” in relation to land, includes every person who, jointly or severally, whether at law or in equity—

- (a) is entitled to the land for any estate of freehold in possession; or
- (b) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Acts or any other Act relating to the alienation of lands of the Crown; or
- (c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise; or
- (d) is the holder of a lease from the Crown or any statutory body representing the Crown.

“Works” means works necessary for the provision or improvement of the water supply to farming lands for domestic, stock or irrigation purposes, or for the preparation of land for irrigation.

**3.**



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*Farm Water Supplies.*

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**3.** (1) Any owner of farming lands who desires an advance for the purpose of the carrying out of works may make an application to the Commission for an advance. **Application for an advance.**

(2) Such application shall be in or to the effect of the prescribed form and shall be accompanied by the prescribed deposit as security for the cost of the investigation in connection with such application, and such deposit may be applied by the Commission in payment or part payment of the cost of such investigation.

**4.** (1) Upon receipt of an application the Commission shall decide whether or not an advance shall be made. **Commission may grant or refuse application.**

(2) In the event of the Commission deciding that an advance shall be made it shall furnish to the applicant a statement, setting out a description of the works it has approved should be carried out and, where the Commission so determines, the cost of the works as estimated by the Commission. Where the works are to be carried out by any person or body, including the owner, other than the Commission, the Commission shall set out in such statement the amount of the advance, not exceeding ninety per centum of the cost of the works as estimated by the Commission, which it has tentatively approved should be made.

Where the applicant desires the Commission to carry out the works and the Commission is prepared to carry out the works, the Commission shall set out in such statement the terms and conditions under which it is prepared to carry out the works, including the charge to be paid therefor or the manner in which such charge shall be assessed, and the amount, not less than ten per centum of the cost of the works as estimated by the Commission, to be paid to the Commission in accordance with subsection three of this section.

(3) If, on receipt of the statement referred to in subsection two of this section, the applicant is desirous of obtaining the advance, he shall notify the Commission to that effect in the prescribed form, and where he desires the works to be carried out by the Commission, the notification



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*Farm Water Supplies.*

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notification shall be accompanied by the amount set out in the statement referred to in subsection two of this section to be paid to the Commission.

Bank to  
make  
advances.

**5.** (1) In any case where the applicant notifies the Commission under subsection three of section four of this Act that he desires the advance such advance shall, subject to the provisions of this Act, be made by the Bank by way of loan bearing interest at such rate as may be fixed by the Bank and prevailing at the time the advance is made.

(2) The powers, authorities, duties and functions conferred or imposed upon the Bank by this Act shall be exercised and performed by the Bank through its Irrigation Agency.

(3) To the extent that the same are applicable and are not inconsistent with this Act, the provisions of Division I of Part VIb of the Government Savings Bank Act, 1906, as amended by subsequent Acts, shall apply to all moneys which become payable to or recoverable by or which are received by the Bank in pursuance of this Act.

Conditions  
precedent  
to  
advances.

**6.** No advance shall be made under this Act unless the Commission is satisfied—

- (a) that farming operations will be carried on on the farming lands efficiently and with a reasonable prospect of success; and
- (b) that the carrying out of the works in respect of such farming lands is necessary to ensure a more efficient carrying on of those operations on such lands.

Amount of  
advance  
where work  
not carried  
out by  
Commission.

**7.** The amount of any advance to be made to any owner where the works are to be carried out by any person or body, including the owner, other than the Commission, shall be finally determined by the Commission upon the completion of the works. Such amount shall not exceed ninety per centum of the actual cost incurred by the owner in respect of the carrying out of the works.

**8.**



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*Farm Water Supplies.*

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8. Where any works in respect of which an advance is to be made under this Act are carried out by any person or body, including the owner, other than the Commission, such advance shall be made in such manner as the Commission directs and upon the Commission certifying that the works have been carried out or are being carried out in a satisfactory manner and in accordance with the approval of the Commission.

Payment of advance where works not carried out by Commission.

For the purposes of this section, the Commission may by its officers and servants enter the lands of the owner and inspect the works.

9. (1) In any case where the owner desires the Commission so to do the Commission may for or on behalf of and at the cost of the owner carry out works in respect of which an advance is to be made under this Act.

Commission may carry out work where advance is made.

(2) Any works carried out by the Commission under this section shall be carried out on such terms and conditions, including the charge to be paid therefor or the manner in which such charge is to be assessed, as may be agreed upon by the owner and the Commission.

(3) Where the charge to be paid by the owner for any works carried out by the Commission under this section is the actual cost incurred by the Commission in carrying out the works, the amount of the actual cost shall include all proper supervision costs and overhead expenses and the certificate referred to in subsection five of this section shall be accepted as final and conclusive evidence of such actual cost.

(4) Where any works are carried out by the Commission under this section, the amount of the advance to be made by the Bank shall be the charge agreed to be paid by the owner to the Commission for the carrying out of the works less the amount paid to the Commission by the owner under the provisions of subsection three of section four of this Act.

(5) On completion of any such works carried out by the Commission, a certificate under the hand of one of the Commissioners constituting the Commission setting



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*Farm Water Supplies.*

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setting out the amount of the charge to be paid to the Commission for the carrying out of the works shall be forwarded to the Bank whereupon the amount of the advance shall be paid to the Commission by the Bank and thereupon the advance shall, for the purposes of this Act, be deemed to have been made to the owner.

Commission  
may let  
machinery,  
etc., on  
hire.

**10.** (1) The Commission may let on hire any machinery, plant or equipment for the purpose of the carrying out of works by an owner of farming lands.

(2) Where the Commission has let out on hire any machinery, plant or equipment for the purpose of carrying out any works in respect of which an advance is to be made under this Act, the Bank shall, out of the moneys to be advanced to the owner, pay to the Commission the amount of any such hire and any such amount shall, for the purposes of this Act, be deemed to have been advanced to the owner.

Works of  
joint  
water  
supply.

**11.** (1) The owners of two or more separate parcels of land who are desirous of having water supplied to their lands by means of a joint water supply scheme may, whether or not the whole of the works are to be constructed on the land of one owner, make an application for an advance for the carrying out of works for that purpose. The provisions of subsection two of section three and of section four of this Act shall apply, mutatis mutandis, to and in respect of an application under this section.

(2) The amount of every advance made in pursuance of an application lodged under this section shall be repaid by the whole of the owners in such proportions as may be agreed upon between them. Notification of such proportions shall be given to the Commission when giving notification in accordance with subsection three of section four of this Act.

Repayment  
of advance  
secured by  
deed of  
charge.

**12.** (1) The repayment of every advance made under this Act together with interest as hereinbefore provided shall be secured by a deed of charge over the farming lands of the owner in such form as may be required by the Bank.

Where



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*Farm Water Supplies.*

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Where the advance is made to two or more owners under section eleven of this Act, each owner shall execute a deed of charge to secure the repayment of his respective proportion of the amount of the advance.

(2) Such deed of charge shall, where the works are to be carried out by any person or body, including the owner, other than the Commission, be expressed to be made between the owner of the farming lands and the Bank, and where the works are to be carried out by the Commission, be expressed to be made between the owner of the farming lands, the Commission and the Bank, and shall provide for the repayment of the amount advanced to such owner by consecutive half-yearly instalments within a period, not exceeding fifteen years, determined by the Commission, together with interest as aforesaid on the amount owing from time to time, and shall contain—

- (a) a condition to the effect that in the event of the owner failing to maintain the works in respect of which the advance is made to the satisfaction of the Commission the whole of the principal and interest secured by the charge shall at the option of the Bank become immediately due and payable; and
- (b) such other powers, covenants, provisions, conditions and clauses as the Bank determines.

(3) Where any works are to be carried out by the Commission such deed of charge shall be executed by the owner before the commencement of the construction of the works by the Commission and where any works are to be carried out by any person or body, including the owner, other than the Commission, such deed of charge shall be executed by the owner before any advance is made to the owner.

(4) Any sum payable under a deed of charge under this section shall be paid to the Bank and shall, until so paid, be and remain a charge in its favour on the land mentioned in the deed, and shall be recoverable by the Bank in any court of competent jurisdiction from the owner of the land for the time being.



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*Farm Water Supplies.*

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Commission  
may carry  
out work  
where  
advance is  
not made.

**13.** (1) Where the owner or occupier of any farming lands desires the Commission to carry out works and is prepared to pay in cash for the carrying out of such works, the Commission may carry out the works on such terms and conditions, including the charge to be paid therefor or the manner in which such charge is to be assessed, as may be agreed upon by the owner or occupier and the Commission.

(2) A certificate under the hand of one of the Commissioners constituting the Commission of the amount payable by the owner or occupier for any such works shall be forwarded to the owner or occupier, which certificate shall, where the charge to be paid for the works is the actual cost incurred by the Commission in carrying out the works, be accepted as final and conclusive evidence of the charge payable by the owner or occupier.

Such amount until paid shall be and remain a debt due to the Commission and if not paid in accordance with the terms and conditions agreed upon shall be recoverable by the Commission in any court of competent jurisdiction.

Commission  
may carry  
out investi-  
gations,  
prepare  
estimates,  
etc.

**14.** (1) The Commission may—

- (a) supervise, on behalf of any owner, the carrying out of any works on any farming lands; and
- (b) carry out surveys and investigations and prepare designs for and estimates of cost of any works proposed to be carried out on any farming lands.

(2) The charge to be paid to the Commission for any supervision or technical work carried out by it pursuant to the provisions of subsection one of this section may—

- (a) where so agreed between the owner and the Commission be paid for in cash by the owner;
  - (b) be the subject of an advance under and in accordance with the provisions of this Act; or
  - (c) be included in the amount of any advance which is made under and in accordance with the provisions of this Act for the carrying out of any works.
- (3)