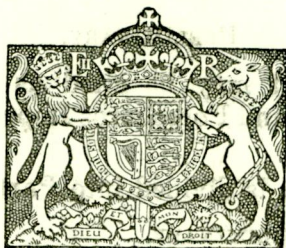


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New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 12, 1955.

An Act to limit the right of future acquisition of freehold tenures within irrigation areas; to make further provision with respect to the licensing of bores; to regulate the removal of soil from or adjacent to the banks of rivers; to make further provision for the reduction of rentals payable in respect of certain classes of tenures within irrigation areas; for these and other purposes to amend the Irrigation Act, 1912-1954, the Crown Lands Consolidation Act, 1913, the Water Act, 1912-1952, the Rivers and Foreshores Improvement Act, 1948, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 12th April, 1955.]

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

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

PART I.

PRELIMINARY.

Short title,
division
into Parts
and
citation.

1. (1) This Act may be cited as the "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955."

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—AMENDMENT OF THE IRRIGATION ACT, 1912-1954.

PART III.—AMENDMENT OF THE CROWN LANDS CONSOLIDATION ACT, 1913.

PART IV.—AMENDMENT OF THE WATER ACT, 1912-1952.

PART V.—AMENDMENT OF THE RIVERS AND FORESHORES IMPROVEMENT ACT, 1948.

PART VI.—AMENDMENT OF THE WESTERN LANDS ACT OF 1901.

PART VII.—AMENDMENT OF THE MURRUMBIDGEE IRRIGATION AREAS OCCUPIERS RELIEF ACT, 1934.

PART VIII.—MISCELLANEOUS.

(3) The Irrigation Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Irrigation Act, 1912-1955.

(4) The Water Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Water Act, 1912-1955.

(5) The Rivers and Foreshores Improvement Act, 1948, as amended by this Act, may be cited as the Rivers and Foreshores Improvement Act, 1948-1955.

PART

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

PART II.

AMENDMENT OF THE IRRIGATION ACT, 1912-1954.

2. The Irrigation Act, 1912-1954, is amended—

Amendment
of Act No.
73, 1912.

(a) by omitting from section five the words “five hundred” wherever occurring and by inserting in lieu thereof the words “two thousand”; Sec. 5.
(Appoint-
ment of
officers.)

(b) by inserting next after section 5E the following new section:— New sec.
5F.

5F. Any person who at the date of commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, is in the service of the Commission and whose yearly salary at such date does not exceed two thousand pounds shall, for the purpose of section five, section 5A and section 5B of this Act, be deemed to have been appointed by the Commission. Certain
persons
deemed
to have
been
appointed
by
Commission.

3. The Irrigation Act, 1912-1954, is further amended—

Further
amendment
of Act No.
73, 1912.

(a) by inserting next after section 8B the following new section:— New sec.
8C.

8C. (1) (a) It shall be a function of the Commission to make provision for— Further
functions
and powers
of
Commission.

(i) the systematic gauging and recording of the volume and flow of rivers and streams, and of the volume of lakes and lagoons within the State and the effect of climatic conditions upon such volume; and

(ii) the gathering and recording of such data concerning the ground water resources of the State as the Commission may deem practicable.

(b)

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(b) The Commission may publish and make available any information so ascertained or gathered.

(2) The Commission may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable to enable it effectively to carry out all or any of its powers, authorities, duties and functions under this or any other Act and without limiting the generality of the foregoing may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable—

(a) to ascertain potential sites for works of water storage or water supply and the practicability and cost of constructing any such works;

(b) to ascertain the nature and extent of lands capable of being supplied with water from any existing or proposed works of water storage or water supply and the means whereby such lands may be so supplied;

(c) to ascertain the necessity of and potential sites for works for flood mitigation or flood control and the practicability and cost of constructing any such works;

(d) to ascertain the nature and extent of lands capable of being protected or partially protected from flooding or inundation by any works of flood mitigation or flood control;

(e) to ascertain the existence and location of subterranean waters and the character and quality thereof.

(3) The Commission, in the exercise of its powers, authorities, duties and functions under this or any other Act, may by its officers, servants,

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servants, workmen or agents enter upon any lands and do all such things as may be requisite for the purpose of—

(a) making and carrying out such inspections, tests, investigations, surveys, experiments and boring, drilling and other explorations as the Commission may deem necessary for the full and effective exercise of any of its powers, authorities, duties and functions under this or any other Act; or

(b) constructing, maintaining, operating, or altering any works,

or for any other purpose connected with or related to or incidental to the exercise of any of its powers, authorities, duties and functions under this or any other Act, notwithstanding an easement or right so to enter or use such lands may not have been granted or acquired.

The powers conferred by this subsection shall be additional to and not in substitution for any other powers elsewhere conferred on the Commission.

(4) In the exercise of any of the powers conferred by subsection three of this section the Commission shall inflict as little damage as may be and shall make full compensation to all parties interested for all damage sustained by them in consequence of the exercise of such powers.

(b) by omitting subsection four of section nine.

Sec. 9.
(Commis-
sion to
construct
works, etc.)

4. The Irrigation Act, 1912-1954, is further amended—

Further
amendment
of Act
No. 73, 1912.

(a) by inserting in section 11A after the word “shall” the words “except as hereinafter provided”;

Sec. 11A.
(Application
of ss.
11B-11F.)

(b)

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Sec. 11c.
(Conversion
of lease-
holds.)

- (b) by inserting next after subsection one of section 11c the following new subsections:—

(1A) The lessee of an irrigated lot within the irrigation area constituted under the provisions of the Wentworth Irrigation Act shall not be entitled to purchase such lot unless the land comprising such lot has, throughout the whole of the period from the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, to the date of notification of his intention to purchase—

- (a) been leased land by way of lease subsisting at such commencement and of any new lease granted from time to time during such period; and

- (b) been held by—

- (i) the lessee under the lease subsisting at such commencement; or
(ii) that lessee and any lessee who became lessee by transfer or assignment from or devolution under the will or intestacy of any immediately prior lessee.

(1B) The lessee of an irrigated lot within the irrigation area constituted under the provisions of the Hay Irrigation Act, 1902, shall not be entitled to purchase such lot unless he has prior to the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, notified the Commission on the form and in the manner prescribed of his intention to purchase such lot.

5. The Irrigation Act, 1912-1954, is further amended—

- (a) by omitting subsection four of section twelve;

(b)

Further
amendment
of Act No.
73, 1912.
Sec. 12.
(Water
rights.)

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- (b) by inserting in subsection one of section thirteen after the words "such additional water rights" the following new paragraph:—

Sec. 13.
(Additional
water
rights.)

After the full quantity of water to which an occupier is entitled pursuant to the water rights attached to his land and to any additional water rights which may have been allotted to him has been supplied, the Commission may, on application by the occupier, supply him with additional water at such charges as the Commission may determine.

- (c) by inserting next after section thirteen the following new section:—

New sec.
13A.

13A. (1) Where the Commission is prepared to make available and makes available to any land a supply of water solely during the hours of daylight, it may impose such special charge per acre foot for all water so supplied as it may from time to time determine. Notification of any such determination shall be published in the Gazette.

Supply of
water during
hours of
daylight.

(2) The special charge shall be in addition to the charges for any water rights which are attached to the land and for any additional water rights and for any water supplied to the land additional to the water supplied pursuant to such water rights and additional water rights.

(3) The special charge shall be determined by the Commission having regard to the additional cost per acre foot which the Commission estimates will be incurred by it in supplying water solely during the hours of daylight.

(4) The special charge shall be paid by the occupier of the land on or before the thirtieth day of June in each year in respect of water supplied during the year ending on the said thirtieth day of June.

(5)

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(5) In this section "acre foot" means such a quantity of water twelve inches deep as would cover an area of one acre.

Sec. 15.
(Payment of
charges.)

- (d) (i) by inserting in subsection one of section fifteen after the word "Act" where thirdly occurring the words "or for maintenance charges arising in relation to the supply of water";
- (ii) by omitting from the same subsection the words "as and when directed by the bank";
- (iii) by inserting at the end of the same subsection the following new paragraph:—

The charges in respect of water rights which are attached to the land, the charges in respect of additional water rights, and the charges in respect of the water supplied to the land additional to water supplied pursuant to such water rights and additional water rights shall be paid at the times and in the manner prescribed, and all other rates or charges for water and maintenance charges shall, except where otherwise expressly provided, be paid at the times and in the manner determined by the Commission and when no such determination has been made then at such times and in such manner as may have been agreed between the Commission and the occupier.

Further
amendment
of Act No.
73, 1912.
New sec.
17AA.

6. The Irrigation Act, 1912-1954, is further amended—

- (a) by inserting next after section 17A the following new section:—

17AA. Any person who destroys, damages or interferes in any way with any work, structure or other thing whatsoever vested in or made, constructed or provided by or otherwise under the control or management of the Commission shall where no other provision is expressly made by any other section of this Act be liable upon

Damage
to or
interference
with works.

summary

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summary conviction to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding three months: Provided that nothing in this section shall in any way affect any liability to which any person who commits a breach of this section may be subject under any other Act or at common law but such person shall not be liable to be punished twice for the same offence.

- (b) by inserting in subsection three of section eighteen after the word "Area" where thirdly occurring the words "and any other irrigation area constituted or which may be constituted under the provisions of this Act"; Sec. 18.
(Collection of rents, etc.)
- (c) by omitting from the same subsection the words and figures "and Part VII" and by inserting in lieu thereof the words and figures "Part VII and Part VIII".

PART III.

AMENDMENT OF THE CROWN LANDS CONSOLIDATION ACT,
1913.

7. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is amended— Amendment of Act No 7, 1913.

- (a) by inserting at the end of subsection two of section one hundred and forty the following proviso:— Sec. 140.
(Applications for holdings.)

Provided that in the case of lands set apart for disposal in accordance with the provisions of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, the survey fee shall not be required to accompany an application but shall be paid by the successful applicant at a time and in a manner to be specified in the notification under paragraph (d) of subsection two of section one hundred and thirty-nine of this Act that the lands are available for disposal.

(b)

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Sec. 142.
(Conditions
etc., of
irrigation
farm
purchases.)

(b) (i) by omitting from subsection five of section one hundred and forty-two the word "six" and by inserting in lieu thereof the word "three";

(ii) by inserting in paragraph (a) of subsection six of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";

(iii) by omitting from paragraph (c) of the same subsection the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";

(iv) by omitting paragraph (d) of the same subsection and by inserting in lieu thereof the following paragraph:—

(d) A condition to the effect that the land or any specified part of the land shall not be used to plant—

(i) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or

(ii) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or areas specified in the condition,

may be attached to any irrigation farm purchase after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955,

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1955, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such irrigation farm purchase.

- (c) (i) by omitting from subsection four of section 142D the word "six" and by inserting in lieu thereof the word "three"; Sec. 142D.
(Conditions.
&c., of
leases
within
irrigation
areas.)
- (ii) by inserting in subsection seven of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- (iii) by omitting from subsection eight of the same section the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- (iv) by omitting subsection nine of the same section and by inserting in lieu thereof the following subsections:—

(9) A condition to the effect that the land or any specified part of the land shall not be used to plant—

- (a) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or
- (b) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or areas specified in the condition,

may be attached to any lease after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement
(Amendment)

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(Amendment).*

(Amendment) Act, 1955, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such lease.

(9A) (a) The Minister may, at any time, with the consent of the holder of the lease, by instrument under his hand in the prescribed form, cancel or vary any condition mentioned in subsection seven, subsection eight or subsection nine of this section on such terms and conditions as he thinks fit and the condition as so varied shall, whether or not the perpetual lease grant has issued, be the condition attaching to the land.

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

Sec. 145.
(Conversion
of I.F.L.
to I.F.P.,
&c.)

- (d) (i) by inserting at the end of subsection one of section one hundred and forty-five the words "or to an irrigation farm lease or a non-irrigable lease described in any notification in the Gazette under the provisions of section one hundred and thirty-nine of this Act as suitable for farming purposes, granted after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- (ii) by inserting in subsection three of the same section after the word "determined" the words "as at the date of receipt by the Commission of the notification referred to in subsection two of this section";
- (iii) by inserting at the end of paragraph (d) of subsection five of the same section the following new paragraphs:—

(e) Where any lease converted under this section is subject to a transfer by way of mortgage

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mortgage registered in the books of the Commission such transfer shall be—

- (i) deemed to extend and always to have extended to the purchase into which the lease has been converted in the same manner as it applies to the lease; and
- (ii) recorded in the books of the Commission as a transfer of the purchase.

The provisions of this paragraph shall not apply to a transfer by way of mortgage of a lease in respect of which a perpetual lease grant has been issued where such transfer was registered in the books of the Commission before the issue of such perpetual lease grant.

(f) Where immediately preceding the conversion of any lease under this section an easement is appurtenant to or a burden upon any land comprised in such lease such easement shall after such conversion continue to be appurtenant to or a burden upon such land.

(g) Where a perpetual lease grant has issued in respect of any lease converted under this section and the Commission lodges with the Registrar-General with the surrender referred to in subsection two of this section a notification that the lease has been converted into a purchase, the Registrar-General shall register such surrender without requiring that any easement to which the land is subject shall be released or that any mortgage or other security to which the land is subject shall be discharged.

(h) Paragraphs (e), (f) and (g) of this subsection shall apply to conversions whether effected before or after the commencement of the Irrigation, Water and Rivers and

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and Foreshores Improvement (Amendment) Act, 1955.

Further
amendment
of Act No.
7, 1913.

8. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended—

Sec. 147D.
(Applica-
tion to
Minister
to acquire
private
lands.)

(a) (i) by inserting in subsection one of section 147D after the words “irrigation farm lease” the words “or a non-irrigable lease”;

(ii) by inserting next after subsection four of the same section the following new subsections:—

(4A) The application whether made before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, may with the consent of the owner or owners of the private lands proposed to be included or excluded or the price of which is proposed to be increased or decreased and the approval of the Minister be varied by including therein additional private lands or excluding therefrom part of the lands included therein or by increasing or decreasing the price specified in the application.

(4B) The consent of the owner or owners under subsection one of this section whether given before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, and the consent of the owner or owners under subsection (4A) of this section shall not be withdrawn before the expiration of sixty days after such owner or owners has or have given to the Minister notice in writing of his or their intention so to withdraw: Provided that in no case shall such consent be withdrawn after the Minister has approved of the purchase.

(b)

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- (b) by omitting from section 147E the words “such lands” where firstly occurring and by inserting in lieu thereof the words “the lands the subject of such application”. Sec. 147E.
(Valuation.)
- (c) (i) by inserting in section 147G after the word “made” where firstly occurring the words “or varied”; Sec. 147G.
(Purchase of land.)
- (ii) by inserting in paragraph (c) of the same section after the words “irrigation farm lease” the words “or a non-irrigable lease”;
- (iii) by inserting at the end of the same section the words “or he may at his discretion refuse the application: Provided that the Minister shall not so approve where in his opinion the amount of capital (including shares in any company or any interest in any land) held by any applicant or by his or her spouse or by his or her parent or parents is such as to warrant refusal of the application”;
- (d) by omitting from subsection one of section 147H the words “Where, under section 147D of this Act, an application has been made to the Minister to acquire any lands and the Minister has approved of the purchase of such lands” and by inserting in lieu thereof the words “Where the Minister has approved of the purchase of lands”; Sec. 147H.
(Vesting of land in the Crown.)
- (e) (i) by inserting at the end of paragraph (a) of subsection one of section 147J the following words “or non-irrigable leases”; Sec. 147J.
(Vesting of land in applicant.)
- (ii) by inserting next after the same paragraph the following new paragraphs:—
 - (a1) Any lands deemed by the Minister to be necessary for roads, or any purpose which he considers to be a community

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community purpose or a public purpose, or any lands which the Minister considers should be excluded for any reason may be excluded from the holdings and any adjacent Crown lands may be included in such holdings.

- (a2) The subdivision may be made into holdings before the holdings are measured, and in such case the holdings may be notified under paragraph (c) of this subsection according to the design thereof.
- (iii) by inserting in subparagraph (vi) of paragraph (c) of the same subsection after the words "irrigation farm lease" the words "or a non-irrigable lease";
- (iv) by inserting in subsection four of the same section after the words "irrigation farm lease" where firstly occurring the words "or a non-irrigable lease";
- (v) by inserting in the same subsection after the words "irrigation farm lease" where secondly and thirdly occurring the words "or non-irrigable lease";
- (vi) by inserting next after the same subsection the following new subsections:—
- (4A) Where a holding has been measured after publication in the Gazette of a notification under paragraph (c) of subsection one of this section any necessary adjustment shall thereafter be made as to the area and annual rental of the holding and of the nature and value of any improvements which are the property of the Crown and which are to be paid for by the incoming tenants

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tenants, and of the terms and conditions upon which payment for the improvements shall be made.

(4B) Any lands excluded from the holdings under paragraph (a1) of subsection one of this section may be retained by the Crown either permanently or for a limited period and the Commission may expend moneys necessary to maintain adequately such lands and the improvements thereon, and, if necessary, to replace improvements on such lands during such time as they are retained by the Crown. Such lands may be used for such purposes or leased by the Commission for such terms and upon such conditions as the Minister may approve, or may be otherwise disposed of under the provisions of this Act.

- (vii) by inserting in subsection five of the same section after the words "irrigation farm lease" the words "or a non-irrigable lease";
- (viii) by inserting in the same subsection after the words "irrigation farm purchase" the words "or a non-irrigable purchase";
- (ix) by inserting in subsection six of the same section after the words "irrigation farm leases" the words "or non-irrigable leases";
- (f) by inserting in subsection two of section 147K Sec. 147K. after the words "irrigation farm lease" the (Penalties.) words "or a non-irrigable lease".

9. The Crown Lands Consolidation Act, 1913, as Further amendment of Act No. 7, 1913. amended by subsequent Acts, is further amended—

- (a) by inserting in subsection one of section one hundred and ninety-seven after the word "settlement" where firstly occurring the words (Exchanges and purchases for public purposes.) "or purposes.)"

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“or for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown”;

- (b) by omitting from the same subsection the words “The local land board” where firstly occurring and by inserting in lieu thereof the words “Except as hereinafter provided the local land board”;
- (c) by inserting at the end of the same section the following new subsections:—

(5) In the application of the provisions of this section to any exchange or purchase or resumption of land for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown, the following provisions shall have effect—

- (a) the provisions of subsection one of this section relating to inquiry into and report by the local land board upon any application or proposal for the exchange or purchase or resumption of any land and determination of the values of any land to be acquired or granted in pursuance thereof and the price to be paid for the land resumed shall not apply;
- (b) subsection one of this section shall be read and construed as if for the words “the Minister” where thirdly occurring there were substituted the words “the Commission”;
- (c) the compensation to be paid in respect of any resumption to which this subsection applies shall be the value of the land as determined by an advisory board or the Land and Valuation Court on appeal;

(d)

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- (d) subsection two of this section shall be read and construed as if for the words "a local land board" there were substituted the words "an advisory board";
- (e) in determining the value of the land as referred to in paragraph (c) of this subsection—
 - (i) the provisions of paragraph (b) of subsection four of section four of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall be taken into account; and
 - (ii) there shall be excluded any added value which would accrue or has accrued to the land from the construction or utilisation of the works of any district or provisional district constituted under the provisions of Part VI of the Water Act, 1912, as amended by subsequent Acts;
- (f) the provisions of sections nine and ten of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall mutatis mutandis apply to and in respect of any resumption to which this subsection applies;
- (g) the provisions of subsection one of this section as amended by this subsection shall extend to the resumption of any public road;
- (h) in this subsection the expression "advisory board" means a Closer Settlement Advisory Board constituted under section two of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts.

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cf. Act
No. 42,
1910,
s. 6 (2B).

(6) Where any public road is resumed under the authority of this section in connection with the resumption of lands for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown the following provisions shall notwithstanding anything contained in this section have effect:—

- (a) the municipal or shire council within whose area the public road so resumed is situated shall be entitled to claim compensation therefor;
- (b) subject to paragraphs (c) to (j) inclusive of this subsection the compensation shall be an amount not exceeding the capital sum spent by the council upon the construction of the road together with the sum, if any, paid by the council for purchase or resumption of the land therefor;
- (c) in any case where the council decides that it is necessary to purchase or resume and construct a new road to replace that resumed it shall notify the Commission of its decision;
- (d) any notification referred to in paragraph (c) of this subsection shall be accompanied by a plan of the location of the proposed new road, together with an estimate of the cost of the purchase or resumption and construction of the proposed new road;
- (e) where, having regard to the requirements of the public as at the date upon which the public road is resumed, the Commission is of opinion—
 - (i) that it is not necessary to replace the road resumed; or

(ii)

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- (ii) that the location of the proposed new road is not satisfactory; or
- (iii) that the cost of the purchase or resumption and construction of the proposed new road is excessive; or
- (iv) that, for any reason whatsoever, the decision of the council should not be carried out either wholly or in part—

the Commission shall notify the council accordingly;

- (f) the notification referred to in paragraph (e) of this subsection shall be accompanied by—
 - (i) a statement setting out the grounds upon which the opinion of the Commission is based;
 - (ii) details of any alternative proposal which in the opinion of the the Commission should be adopted, together with such plans and estimates of costs (if any) as may be necessary to provide the council with full information in relation to the carrying out of such alternative proposal;
- (g) any matter in dispute between the council and the Commission under paragraphs (e) and (f) of this subsection may be referred by either the council or the Commission to the Land and Valuation Court in accordance with rules of court;
- (h) the Land and Valuation Court shall have jurisdiction to hear and determine any matter referred to it pursuant to
the

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- the provisions of paragraph (g) of this subsection and that court may in its discretion award such costs as it thinks fit in relation to any matter so referred;
- (i) the determination of the Land and Valuation Court in relation to any matter referred to it under the provisions of paragraph (g) of this subsection shall be final and shall be carried into effect by the council and the Commission;
 - (j) where the Land and Valuation Court by its determination decides that it is necessary to replace any public road to which the provisions of this subsection apply the amount of compensation shall be such sum, not exceeding the cost of purchase or resumption and construction of the new road, as the said court may determine and in making such determination the said court shall have regard to the actual condition of such public road as at the date of resumption and to the extent to which the same was used by the public before that date and also to any damage to the road caused by the Commission before that date;
 - (k) any amount paid to the council by way of compensation pursuant to the provisions of paragraphs (c) to (j) inclusive of this subsection shall be placed by the council in a trust fund until expended on such new road.
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PART IV.

AMENDMENT OF THE WATER ACT, 1912-1952.

10. The Water Act, 1912-1952, is amended—

Amendment
of Act No.
44, 1912.

- (a) by inserting at the end of the definition of “River” in subsection three of section 4A the words “and includes those waters of a tidal river which are at any time capable of being used for irrigation or for watering stock”;
- (b) (i) by omitting from the definition of “Joint water supply scheme” in section five the words “but not all”;
- (ii) by inserting at the end of the same definition the words “and includes any work to which this Part extends which is used or proposed to be used for the purpose of supplying water for irrigation by any occupier or occupiers other than the occupier or occupiers of the site of the work”;
- (iii) by inserting at the end of the definition of “River” in the same section the words “and includes those waters of a tidal river which are at any time capable of being used for irrigation or for watering stock”;
- (c) by inserting in subsection one of section 17c next after the word “servants” the words “or agents”;
- (d) by inserting next after subsection three of section 18B the following new subsection:—
- (3A) Notwithstanding the provisions of subsections two and three of this section—
- (a) where any such license is held by a member of the forces, discharged member of the forces, discharged soldier, other eligible person, member of the Korea and Malaya Operations Forces or discharged member of the

Sec. 4A.
(Right to
flow of
water.)

Sec. 5.
(Interpreta-
tion.)

Sec. 17c.
(Power to
enter and
remove
works.)

Sec. 18B.
(Classifica-
tion of
existing
licenses and
authorities.)

Korea

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(Amendment).*

Korea and Malaya Operations Forces as defined in the War Service Land Settlement Act, 1941, as amended by subsequent Acts, (hereinafter in this Division referred to as a war service settler) in respect of any work to which this Part extends which is used in connection with a holding set apart for disposal in accordance with the provisions of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, or acquired under the provisions of Part IVA of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts (hereinafter in this Division referred to as a war service holding) such license shall be classified as Class A; and

- (b) in the case of any such authority, where the whole of the lands within the joint water supply scheme the subject of the authority are war service holdings, such authority shall be classified as Class A.

Subst.
sec. 18c.

- (e) by omitting section 18c and by inserting in lieu thereof the following section:—

Classifica-
tion of
new licenses
and
authorities.

18c. Any license or authority to appropriate water for the purpose of irrigation from a river or lake or section of a river in respect of which a proclamation has been made under the provisions of section 18A of this Act, which is granted after the date of such proclamation, shall—

- (a) if any such license is granted to a war service settler in respect of any work to which this Part extends which is used in connection with a war service holding, be classified by the Commission as a Class A license;

(b)

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(b) if, in respect of any such authority the whole of the lands within the joint water supply scheme the subject of the authority are war service holdings, be classified by the Commission as a Class A authority; and

(c) in every other case, be classified by the Commission as a Class C license or authority.

(f) (i) by inserting next after subsection seven of section 18D the following new subsection:—

Sec. 18D.
(Reclassification of
licenses and
authorities.)

(7A) If at any time a war service settler becomes the holder of a license which has been classified or reclassified by the Commission as a Class B or a Class C license and the licensed work is used in connection with a war service holding, such license shall be reclassified by the Commission as a Class A license.

(ii) by inserting at the end of the same section the following new subsection:—

(9) (a) Notwithstanding the provisions of subsection eight of this section, a license which is held by a war service settler in respect of any work to which this Part extends which is used in connection with a war service holding shall not, except as provided in subsection (7A) of this section, be subject to reclassification by the Commission for a period of five years from the date upon which the license commenced to be held by the war service settler.

(b) Notwithstanding the provisions of subsection eight of this section, where the whole of the lands within a joint water supply scheme the subject of an authority are war service holdings, the authority shall

(c)

not

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(Amendment).*

not be subject to reclassification by the Commission for a period of five years from the date of the granting of the authority.

11. The Water Act, 1912-1952, is further amended by inserting next after section thirty-eight the following new section:—

Further
amendment of
Act No. 44,
1912.

New sec.
38A.

Transfer of
Crown bores
to trusts.

38A. (1) Where a trust has been constituted on terms that the trust shall pay a charge for water to be supplied by the Crown from works which include a bore and the Commission is of the opinion that such works should be taken over, administered and managed by the trust, the Commission may notify in the Gazette and in some newspaper circulating in the trust district a proposal that the works by means of which water is supplied to the trust shall be transferred to the trust to be so taken over, administered and managed and that the trust shall be required to repay the value of the works.

(2) Any such proposal shall embody—

- (a) a description of the works;
- (b) a statement of the value of the works;
- (c) a statement of the terms upon which the trust shall repay the value of the works and interest thereon specifying—
 - (i) that such repayment be made by the provision of a sinking fund;
 - (ii) the rate of interest which shall be paid by the trust on the value of the works;
 - (iii) the number of years within which such repayment shall be made;
- (d) if it is proposed to vary the maximum rate which may be assessed by the trust, a revised maximum rate which may be assessed by the trust after the works have been transferred to the trust; and
- (e) such other provisions as the Commission may deem necessary or desirable.

(3)

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(Amendment).*

(3) If within eight weeks after such notification a petition is presented to the Commission, signed by at least one-third in number of the owners of land within the trust district, objecting, upon grounds stated in the petition, to—

- (a) the value of the works;
- (b) the number of years within which the repayment referred to in paragraph (c) of subsection two of this section is to be made;
- (c) the revised maximum rate (if any) which may be assessed by the trust,

the Commission shall refer the matter or matters regarding which objection has been so made to the Board for inquiry and report.

(4) If within the said period no such petition is received, or upon receipt of the report of the Board in respect of any reference to it pursuant to the provisions of subsection three of this section, as the case may be, the Governor by proclamation in the Gazette may—

- (a) transfer to the trust the works described in the proposal referred to in subsection one of this section upon the terms set out in such proposal with such amendments, if any,—

- (i) where no reference has been made to the Board, as the Commission may think fit; or

- (ii) in any other case, as the Board may recommend; and

- (b) appoint a date, hereinafter called the “transfer day”, not being earlier than the date of publication of the proclamation, on and from which the transfer of the works to the trust shall be and become effective.

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(Amendment).*

(5) Upon the transfer day the following provisions shall take effect:—

- (a) the trust shall take over and shall thereafter administer and manage the works so transferred and in respect thereof may exercise all the powers and shall discharge all the duties conferred and imposed by this Part in respect of works taken over by or in charge of a trust, except such powers as are conferred solely on the Commission;
- (b) the trust shall become liable to repay the value of the works and interest and the charge for interest and payments to the sinking fund shall commence to run;
- (c) the liability of the trust to pay the charge for water to be supplied by the Crown shall cease and determine: Provided that—
 - (i) nothing in this paragraph shall be deemed to discharge or to modify or affect in any way the liability of the trust to pay for water supplied by the Crown at any time prior to the transfer day;
 - (ii) the charge for water to be supplied by the Crown in respect of the period then current shall be deemed to accrue from day to day and be apportioned accordingly;
 - (iii) if the trust has paid the charge for water to be supplied by the Crown in respect of the period then current, the proportion thereof which relates to that part of such period as has not elapsed on the transfer day shall be credited towards the liability of the trust in respect of charges for interest

(c)

and

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(Amendment).*

and payments to the sinking fund pursuant to the provisions of this section;

(iv) if the charge for water to be supplied by the Crown in respect of the period then current has not become due and payable, the trust shall, unless such charge has been paid by the trust, be liable to pay and shall pay the proportion thereof which relates to that part of the said period which has elapsed on the transfer day on the date which but for this section would have been the due date for payment of such charge next ensuing after the transfer day;

(d) the revised maximum rate (if any) specified in the proposal referred to in subsection one of this section or any amendment thereof made by the proclamation referred to in subsection four of this section shall be and become the maximum rate which may be assessed by the trust thereafter and the trustees may assess rates up to such revised maximum notwithstanding that a rate may already have been fixed and levied in respect of the rating year then current;

(e) the trust shall from such transfer day observe and perform all of the terms and conditions upon which the works have been transferred.

(6) Notwithstanding anything contained in this section the trust may, subject to the approval of the Commission, have the option of repaying the value of the works by a lump sum or in a less number of years than the period determined under the foregoing provisions of this section for such repayment.

(7)

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(Amendment).*

(7) (a) In this section the expression “the value of the works” means the value, as determined by the Commission or where varied under the foregoing provisions of this section as so varied, of the works by means of which water is supplied to a trust by the Crown.

(b) In determining such value the Commission shall—

- (i) determine the value as at the date of the notification in the Gazette of the proposal referred to in subsection one of this section;
- (ii) if the charge for water to be supplied by the Crown to be paid by a trust to which this section applies has been fixed to include the payment of the cost of the works, take into consideration the amount which has been paid by the trust towards the cost of the works; and
- (iii) have regard to any certificate issued under the provisions of section 73D of this Act.

Further
amendment of
Act No. 44,
1912.

12. The Water Act, 1912-1952, is further amended—

Sec. 105.
(Definition.)

- (a) by omitting from section one hundred and five the definition ““Bore” and “Well”” and by inserting in lieu thereof the following definition:—

“Bore” means any bore or well or any excavation or other work connected or proposed to be connected with sources of sub-surface water and used or proposed to be used or capable of being used to obtain supplies of such water whether the
water

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(Amendment).*

water flows naturally at all times or has to be raised either wholly or at times by pumping or other artificial means, but does not include a work to which Part II of this Act extends.

- (b) by omitting section 111A; Sec. 111A.
(Boundaries.)
- (c) by omitting from subsection one of section one hundred and twelve the words "to increase the flow of water therefrom"; Sec. 112.
(Wells to be licensed.)
- (d) by inserting in subsection two of section one hundred and thirteen after the word "bore" where secondly occurring the words "or the circumstances so warrant"; Sec. 113.
(Application for license.)
- (e) by omitting from subsection one of section one hundred and fourteen the words "in the case of an application with respect to an artesian bore"; Sec. 114.
(Inquiry.)
- (f) by omitting section one hundred and fifteen and by inserting in lieu thereof the following sections:— Subst.
sec. 115
and new sec.
115A.

115. (1) In any case where an application has not been advertised pursuant to subsection two of section one hundred and thirteen of this Act the Commission shall, as soon as practicable after it has investigated and considered the application, issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper. Issue of
license.

(2) In any other case the Commission shall—

- (a) where an inquiry has been held pursuant to section one hundred and fourteen of this Act and the board reports in favour of the issuing of a license; or

(b)

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(Amendment).*

- (b) where no inquiry has been held pursuant to section one hundred and fourteen of this Act and the Commission decides to grant the application,

on payment of the prescribed fee issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.

Licensing
of existing
bores or
wells.

115A. (1) Every owner of land upon which at the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, there exists a bore or a partially constructed bore for the sinking of which a license under the provisions of this Part has not been issued shall within a period of twelve months after such commencement notify the Commission in writing of the existence of each such bore and shall make application for a license for and in respect of each such bore.

(2) The provisions of subsection one of section one hundred and thirteen shall, mutatis mutandis, apply to and in respect of an application under this section.

(3) The Commission shall, as soon as practicable after receipt of an application under this section, issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.

(4) Any person who contravenes the provisions of this section shall, upon conviction, be liable to a penalty not exceeding one hundred pounds and a further penalty not exceeding five pounds for each day during which the contravention continues after such conviction.

Sec. 117.
(Benefit of
license.)

- (g) by omitting from section one hundred and seventeen the word "well" and by inserting in lieu thereof the word "bore";

(h)

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(Amendment).*

- (h) by omitting from section one hundred and eighteen the word "well" wherever occurring and by inserting in lieu thereof the word "bore";
- (i) by inserting next after section one hundred and eighteen the following new section:—

Sec. 118.
(Penalty for alterations of licensed well or contravention of license.)

New sec. 118A.

Drillers to be licensed.

118A. (1) No person shall, after the expiration of three months from the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, act as a driller on or in connection with the construction of a bore on any land other than that of which he is the owner or occupier unless he is the holder of a driller's license issued by the Commission.

(2) Any person who contravenes the provisions of subsection one of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction.

(3) A driller's license may be issued by the Commission to any competent and capable person upon application being made therefor in writing and upon the Commission having been furnished with such information as to the competency and capability of the applicant as it may require.

(4) A holder of a driller's license who acts as a driller on or in connection with the construction of a bore shall, upon demand being made by the Commission and within such time as the Commission may specify, furnish to the Commission or to such person as the Commission may direct and in such form as the Commission may require, such information relating to—

- (a) the nature and thickness of the various strata met with during the drilling performed by him in connection with the bore;

(b)

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(Amendment).*

- (b) the location, quantities and quality of all supplies of water met with during such drilling;
- (c) the height each such supply of water stands relative to the natural surface of the ground at the site of the bore; and
- (d) the depth, diameter and other particulars of the bore and the casing inserted in the bore,

as the Commission may require.

(5) Any driller who contravenes the provisions of subsection four of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and to a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction and, in addition to the imposition of the said penalty, the Commission may cancel his driller's license.

(6) The Commission may at any time cancel any license issued pursuant to subsection three of this section if in its opinion the holder of the license is or has become incompetent or incapable or is not a fit and proper person to continue to be licensed as a driller or for such other good and sufficient cause as to the Commission seems proper.

(7) No person shall be entitled to claim or be paid any compensation whatsoever arising out of or by reason of the exercise by the Commission of the powers conferred by subsection six of this section.

Sec. 123.
(Waste of
water.)

- (j) (i) by inserting in subsection one of section one hundred and twenty-three after the word "well" where firstly occurring the words "or bore";

(ii)

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(Amendment).*

- (ii) by omitting from the same subsection the words "partial closing" and by inserting in lieu thereof the words "closing or partial closing";
- (iii) by omitting from the same subsection the words "such well" and by inserting in lieu thereof the words "such artesian well or bore";
- (iv) by omitting from subsection two of the same section the words "such well" and by inserting in lieu thereof the words "such artesian well or bore";
- (k) (i) by omitting from subsection one of section one hundred and twenty-four the words "artesian wells" and by inserting in lieu thereof the words "artesian well or bore"; Sec. 124.
(Power of entry.)
- (ii) by omitting from the same subsection the words "such wells" and by inserting in lieu thereof the words "any artesian well or bore".

13. The Water Act, 1912-1952, is further amended— Further amendment of Act No. 44, 1912.

- (a) by inserting in the definition of "Work" in section one hundred and thirty after the word "sewer" the words "bridge, culvert, fence,"; Sec. 130.
(Definitions.)
- (b) by omitting subsection two of section 133A and by inserting in lieu thereof the following subsection:— Sec. 133A.
(Correction of errors in constitution of districts and provisional districts.)

(2) Where by virtue of any such further proclamation lands previously described as comprising two or more holdings become one holding or lands previously described as comprising one holding become two or more holdings such further proclamation may attach to the new holding or each of the new holdings such number of water rights as the Governor may consider proper.

(c)

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(Amendment).*

New sec.
133B.

- (c) by inserting next after section 133A the following new subheading and section:—

Additional Works.

Additional
works.

133B. At any time after the notification of the completion of the works of a provisional district or the proclamation of the constitution of a district the Commission may, for the purposes of such provisional district or district, construct or acquire any additional works and thereupon such additional works shall become works of the provisional district or district, as the case may be.

New sec.
137A.

- (d) by inserting next after section one hundred and thirty-seven the following new section:—

Meter
charges.

137A. (1) In any provisional district or district in which water is supplied through pipes under pressure and any meter is installed by the Commission for the purpose of measuring the quantity of water so supplied to a holding, the Commission may impose such annual charge for the use of such meter as it may from time to time determine. The charge shall be paid to the bank by the owner of the land on or before the fifteenth day of September in each year.

(2) The owner of the land shall pay to the Commission on demand all costs, charges and expenses incurred by the Commission in repairing or replacing any such meter which has become damaged or destroyed from any cause whatsoever and upon default in payment the amount of such costs, charges and expenses may be recovered by the Commission from such owner in any court of competent jurisdiction as a debt due and owing to the Commission.

Sec. 139.
(Assessment
of rates and
charges.)

- (e) (i) by inserting in subsection three of section one hundred and thirty-nine after the word “rates” the words “or charges for water”;

(ii)

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(Amendment).*

- (ii) by inserting in the same subsection after the word "rate" wherever occurring the words "or charge";
 - (iii) by inserting in subsection four of the same section after the word "rate" the words "or charge for water";
 - (iv) by inserting in subsection five of the same section after the word "rate" the words "or charge for water";
 - (v) by inserting in subsection six of the same section after the word "rate" where firstly occurring the words "or charge for water";
 - (vi) by inserting in the same subsection after the word "miscalculation" the words "or for any other reason whatsoever";
 - (vii) by inserting in the same subsection after the word "rate" where secondly occurring the words "or charge";
- (1^f) (i) by omitting subsections nine and (9A) of Sec. 147. section one hundred and forty-seven and by (Supply of inserting in lieu thereof the following water.) subsection:—

(9) (a) Upon the Commission becoming aware that an owner has subdivided his holding and has disposed of any part or parts or all the parts thereof the Governor shall on the recommendation of the Commission declare that, as from a specified date not being earlier than the date the Commission became aware of such subdivision and disposal, the holding shall for the purposes of this Part cease to be a holding and that new holdings shall be deemed to be constituted in respect of each part disposed of and the part, if any, retained by the owner.

(b)

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(Amendment).*

(b) Thereupon if water rights were attached to the former holding the Governor on the recommendation of the Commission—

- (i) shall apportion such water rights between the new holdings; or
- (ii) shall increase the number of such water rights and apportion such increased number of water rights between the new holdings; or
- (iii) may in any case where water rights are not to be attached to any new holding by virtue of the provisions of paragraph (d) of this subsection reduce the water rights which were attached to the former holding by not more than the proportion which the area of any such new holding bears to the area of the former holding and shall apportion such reduced number of water rights between the remaining new holdings.

(c) Water rights as apportioned in accordance with the provisions of paragraph (b) of this subsection shall attach to each of the new holdings on and from the date specified in accordance with the provisions of paragraph (a) of this subsection.

(d) Water rights shall not be attached to any new holding which, in the opinion of the Commission, does not contain land capable of being irrigated from the works of the district or provisional district, or to which, in the opinion of the Commission, it is impracticable to convey water for irrigation from such works.

(e)

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(e) Rates and charges for water shall be assessed and payable in respect of each of the new holdings as from the date specified in accordance with the provisions of paragraph (a) of this subsection.

(f) Any necessary adjustment of rates and charges for water already assessed and levied in respect of the former holding shall be made.

(g) The rates and charges for water in respect of the new holdings shall be payable notwithstanding that the means of supplying and conveying water from the works of the district or provisional district and of measuring such supply have not been provided in respect of all or any of such new holdings.

(ii) by omitting paragraph (f) of subsection ten of the same section and by inserting in lieu thereof the following paragraph:—

(f) (i) Where the owner of a holding has not in accordance with the provisions of paragraph (a) of this subsection constructed or fully constructed the works therein referred to the Commission may construct such works as have not been constructed by such owner and may recover the costs and expenses (including the cost of acquisition of any land or easement deemed by the Commission to be required for such works) incurred in so doing in any court of competent jurisdiction as a debt either from such owner, or from the owner of the new holding for the purposes of which the works are required to be constructed, as the Commission may determine.

(ii) Where pursuant to the provisions of subparagraph (i) of this paragraph any part

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(Amendment).*

part of the cost referred to in that subparagraph is recovered from any person other than the former owner of the holding, that person may, subject to the terms of any agreement between himself and such former owner, recover that part from such former owner.

(iii) Any works which the Commission constructs pursuant to the provisions of subparagraph (i) of this paragraph shall be deemed to be constructed as works of the district or provisional district, as the case may be, and the provisions of section one hundred and forty-eight of this Act shall apply to and in respect of the construction of such works.

(iii) by inserting at the end of subsection ten of the same section the following new paragraph:—

(h) If any works which are deemed by the Commission to be necessary to provide means of supplying and conveying water from the works of a district or provisional district to lands within that district or provisional district, as the case may be, which have been acquired by the Crown by purchase or resumption under the provisions of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, or by purchase or vesting under the provisions of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, or to any part or parts of any such lands, have not been otherwise constructed, the Commission shall have power and shall always be deemed to have had power to construct any such works

as

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(Amendment).*

as works of the district or provisional district within which any such lands are situated and the provisions of section one hundred and forty-eight of this Act shall apply and shall always be deemed to have applied to and in respect of the construction of such works.

- (g) by inserting next after section one hundred and forty-seven the following new subheading and section:—

New sec-
147A.

Amalgamation of Holdings.

147A. (1) On application by the owner of two or more holdings the total area of which does not in the opinion of the Commission substantially exceed a home maintenance area the Commission may, if it thinks fit, recommend to the Governor that such holdings be amalgamated into one holding and thereupon the Governor may declare such holdings, as from the first day of July next following such declaration, to be one holding for the purposes of this Part and may fix the number of water rights which shall attach thereto.

Amalgama-
tion of
holdings.

(2) Where any declaration has been made in accordance with subsection one of this section the Commission shall determine which of the existing works of water supply are sufficient to serve adequately the holding into which holdings have been amalgamated as aforesaid and may at any time after the first day of July next following such declaration cease to supply water to such holding through any other work of water supply.

(3) All overdue rates and charges for water assessed in respect of any of the holdings declared to be one holding shall on the date on which the declaration referred to in subsection

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subsection one of this section takes effect be overdue rates and charges in respect of the holding into which such holdings have been amalgamated.

(4) For the purposes of this section "home maintenance area" means an area which, when used for the purpose for which the Commission considers it is reasonably fitted, would in the opinion of the Commission be sufficient for the maintenance in average seasons and circumstances of an average family.

Further
amendment
of Act No.
44, 1912.
New sec.
154A.

Additional
works.

14. The Water Act, 1912-1952, is further amended by inserting next after section one hundred and fifty-four the following new section:—

154A. At any time after the notification of the completion of the works of a provisional district or the proclamation of the constitution of a district the Commission may for the purposes of such provisional district or district construct or acquire any additional works and thereupon such additional works shall become works of the provisional district or district, as the case may be.

Further
amendment
of Act No.
44, 1912.

Sec. 165.
(Defini-
tions.)

15. The Water Act, 1912-1952, is further amended—

(a) by inserting in the definition of "Work" in section one hundred and sixty-five after the word "pipe" the words "sewer, bridge, culvert, fence";

Sec. 172.
(Contribu-
tions.)

(b) (i) by omitting from subsection three of section one hundred and seventy-two the words "and shall be at an equal rate per acre";

(ii) by inserting at the end of subsection five of the same section the following words:—

"For the purposes of Division 1 of Part XXIII of the Conveyancing Act, 1919-1954, the expression 'rate or tax' in paragraph

(b).

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(Amendment).*

(b) of section one hundred and eighty-seven of the said Act shall be deemed to include every contribution referred to in this subsection."

- (c) by inserting next after section one hundred and seventy-five the following new section:—

New sec.
175A.

175A. Notwithstanding anything in this Part contained different amounts of contributions and different amounts of rates may be fixed for different holdings and for different parts of holdings in the same district or provisional district and in fixing such different amounts regard may be had to—

Benefit to be
taken into
account.

- (a) the degree of benefit conferred upon the lands by the works of the district or provisional district;
- (b) the value of the protection afforded to the lands by the works of the district or provisional district having regard to the purpose for which the lands are used; and
- (c) the quantity of water normally used for the classes of crops or plantings on the lands.

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

PART V.

AMENDMENT OF THE RIVERS AND FORESHORES IMPROVEMENT
ACT, 1948.

Amendment
of Act No.
20, 1948.

Sec. 7.

(Work bene-
fitting land,
road or work
of a council.)

Further
amendment
of Act. No.
20, 1948.

New sec.
23A.

Removal of
soil from
or in
proximity
to banks
of rivers.

16. The Rivers and Foreshores Improvement Act, 1948, is amended by omitting from section seven the word "Commission" wherever occurring and by inserting in lieu thereof the words "Constructing Authority".

17. The Rivers and Foreshores Improvement Act, 1948, is further amended by inserting next after section twenty-three the following new section:—

23A. (1) No owner or occupier of land or other person whomsoever shall, except with the permission of the Constructing Authority—

- (a) make or cause or allow to be made any excavation on, in or under the bank of a river or on, in or under any land situate within a distance of two chains measured horizontally from the top of the bank of a river; or
- (b) remove or cause or allow to be removed any soil from the bank of a river or from any land situate within a distance of two chains measured horizontally from the top of the bank of a river.

(2) (a) Application for a permit under this section shall be made in writing to the Constructing Authority and shall specify the land in respect of which the permit is desired and supply full particulars of the work proposed to be undertaken.

(b) The Constructing Authority may, after such investigation as the Constructing Authority may deem necessary, refuse any permit applied for under this section or may grant the same subject to such limitations and conditions (including a condition limiting the time the permit shall remain in force) as the Constructing Authority may think fit.

(c)

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(c) The Constructing Authority may at any time revoke or vary any permit issued under the provisions of this section.

(3) Any owner or occupier of land or other person whomsoever who, in respect of any land—

(a) makes or causes or allows to be made any excavation or removes or causes or allows to be removed any soil contrary to the provisions of this section; or

(b) fails to comply with any of the limitations or conditions for the time being attached to any permit granted under the provisions of this section,

shall be guilty of an offence and shall be liable, for the first offence, to a penalty not exceeding fifty pounds and for a subsequent offence to a penalty not exceeding one hundred pounds.

(4) Where—

(a) any excavation has been or is being made or any soil has been or is being removed contrary to the provisions of this section after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955; or

(b) the Constructing Authority is of the opinion that any excavation on, in or under any land or the removal of soil from any land, although not contrary to the provisions of this section and whether made or effected before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955—

(i) is damaging or detrimentally affecting or is likely to damage or detrimentally affect the bank of a river; or

(ii) is likely to cause, whether directly or indirectly, a river to change its course,

the

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the Constructing Authority may by notice in writing direct the owner or occupier of the land on which such excavation has been or is being made or from which soil has been or is being removed to take such measures and in such manner and within such time as may be specified in such notice as the Constructing Authority deems necessary to ensure that the bank of the river will not be damaged or detrimentally affected or that the river will not be caused, whether directly or indirectly, to change its course, as the case may be, by reason of such excavation or removal of soil.

(5) If any owner or occupier fails to comply with the terms of any notice given to him pursuant to subsection four of this section, the Constructing Authority may authorise any person to enter upon the land in respect of which such notice has been given and there to carry out the measures specified in such notice and may recover the cost incurred in so doing from such owner or occupier in any court of competent jurisdiction as a debt due and owing by him to the Constructing Authority and until repayment such cost shall be a charge on the land.

(6) The provisions of subsections one, two, three, four and five of this section shall not apply to or in respect of the exercise of any rights lawfully exercisable—

- (a) under any license, permit or authority for a joint water supply scheme issued under any of the provisions of the Water Act, 1912, as amended by subsequent Acts;
- (b) under any lease, license, permit or other right issued under the provisions of the Acts relating to mining or under the provisions of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, or of any other Act; or
- (c) by any statutory body or by any council.

(7) Where the Constructing Authority is of the opinion that the making of any excavation on, in or under the bank of a river, or on, in or under any

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any land, or the removal of soil from the bank of a river, or from any land, in the exercise of any of the rights referred to in subsection six of this section whether before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955—

(a) is damaging or detrimentally affecting or is likely to damage or detrimentally affect the bank of a river; or

(b) is likely to cause, whether directly or indirectly, a river to change its course,

the Constructing Authority may by notice in writing direct the person, statutory body or council by whom or on whose behalf any such excavation has been or is being made or any such soil has been or is being removed to take such measures and in such manner and within such time as may be specified in such notice as the Constructing Authority deems necessary to ensure that the bank of the river will not be damaged or detrimentally affected or that the river will not be caused, whether directly or indirectly, to change its course, as the case may be, by reason of such excavation or removal of soil and such person, statutory body or council shall comply with the terms of such notice accordingly.

(8) If any person or council fails to comply with the terms of any notice given pursuant to subsection seven of this section the Constructing Authority may authorise any person to enter upon the land in respect of which such notice has been given and there to carry out the measures specified in such notice and may recover the cost incurred in so doing from such firstmentioned person or from such council, as the case may be, in any court of competent jurisdiction as a debt due and owing by him or by it to the Constructing Authority.

(9) For the purposes of this section the Constructing Authority, or any person authorised by it, may enter upon and inspect any land.

(10)

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(10) In this section—

“Constructing Authority” means the Minister for Public Works or the Commission, respectively, according as to whether the waters of the river immediately adjacent to the land on which an excavation has been or is being made or from which soil has been or is being removed are tidal waters or are not tidal waters, as the case may be.

“Soil” means the surface of any land and all matter or material whatsoever lying beneath that surface.

PART VI.

AMENDMENT OF THE WESTERN LANDS ACT OF 1901.

Amendment of
Act No. 70,
1901.

18. The Western Lands Act of 1901, as amended by subsequent Acts, is amended—

Sec. 31.

(Determina-
tion of value
of improve-
ments.)

(a) by omitting from subsection five of section thirty-one the word “shallow” wherever occurring;

(b) by omitting from the same subsection the words “one hundred” and by inserting in lieu thereof the words “two hundred”.

PART VII.

AMENDMENT OF THE MURRUMBIDGEE IRRIGATION AREAS
OCCUPIERS RELIEF ACT, 1934.

Amendment
of Act No.
52, 1934.

Secs. 12
and 14.

(Determina-
tion of
water rights
attached to
holdings and
the prices
thereof;
numbers and
prices not to
be altered,
etc.)

19. The Murrumbidgee Irrigation Areas Occupiers Relief Act, 1934, as amended by subsequent Acts, is amended by omitting sections twelve and fourteen.

PART

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

PART VIII.

MISCELLANEOUS.

20. (1) Except as hereinafter provided this section shall apply to—

Reduction
of rentals
of certain
leases.

(a) any lease from the Crown—

- (i) within an irrigation area constituted under the Irrigation Act, 1912, as amended by subsequent Acts;
- (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;
- (iii) made under or by operation of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, before the first day of January, one thousand nine hundred and thirty-three; and
- (iv) being in respect of land notified in the Gazette as available for disposal for the purpose of residence, or described in the Gazette as suitable for residential purposes, or comprising an irrigation farm lease of an area not exceeding five acres;

(b) any lease from the Water Conservation and Irrigation Commission—

- (i) within the irrigation area constituted under the provisions of the Wentworth Irrigation Act;
- (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;
- (iii) made under or by operation of the Wentworth Irrigation Act;
- (iv) being in respect of land which in the opinion of the Water Conservation and Irrigation Commission is mainly suitable for residential purposes; and

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(v) being in respect of land which has throughout the whole of the period from the thirty-first day of December, one thousand nine hundred and thirty-two, to the first day of January, one thousand nine hundred and forty-eight—

(a) been leased land under the Wentworth Irrigation Act by way of lease subsisting at the said thirty-first day of December and of any new lease granted from time to time during such period; and

(b) been held by—

(i) the lessee under the lease subsisting at the said thirty-first day of December; or

(ii) that lessee and any lessee who became lessee by transfer or assignment from or devolution under the will or intestacy of any immediately prior lessee.

(2) This section shall not apply to any lease referred to in paragraph (a) of subsection one of this section—

(a) being in respect of land notified in the Gazette as available for disposal for the purpose of residence and in respect of which the Water Conservation and Irrigation Commission has, before the commencement of this section, pursuant to the provisions of subsection ten of section 142D of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to the land comprised in such lease being used for any of the purposes specified in the said subsection ten; or

(b)

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- (b) in respect of which the annual rental has before the commencement of this section been determined consequent upon the addition of land thereto.

(3) Subject to this section the annual rental of any lease to which this section applies shall as on and from the first day of January, one thousand nine hundred and forty-eight, be the annual rental of such lease as at the thirty-first day of December, one thousand nine hundred and thirty-two, reduced by twenty-two and one-half per centum:

Provided that where in pursuance of the provisions of section one hundred and forty-three of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, the annual rental for the second or any succeeding period of any lease referred to in paragraph (a) of subsection one of this section has been determined as in the said section one hundred and forty-three provided—

- (a) before the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the first day of January, one thousand nine hundred and forty-eight, and for the unexpired portion of the current period of such lease be the annual rental as so determined reduced by twenty-two and one-half per centum;
- (b) after the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the commencement of such second or succeeding period and for such period be the annual rental as so determined reduced by twenty-two and one-half per centum.

(4) Where by reason of any reduction made in pursuance of any enactment other than this section the annual rental under any lease to which this section applies has been decreased, the reduction prescribed by subsection three of this section shall not be in addition
to

*Irrigation, Water and Rivers and Foreshores Improvement
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to the amount of such decrease, but such decrease shall be taken into account in determining the annual rental to be paid consequent upon the reduction so prescribed.

(5) Where after the commencement of this section—

- (a) the Water Conservation and Irrigation Commission has, pursuant to the provisions of subsection ten of section 142D of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to any land comprised in a lease referred to in paragraph (a) of subsection one of this section and notified in the Gazette as available for disposal for the purpose of residence being used for any of the purposes specified in the said subsection ten; or
- (b) the annual rental of any lease referred to in paragraph (a) of subsection one of this section has been determined consequent upon the addition of land thereto; or
- (c) the Water Conservation and Irrigation Commission decides that the land comprised in any lease to which this section applies is used mainly or substantially for any business purpose,

the provisions of this section shall cease to apply to the lease referred to in paragraph (a), (b) or (c) of this subsection as from the date of such consent, determination or decision, as the case may require.

(6) This section shall be deemed to have commenced upon the first day of January, one thousand nine hundred and forty-eight.

By Authority:

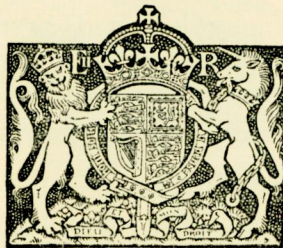
A. H. PETTIFER, Government Printer, Sydney, 1955.

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.

H. ROBBINS,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 24 March, 1955.*

New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 12, 1955.

An Act to limit the right of future acquisition of freehold tenures within irrigation areas; to make further provision with respect to the licensing of bores; to regulate the removal of soil from or adjacent to the banks of rivers; to make further provision for the reduction of rentals payable in respect of certain classes of tenures within irrigation areas; for these and other purposes to amend the Irrigation Act, 1912-1954, the Crown Lands Consolidation Act, 1913, the Water Act, 1912-1952, the Rivers and Foreshores Improvement Act, 1948, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 12th April, 1955.]

BE

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.

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

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

PART I.

PRELIMINARY.

Short title,
division
into Parts
and
citation.

1. (1) This Act may be cited as the "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955."

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—AMENDMENT OF THE IRRIGATION ACT, 1912-1954.

PART III.—AMENDMENT OF THE CROWN LANDS CONSOLIDATION ACT, 1913.

PART IV.—AMENDMENT OF THE WATER ACT, 1912-1952.

PART V.—AMENDMENT OF THE RIVERS AND FORESHORES IMPROVEMENT ACT, 1948.

PART VI.—AMENDMENT OF THE WESTERN LANDS ACT OF 1901.

PART VII.—AMENDMENT OF THE MURRUMBIDGEE IRRIGATION AREAS OCCUPIERS RELIEF ACT, 1934.

PART VIII.—MISCELLANEOUS.

(3) The Irrigation Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Irrigation Act, 1912-1955.

(4) The Water Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Water Act, 1912-1955.

(5) The Rivers and Foreshores Improvement Act, 1948, as amended by this Act, may be cited as the Rivers and Foreshores Improvement Act, 1948-1955.

PART

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

PART II.

AMENDMENT OF THE IRRIGATION ACT, 1912-1954.

2. The Irrigation Act, 1912-1954, is amended—

Amendment
of Act No.
73, 1912.

(a) by omitting from section five the words “five hundred” wherever occurring and by inserting in lieu thereof the words “two thousand”;

Sec. 5.
(Appoint-
ment of
officers.)

(b) by inserting next after section 5E the following new section:—

New sec.
5F.

5F. Any person who at the date of commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, is in the service of the Commission and whose yearly salary at such date does not exceed two thousand pounds shall, for the purpose of section five, section 5A and section 5B of this Act, be deemed to have been appointed by the Commission.

Certain
persons
deemed
to have
been
appointed
by
Commission.

3. The Irrigation Act, 1912-1954, is further amended—

Further
amendment
of Act No.
73, 1912.

(a) by inserting next after section 8B the following new section:—

New sec.
8c.

8c. (1) (a) It shall be a function of the Commission to make provision for—

Further
functions
and powers
of
Commission.

(i) the systematic gauging and recording of the volume and flow of rivers and streams, and of the volume of lakes and lagoons within the State and the effect of climatic conditions upon such volume; and

(ii) the gathering and recording of such data concerning the ground water resources of the State as the Commission may deem practicable.

(b)

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(b) The Commission may publish and make available any information so ascertained or gathered.

(2) The Commission may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable to enable it effectively to carry out all or any of its powers, authorities, duties and functions under this or any other Act and without limiting the generality of the foregoing may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable—

- (a) to ascertain potential sites for works of water storage or water supply and the practicability and cost of constructing any such works;
- (b) to ascertain the nature and extent of lands capable of being supplied with water from any existing or proposed works of water storage or water supply and the means whereby such lands may be so supplied;
- (c) to ascertain the necessity of and potential sites for works for flood mitigation or flood control and the practicability and cost of constructing any such works;
- (d) to ascertain the nature and extent of lands capable of being protected or partially protected from flooding or inundation by any works of flood mitigation or flood control;
- (e) to ascertain the existence and location of subterranean waters and the character and quality thereof.

(3) The Commission, in the exercise of its powers, authorities, duties and functions under this or any other Act, may by its officers, servants,

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(Amendment).*

servants, workmen or agents enter upon any lands and do all such things as may be requisite for the purpose of—

- (a) making and carrying out such inspections, tests, investigations, surveys, experiments and boring, drilling and other explorations as the Commission may deem necessary for the full and effective exercise of any of its powers, authorities, duties and functions under this or any other Act; or

- (b) constructing, maintaining, operating, or altering any works,

or for any other purpose connected with or related to or incidental to the exercise of any of its powers, authorities, duties and functions under this or any other Act, notwithstanding an easement or right so to enter or use such lands may not have been granted or acquired.

The powers conferred by this subsection shall be additional to and not in substitution for any other powers elsewhere conferred on the Commission.

(4) In the exercise of any of the powers conferred by subsection three of this section the Commission shall inflict as little damage as may be and shall make full compensation to all parties interested for all damage sustained by them in consequence of the exercise of such powers.

- (b) by omitting subsection four of section nine.

Sec. 9.
(Commis-
sion to
construct
works, etc.)

4. The Irrigation Act, 1912-1954, is further amended—

Further
amendment
of Act
No. 73, 1912.

- (a) by inserting in section 11A after the word “shall” the words “except as hereinafter provided”;

Sec. 11A.
(Application
of ss.
11B-11F.)

- (b)

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Sec. 11c.
(Conversion
of lease-
holds.)

- (b) by inserting next after subsection one of section 11c the following new subsections:—

(1A) The lessee of an irrigated lot within the irrigation area constituted under the provisions of the Wentworth Irrigation Act shall not be entitled to purchase such lot unless the land comprising such lot has, throughout the whole of the period from the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, to the date of notification of his intention to purchase—

- (a) been leased land by way of lease subsisting at such commencement and of any new lease granted from time to time during such period; and

- (b) been held by—

- (i) the lessee under the lease subsisting at such commencement; or
(ii) that lessee and any lessee who became lessee by transfer or assignment from or devolution under the will or intestacy of any immediately prior lessee.

(1B) The lessee of an irrigated lot within the irrigation area constituted under the provisions of the Hay Irrigation Act, 1902, shall not be entitled to purchase such lot unless he has prior to the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, notified the Commission on the form and in the manner prescribed of his intention to purchase such lot.

Further
amendment
of Act No.
73, 1912.
Sec. 12.
(Water
rights.)

5. The Irrigation Act, 1912-1954, is further amended—

- (a) by omitting subsection four of section twelve;

- (b)

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- (b) by inserting in subsection one of section thirteen after the words "such additional water rights" the following new paragraph:—

Sec. 13.
(Additional
water
rights.)

After the full quantity of water to which an occupier is entitled pursuant to the water rights attached to his land and to any additional water rights which may have been allotted to him has been supplied, the Commission may, on application by the occupier, supply him with additional water at such charges as the Commission may determine.

- (c) by inserting next after section thirteen the following new section:—

New sec.
13A.

13A. (1) Where the Commission is prepared to make available and makes available to any land a supply of water solely during the hours of daylight, it may impose such special charge per acre foot for all water so supplied as it may from time to time determine. Notification of any such determination shall be published in the Gazette.

Supply of
water during
hours of
daylight.

(2) The special charge shall be in addition to the charges for any water rights which are attached to the land and for any additional water rights and for any water supplied to the land additional to the water supplied pursuant to such water rights and additional water rights.

(3) The special charge shall be determined by the Commission having regard to the additional cost per acre foot which the Commission estimates will be incurred by it in supplying water solely during the hours of daylight.

(4) The special charge shall be paid by the occupier of the land on or before the thirtieth day of June in each year in respect of water supplied during the year ending on the said thirtieth day of June.

(5)

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(5) In this section "acre foot" means such a quantity of water twelve inches deep as would cover an area of one acre.

Sec. 15.
(Payment of
charges.)

- (d) (i) by inserting in subsection one of section fifteen after the word "Act" where thirdly occurring the words "or for maintenance charges arising in relation to the supply of water";
- (ii) by omitting from the same subsection the words "as and when directed by the bank";
- (iii) by inserting at the end of the same subsection the following new paragraph:—

The charges in respect of water rights which are attached to the land, the charges in respect of additional water rights, and the charges in respect of the water supplied to the land additional to water supplied pursuant to such water rights and additional water rights shall be paid at the times and in the manner prescribed, and all other rates or charges for water and maintenance charges shall, except where otherwise expressly provided, be paid at the times and in the manner determined by the Commission and when no such determination has been made then at such times and in such manner as may have been agreed between the Commission and the occupier.

Further
amendment
of Act No.
73, 1912.
New sec.
17AA.

6. The Irrigation Act, 1912-1954, is further amended--

- (a) by inserting next after section 17A the following new section:—

Damage
to or
interference
with works.

17AA. Any person who destroys, damages or interferes in any way with any work, structure or other thing whatsoever vested in or made, constructed or provided by or otherwise under the control or management of the Commission shall where no other provision is expressly made by any other section of this Act be liable upon summary

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summary conviction to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding three months: Provided that nothing in this section shall in any way affect any liability to which any person who commits a breach of this section may be subject under any other Act or at common law but such person shall not be liable to be punished twice for the same offence.

- (b) by inserting in subsection three of section eighteen after the word "Area" where thirdly occurring the words "and any other irrigation area constituted or which may be constituted under the provisions of this Act"; Sec. 18.
(Collection of rents, etc.)
- (c) by omitting from the same subsection the words and figures "and Part VII" and by inserting in lieu thereof the words and figures "Part VII and Part VIII".

PART III.

AMENDMENT OF THE CROWN LANDS CONSOLIDATION ACT, 1913.

7. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is amended— Amendment of Act No. 7, 1913.

- (a) by inserting at the end of subsection two of section one hundred and forty the following proviso:— Sec. 140.
(Applications for holdings.)

Provided that in the case of lands set apart for disposal in accordance with the provisions of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, the survey fee shall not be required to accompany an application but shall be paid by the successful applicant at a time and in a manner to be specified in the notification under paragraph (d) of subsection two of section one hundred and thirty-nine of this Act that the lands are available for disposal.

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Sec. 142.
(Conditions
etc., of
irrigation
farm
purchases.)

(b) (i) by omitting from subsection five of section one hundred and forty-two the word "six" and by inserting in lieu thereof the word "three";

(ii) by inserting in paragraph (a) of subsection six of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";

(iii) by omitting from paragraph (c) of the same subsection the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";

(iv) by omitting paragraph (d) of the same subsection and by inserting in lieu thereof the following paragraph:—

(d) A condition to the effect that the land or any specified part of the land shall not be used to plant—

(i) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or

(ii) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or areas specified in the condition,

may be attached to any irrigation farm purchase after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act,

1955,

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1955, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such irrigation farm purchase.

- (c) (i) by omitting from subsection four of section 142b the word "six" and by inserting in lieu thereof the word "three"; Sec. 142b. (Conditions. &c., of leases within irrigation areas.)
- (ii) by inserting in subsection seven of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- (iii) by omitting from subsection eight of the same section the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- (iv) by omitting subsection nine of the same section and by inserting in lieu thereof the following subsections:—

(9) A condition to the effect that the land or any specified part of the land shall not be used to plant—

- (a) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or
- (b) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or areas specified in the condition, may be attached to any lease after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment)

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(Amendment) Act, 1955, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such lease.

(9A) (a) The Minister may, at any time, with the consent of the holder of the lease, by instrument under his hand in the prescribed form, cancel or vary any condition mentioned in subsection seven, subsection eight or subsection nine of this section on such terms and conditions as he thinks fit and the condition as so varied shall, whether or not the perpetual lease grant has issued, be the condition attaching to the land.

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

Sec. 145.
(Conversion
of I.F.L.
to I.F.P.,
&c.)

- (d) (i) by inserting at the end of subsection one of section one hundred and forty-five the words "or to an irrigation farm lease or a non-irrigable lease described in any notification in the Gazette under the provisions of section one hundred and thirty-nine of this Act as suitable for farming purposes, granted after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- (ii) by inserting in subsection three of the same section after the word "determined" the words "as at the date of receipt by the Commission of the notification referred to in subsection two of this section";
- (iii) by inserting at the end of paragraph (d) of subsection five of the same section the following new paragraphs:—

(c) Where any lease converted under this section is subject to a transfer by way of mortgage

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mortgage registered in the books of the Commission such transfer shall be—

- (i) deemed to extend and always to have extended to the purchase into which the lease has been converted in the same manner as it applies to the lease; and
- (ii) recorded in the books of the Commission as a transfer of the purchase.

The provisions of this paragraph shall not apply to a transfer by way of mortgage of a lease in respect of which a perpetual lease grant has been issued where such transfer was registered in the books of the Commission before the issue of such perpetual lease grant.

(f) Where immediately preceding the conversion of any lease under this section an easement is appurtenant to or a burden upon any land comprised in such lease such easement shall after such conversion continue to be appurtenant to or a burden upon such land.

(g) Where a perpetual lease grant has issued in respect of any lease converted under this section and the Commission lodges with the Registrar-General with the surrender referred to in subsection two of this section a notification that the lease has been converted into a purchase, the Registrar-General shall register such surrender without requiring that any easement to which the land is subject shall be released or that any mortgage or other security to which the land is subject shall be discharged.

(h) Paragraphs (e), (f) and (g) of this subsection shall apply to conversions whether effected before or after the commencement of the Irrigation, Water and Rivers and

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(Amendment).*

and Foreshores Improvement (Amendment) Act, 1955.

Further
amendment
of Act No.
7, 1913.

8. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended—

Sec. 147D.
(Applica-
tion to
Minister
to acquire
private
lands.)

- (a) (i) by inserting in subsection one of section 147D after the words "irrigation farm lease" the words "or a non-irrigable lease";
- (ii) by inserting next after subsection four of the same section the following new subsections:—

(4A) The application whether made before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, may with the consent of the owner or owners of the private lands proposed to be included or excluded or the price of which is proposed to be increased or decreased and the approval of the Minister be varied by including therein additional private lands or excluding therefrom part of the lands included therein or by increasing or decreasing the price specified in the application.

(4B) The consent of the owner or owners under subsection one of this section whether given before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, and the consent of the owner or owners under subsection (4A) of this section shall not be withdrawn before the expiration of sixty days after such owner or owners has or have given to the Minister notice in writing of his or their intention so to withdraw: Provided that in no case shall such consent be withdrawn after the Minister has approved of the purchase.

(b)

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(Amendment).*

- (b) by omitting from section 147E the words "such lands" where firstly occurring and by inserting in lieu thereof the words "the lands the subject of such application". Sec. 147E.
(Valuation.)
- (c) (i) by inserting in section 147G after the word "made" where firstly occurring the words "or varied"; Sec. 147G.
(Purchase of land.)
- (ii) by inserting in paragraph (c) of the same section after the words "irrigation farm lease" the words "or a non-irrigable lease";
- (iii) by inserting at the end of the same section the words "or he may at his discretion refuse the application: Provided that the Minister shall not so approve where in his opinion the amount of capital (including shares in any company or any interest in any land) held by any applicant or by his or her spouse or by his or her parent or parents is such as to warrant refusal of the application";
- (d) by omitting from subsection one of section 147H the words "Where, under section 147D of this Act, an application has been made to the Minister to acquire any lands and the Minister has approved of the purchase of such lands" and by inserting in lieu thereof the words "Where the Minister has approved of the purchase of lands"; Sec. 147H.
(Vesting of land in the Crown.)
- (e) (i) by inserting at the end of paragraph (a) of subsection one of section 147J the following words "or non-irrigable leases"; Sec. 147J.
(Vesting of land in applicant.)
- (ii) by inserting next after the same paragraph the following new paragraphs:—
 - (a1) Any lands deemed by the Minister to be necessary for roads, or any purpose which he considers to be a community

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community purpose or a public purpose, or any lands which the Minister considers should be excluded for any reason may be excluded from the holdings and any adjacent Crown lands may be included in such holdings.

- (a2) The subdivision may be made into holdings before the holdings are measured, and in such case the holdings may be notified under paragraph (c) of this subsection according to the design thereof.
- (iii) by inserting in subparagraph (vi) of paragraph (c) of the same subsection after the words "irrigation farm lease" the words "or a non-irrigable lease";
- (iv) by inserting in subsection four of the same section after the words "irrigation farm lease" where firstly occurring the words "or a non-irrigable lease";
- (v) by inserting in the same subsection after the words "irrigation farm lease" where secondly and thirdly occurring the words "or non-irrigable lease";
- (vi) by inserting next after the same subsection the following new subsections:—

(4A) Where a holding has been measured after publication in the Gazette of a notification under paragraph (c) of subsection one of this section any necessary adjustment shall thereafter be made as to the area and annual rental of the holding and of the nature and value of any improvements which are the property of the Crown and which are to be paid for by the incoming tenants

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(Amendment).*

tenants, and of the terms and conditions upon which payment for the improvements shall be made.

(4B) Any lands excluded from the holdings under paragraph (a1) of subsection one of this section may be retained by the Crown either permanently or for a limited period and the Commission may expend moneys necessary to maintain adequately such lands and the improvements thereon, and, if necessary, to replace improvements on such lands during such time as they are retained by the Crown. Such lands may be used for such purposes or leased by the Commission for such terms and upon such conditions as the Minister may approve, or may be otherwise disposed of under the provisions of this Act.

- (vii) by inserting in subsection five of the same section after the words "irrigation farm lease" the words "or a non-irrigable lease";
- (viii) by inserting in the same subsection after the words "irrigation farm purchase" the words "or a non-irrigable purchase";
- (ix) by inserting in subsection six of the same section after the words "irrigation farm leases" the words "or non-irrigable leases";
- (f) by inserting in subsection two of section 147K Sec. 147K. after the words "irrigation farm lease" the (Penalties.) words "or a non-irrigable lease".

9. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended—

- (a) by inserting in subsection one of section one hundred and ninety-seven after the word "settlement" where firstly occurring the words Further amendment of Act No. 7, 1913. Sec. 197. (Exchanges and purchases for public purposes.) "or

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(Amendment).*

“or for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown”;

- (b) by omitting from the same subsection the words “The local land board” where firstly occurring and by inserting in lieu thereof the words “Except as hereinafter provided the local land board”;

- (c) by inserting at the end of the same section the following new subsections:—

(5) In the application of the provisions of this section to any exchange or purchase or resumption of land for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown, the following provisions shall have effect—

- (a) the provisions of subsection one of this section relating to inquiry into and report by the local land board upon any application or proposal for the exchange or purchase or resumption of any land and determination of the values of any land to be acquired or granted in pursuance thereof and the price to be paid for the land resumed shall not apply;

- (b) subsection one of this section shall be read and construed as if for the words “the Minister” where thirdly occurring there were substituted the words “the Commission”;

- (c) the compensation to be paid in respect of any resumption to which this subsection applies shall be the value of the land as determined by an advisory board or the Land and Valuation Court on appeal;

(d)

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- (d) subsection two of this section shall be read and construed as if for the words "a local land board" there were substituted the words "an advisory board";
- (e) in determining the value of the land as referred to in paragraph (c) of this subsection—
 - (i) the provisions of paragraph (b) of subsection four of section four of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall be taken into account; and
 - (ii) there shall be excluded any added value which would accrue or has accrued to the land from the construction or utilisation of the works of any district or provisional district constituted under the provisions of Part VI of the Water Act, 1912, as amended by subsequent Acts;
- (f) the provisions of sections nine and ten of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall *mutatis mutandis* apply to and in respect of any resumption to which this subsection applies;
- (g) the provisions of subsection one of this section as amended by this subsection shall extend to the resumption of any public road;
- (h) in this subsection the expression "advisory board" means a Closer Settlement Advisory Board constituted under section two of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts.

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(Amendment).*

cf. Act
No. 42,
1910,
s. 6 (2B).

(6) Where any public road is resumed under the authority of this section in connection with the resumption of lands for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown the following provisions shall notwithstanding anything contained in this section have effect:—

- (a) the municipal or shire council within whose area the public road so resumed is situated shall be entitled to claim compensation therefor;
- (b) subject to paragraphs (c) to (j) inclusive of this subsection the compensation shall be an amount not exceeding the capital sum spent by the council upon the construction of the road together with the sum, if any, paid by the council for purchase or resumption of the land therefor;
- (c) in any case where the council decides that it is necessary to purchase or resume and construct a new road to replace that resumed it shall notify the Commission of its decision;
- (d) any notification referred to in paragraph (c) of this subsection shall be accompanied by a plan of the location of the proposed new road, together with an estimate of the cost of the purchase or resumption and construction of the proposed new road;
- (e) where, having regard to the requirements of the public as at the date upon which the public road is resumed, the Commission is of opinion—
 - (i) that it is not necessary to replace the road resumed; or
 - (ii)

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- (ii) that the location of the proposed new road is not satisfactory; or
- (iii) that the cost of the purchase or resumption and construction of the proposed new road is excessive; or
- (iv) that, for any reason whatsoever, the decision of the council should not be carried out either wholly or in part—

the Commission shall notify the council accordingly;

- (f) the notification referred to in paragraph (e) of this subsection shall be accompanied by—

- (i) a statement setting out the grounds upon which the opinion of the Commission is based;
- (ii) details of any alternative proposal which in the opinion of the the Commission should be adopted, together with such plans and estimates of costs (if any) as may be necessary to provide the council with full information in relation to the carrying out of such alternative proposal;

- (g) any matter in dispute between the council and the Commission under paragraphs (e) and (f) of this subsection may be referred by either the council or the Commission to the Land and Valuation Court in accordance with rules of court;

- (h) the Land and Valuation Court shall have jurisdiction to hear and determine any matter referred to it pursuant to

the

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the provisions of paragraph (g) of this subsection and that court may in its discretion award such costs as it thinks fit in relation to any matter so referred;

- (i) the determination of the Land and Valuation Court in relation to any matter referred to it under the provisions of paragraph (g) of this subsection shall be final and shall be carried into effect by the council and the Commission;
- (j) where the Land and Valuation Court by its determination decides that it is necessary to replace any public road to which the provisions of this subsection apply the amount of compensation shall be such sum, not exceeding the cost of purchase or resumption and construction of the new road, as the said court may determine and in making such determination the said court shall have regard to the actual condition of such public road as at the date of resumption and to the extent to which the same was used by the public before that date and also to any damage to the road caused by the Commission before that date;
- (k) any amount paid to the council by way of compensation pursuant to the provisions of paragraphs (c) to (j) inclusive of this subsection shall be placed by the council in a trust fund until expended on such new road.

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(Amendment).*

PART IV.

AMENDMENT OF THE WATER ACT, 1912-1952.

10. The Water Act, 1912-1952, is amended—

Amendment
of Act No.
44, 1912.

- (a) by inserting at the end of the definition of “River” in subsection three of section 4A the words “and includes those waters of a tidal river which are at any time capable of being used for irrigation or for watering stock”; Sec. 4A.
(Right to
flow of
water.)
- (b) (i) by omitting from the definition of “Joint water supply scheme” in section five the words “but not all”; Sec. 5.
(Interpreta-
tion.)
 - (ii) by inserting at the end of the same definition the words “and includes any work to which this Part extends which is used or proposed to be used for the purpose of supplying water for irrigation by any occupier or occupiers other than the occupier or occupiers of the site of the work”;
 - (iii) by inserting at the end of the definition of “River” in the same section the words “and includes those waters of a tidal river which are at any time capable of being used for irrigation or for watering stock”;
- (c) by inserting in subsection one of section 17c next after the word “servants” the words “or agents”; Sec. 17c.
(Power to
enter and
remove
works.)
- (d) by inserting next after subsection three of section 18B the following new subsection:— Sec. 18B.
(Classifica-
tion of
existing
licenses and
authorities.)
 - (3A) Notwithstanding the provisions of sub-sections two and three of this section—
 - (a) where any such license is held by a member of the forces, discharged member of the forces, discharged soldier, other eligible person, member of the Korea and Malaya Operations Forces or discharged member of the Korea

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Korea and Malaya Operations Forces as defined in the War Service Land Settlement Act, 1941, as amended by subsequent Acts, (hereinafter in this Division referred to as a war service settler) in respect of any work to which this Part extends which is used in connection with a holding set apart for disposal in accordance with the provisions of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, or acquired under the provisions of Part IVA of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts (hereinafter in this Division referred to as a war service holding) such license shall be classified as Class A; and

- (b) in the case of any such authority, where the whole of the lands within the joint water supply scheme the subject of the authority are war service holdings, such authority shall be classified as Class A.

Subst.
sec. 18c.

- (c) by omitting section 18c and by inserting in lieu thereof the following section:—

Classifica-
tion of
new licenses
and
authorities.

18c. Any license or authority to appropriate water for the purpose of irrigation from a river or lake or section of a river in respect of which a proclamation has been made under the provisions of section 18a of this Act, which is granted after the date of such proclamation, shall—

- (a) if any such license is granted to a war service settler in respect of any work to which this Part extends which is used in connection with a war service holding, be classified by the Commission as a Class A license;

(b)

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- (b) if, in respect of any such authority the whole of the lands within the joint water supply scheme the subject of the authority are war service holdings, be classified by the Commission as a Class A authority; and
- (c) in every other case, be classified by the Commission as a Class C license or authority.
- (f) (i) by inserting next after subsection seven of section 18b the following new subsection:—
- (7A) If at any time a war service settler becomes the holder of a license which has been classified or reclassified by the Commission as a Class B or a Class C license and the licensed work is used in connection with a war service holding, such license shall be reclassified by the Commission as a Class A license.
- Sec. 18b.
(Reclassification of licenses and authorities.)
- (ii) by inserting at the end of the same section the following new subsection:—
- (9) (a) Notwithstanding the provisions of subsection eight of this section, a license which is held by a war service settler in respect of any work to which this Part extends which is used in connection with a war service holding shall not, except as provided in subsection (7A) of this section, be subject to reclassification by the Commission for a period of five years from the date upon which the license commenced to be held by the war service settler.
- (b) Notwithstanding the provisions of subsection eight of this section, where the whole of the lands within a joint water supply scheme the subject of an authority are war service holdings, the authority shall
- not

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not be subject to reclassification by the Commission for a period of five years from the date of the granting of the authority.

Further
amendment of
Act No. 44,
1912.

New sec.
38A.

Transfer of
Crown bores
to trusts.

11. The Water Act, 1912-1952, is further amended by inserting next after section thirty-eight the following new section:—

38A. (1) Where a trust has been constituted on terms that the trust shall pay a charge for water to be supplied by the Crown from works which include a bore and the Commission is of the opinion that such works should be taken over, administered and managed by the trust, the Commission may notify in the Gazette and in some newspaper circulating in the trust district a proposal that the works by means of which water is supplied to the trust shall be transferred to the trust to be so taken over, administered and managed and that the trust shall be required to repay the value of the works.

(2) Any such proposal shall embody—

- (a) a description of the works;
- (b) a statement of the value of the works;
- (c) a statement of the terms upon which the trust shall repay the value of the works and interest thereon specifying—
 - (i) that such repayment be made by the provision of a sinking fund;
 - (ii) the rate of interest which shall be paid by the trust on the value of the works;
 - (iii) the number of years within which such repayment shall be made;
- (d) if it is proposed to vary the maximum rate which may be assessed by the trust, a revised maximum rate which may be assessed by the trust after the works have been transferred to the trust; and
- (e) such other provisions as the Commission may deem necessary or desirable.

(3)

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(Amendment).*

(3) If within eight weeks after such notification a petition is presented to the Commission, signed by at least one-third in number of the owners of land within the trust district, objecting, upon grounds stated in the petition, to—

- (a) the value of the works;
- (b) the number of years within which the repayment referred to in paragraph (c) of subsection two of this section is to be made;
- (c) the revised maximum rate (if any) which may be assessed by the trust,

the Commission shall refer the matter or matters regarding which objection has been so made to the Board for inquiry and report.

(4) If within the said period no such petition is received, or upon receipt of the report of the Board in respect of any reference to it pursuant to the provisions of subsection three of this section, as the case may be, the Governor by proclamation in the Gazette may—

- (a) transfer to the trust the works described in the proposal referred to in subsection one of this section upon the terms set out in such proposal with such amendments, if any,—
 - (i) where no reference has been made to the Board, as the Commission may think fit; or
 - (ii) in any other case, as the Board may recommend; and
- (b) appoint a date, hereinafter called the “transfer day”, not being earlier than the date of publication of the proclamation, on and from which the transfer of the works to the trust shall be and become effective.

(5)

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(Amendment).*

(5) Upon the transfer day the following provisions shall take effect:—

- (a) the trust shall take over and shall thereafter administer and manage the works so transferred and in respect thereof may exercise all the powers and shall discharge all the duties conferred and imposed by this Part in respect of works taken over by or in charge of a trust, except such powers as are conferred solely on the Commission;
- (b) the trust shall become liable to repay the value of the works and interest and the charge for interest and payments to the sinking fund shall commence to run;
- (c) the liability of the trust to pay the charge for water to be supplied by the Crown shall cease and determine: Provided that—
 - (i) nothing in this paragraph shall be deemed to discharge or to modify or affect in any way the liability of the trust to pay for water supplied by the Crown at any time prior to the transfer day;
 - (ii) the charge for water to be supplied by the Crown in respect of the period then current shall be deemed to accrue from day to day and be apportioned accordingly;
 - (iii) if the trust has paid the charge for water to be supplied by the Crown in respect of the period then current, the proportion thereof which relates to that part of such period as has not elapsed on the transfer day shall be credited towards the liability of the trust **in respect of charges for interest**

and

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and payments to the sinking fund pursuant to the provisions of this section;

(iv) if the charge for water to be supplied by the Crown in respect of the period then current has not become due and payable, the trust shall, unless such charge has been paid by the trust, be liable to pay and shall pay the proportion thereof which relates to that part of the said period which has elapsed on the transfer day on the date which but for this section would have been the due date for payment of such charge next ensuing after the transfer day;

(d) the revised maximum rate (if any) specified in the proposal referred to in subsection one of this section or any amendment thereof made by the proclamation referred to in subsection four of this section shall be and become the maximum rate which may be assessed by the trust thereafter and the trustees may assess rates up to such revised maximum notwithstanding that a rate may already have been fixed and levied in respect of the rating year then current;

(e) the trust shall from such transfer day observe and perform all of the terms and conditions upon which the works have been transferred.

(6) Notwithstanding anything contained in this section the trust may, subject to the approval of the Commission, have the option of repaying the value of the works by a lump sum or in a less number of years than the period determined under the foregoing provisions of this section for such repayment.

(7)

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(7) (a) In this section the expression "the value of the works" means the value, as determined by the Commission or where varied under the foregoing provisions of this section as so varied, of the works by means of which water is supplied to a trust by the Crown.

(b) In determining such value the Commission shall—

- (i) determine the value as at the date of the notification in the Gazette of the proposal referred to in subsection one of this section;
- (ii) if the charge for water to be supplied by the Crown to be paid by a trust to which this section applies has been fixed to include the payment of the cost of the works, take into consideration the amount which has been paid by the trust towards the cost of the works; and
- (iii) have regard to any certificate issued under the provisions of section 73D of this Act.

Further
amendment of
Act No. 44,
1912.

12. The Water Act, 1912-1952, is further amended—

Sec. 105.
(Definition.)

- (a) by omitting from section one hundred and five the definition "Bore" and "Well" and by inserting in lieu thereof the following definition:—

"Bore" means any bore or well or any excavation or other work connected or proposed to be connected with sources of sub-surface water and used or proposed to be used or capable of being used to obtain supplies of such water whether the water

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water flows naturally at all times or has to be raised either wholly or at times by pumping or other artificial means, but does not include a work to which Part II of this Act extends.

- (b) by omitting section 111A; Sec. 111A.
(Boundaries.)
- (c) by omitting from subsection one of section one hundred and twelve the words "to increase the flow of water therefrom"; Sec. 112.
(Wells to be licensed.)
- (d) by inserting in subsection two of section one hundred and thirteen after the word "bore" where secondly occurring the words "or the circumstances so warrant"; Sec. 113.
(Application for license.)
- (e) by omitting from subsection one of section one hundred and fourteen the words "in the case of an application with respect to an artesian bore"; Sec. 114.
(Inquiry.)
- (f) by omitting section one hundred and fifteen and by inserting in lieu thereof the following sections:— Subst.
sec. 115
and new sec.
115A.

115. (1) In any case where an application has not been advertised pursuant to subsection two of section one hundred and thirteen of this Act the Commission shall, as soon as practicable after it has investigated and considered the application, issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper. Issue of
license.

(2) In any other case the Commission shall—

- (a) where an inquiry has been held pursuant to section one hundred and fourteen of this Act and the board reports in favour of the issuing of a license; or

(b)

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- (b) where no inquiry has been held pursuant to section one hundred and fourteen of this Act and the Commission decides to grant the application,

on payment of the prescribed fee issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.

Licensing
of existing
bores or
wells.

115A. (1) Every owner of land upon which at the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, there exists a bore or a partially constructed bore for the sinking of which a license under the provisions of this Part has not been issued shall within a period of twelve months after such commencement notify the Commission in writing of the existence of each such bore and shall make application for a license for and in respect of each such bore.

(2) The provisions of subsection one of section one hundred and thirteen shall, mutatis mutandis, apply to and in respect of an application under this section.

(3) The Commission shall, as soon as practicable after receipt of an application under this section, issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.

(4) Any person who contravenes the provisions of this section shall, upon conviction, be liable to a penalty not exceeding one hundred pounds and a further penalty not exceeding five pounds for each day during which the contravention continues after such conviction.

Sec. 117.
(Benefit of
license.)

- (g) by omitting from section one hundred and seventeen the word "well" and by inserting in lieu thereof the word "bore";

(h)

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- (h) by omitting from section one hundred and eighteen the word "well" wherever occurring and by inserting in lieu thereof the word "bore";

Sec. 118.
(Penalty for alterations of licensed well or contravention of license.)

- (i) by inserting next after section one hundred and eighteen the following new section:—

New sec.
118A.

118A. (1) No person shall, after the expiration of three months from the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, act as a driller on or in connection with the construction of a bore on any land other than that of which he is the owner or occupier unless he is the holder of a driller's license issued by the Commission.

Drillers to
be licensed.

(2) Any person who contravenes the provisions of subsection one of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction.

(3) A driller's license may be issued by the Commission to any competent and capable person upon application being made therefor in writing and upon the Commission having been furnished with such information as to the competency and capability of the applicant as it may require.

(4) A holder of a driller's license who acts as a driller on or in connection with the construction of a bore shall, upon demand being made by the Commission and within such time as the Commission may specify, furnish to the Commission or to such person as the Commission may direct and in such form as the Commission may require, such information relating to—

- (a) the nature and thickness of the various strata met with during the drilling performed by him in connection with the bore;

(b)

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- (b) the location, quantities and quality of all supplies of water met with during such drilling;
 - (c) the height each such supply of water stands relative to the natural surface of the ground at the site of the bore; and
 - (d) the depth, diameter and other particulars of the bore and the casing inserted in the bore,
- as the Commission may require.

(5) Any driller who contravenes the provisions of subsection four of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and to a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction and, in addition to the imposition of the said penalty, the Commission may cancel his driller's license.

(6) The Commission may at any time cancel any license issued pursuant to subsection three of this section if in its opinion the holder of the license is or has become incompetent or incapable or is not a fit and proper person to continue to be licensed as a driller or for such other good and sufficient cause as to the Commission seems proper.

(7) No person shall be entitled to claim or be paid any compensation whatsoever arising out of or by reason of the exercise by the Commission of the powers conferred by subsection six of this section.

Sec. 123.
(Waste of
water.)

- (j) (i) by inserting in subsection one of section one hundred and twenty-three after the word "well" where firstly occurring the words "or bore";

(ii)

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- (ii) by omitting from the same subsection the words "partial closing" and by inserting in lieu thereof the words "closing or partial closing";
- (iii) by omitting from the same subsection the words "such well" and by inserting in lieu thereof the words "such artesian well or bore";
- (iv) by omitting from subsection two of the same section the words "such well" and by inserting in lieu thereof the words "such artesian well or bore";
- (k) (i) by omitting from subsection one of section one hundred and twenty-four the words "artesian wells" and by inserting in lieu thereof the words "artesian well or bore";
- (ii) by omitting from the same subsection the words "such wells" and by inserting in lieu thereof the words "any artesian well or bore".

13. The Water Act, 1912-1952, is further amended—

- (a) by inserting in the definition of "Work" in section one hundred and thirty after the word "sewer" the words "bridge, culvert, fence,";
- (b) by omitting subsection two of section 133A and by inserting in lieu thereof the following subsection:—
 - (2) Where by virtue of any such further proclamation lands previously described as comprising two or more holdings become one holding or lands previously described as comprising one holding become two or more holdings such further proclamation may attach to the new holding or each of the new holdings such number of water rights as the Governor may consider proper.

Further amendment of Act No. 44, 1912.

Sec. 130. (Definitions.)

Sec. 133A. (Correction of errors in constitution of districts and provisional districts.)

(c)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

New sec.
133B.

- (c) by inserting next after section 133A the following new subheading and section:—

Additional Works.

Additional
works.

133B. At any time after the notification of the completion of the works of a provisional district or the proclamation of the constitution of a district the Commission may, for the purposes of such provisional district or district, construct or acquire any additional works and thereupon such additional works shall become works of the provisional district or district, as the case may be.

New sec.
137A.

- (d) by inserting next after section one hundred and thirty-seven the following new section:—

Meter
charges.

137A. (1) In any provisional district or district in which water is supplied through pipes under pressure and any meter is installed by the Commission for the purpose of measuring the quantity of water so supplied to a holding, the Commission may impose such annual charge for the use of such meter as it may from time to time determine. The charge shall be paid to the bank by the owner of the land on or before the fifteenth day of September in each year.

(2) The owner of the land shall pay to the Commission on demand all costs, charges and expenses incurred by the Commission in repairing or replacing any such meter which has become damaged or destroyed from any cause whatsoever and upon default in payment the amount of such costs, charges and expenses may be recovered by the Commission from such owner in any court of competent jurisdiction as a debt due and owing to the Commission.

Sec. 139.
(Assessment
of rates and
charges.)

- (e) (i) by inserting in subsection three of section one hundred and thirty-nine after the word "rates" the words "or charges for water";

(ii)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

- (ii) by inserting in the same subsection after the word "rate" wherever occurring the words "or charge";
 - (iii) by inserting in subsection four of the same section after the word "rate" the words "or charge for water";
 - (iv) by inserting in subsection five of the same section after the word "rate" the words "or charge for water";
 - (v) by inserting in subsection six of the same section after the word "rate" where firstly occurring the words "or charge for water";
 - (vi) by inserting in the same subsection after the word "miscalculation" the words "or for any other reason whatsoever";
 - (vii) by inserting in the same subsection after the word "rate" where secondly occurring the words "or charge";
- (f) (i) by omitting subsections nine and (9A) of section one hundred and forty-seven and by inserting in lieu thereof the following subsection:—

Sec. 147.
(Supply of
water.)

(9) (a) Upon the Commission becoming aware that an owner has subdivided his holding and has disposed of any part or parts or all the parts thereof the Governor shall on the recommendation of the Commission declare that, as from a specified date not being earlier than the date the Commission became aware of such subdivision and disposal, the holding shall for the purposes of this Part cease to be a holding and that new holdings shall be deemed to be constituted in respect of each part disposed of and the part, if any, retained by the owner.

(b)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

(b) Thereupon if water rights were attached to the former holding the Governor on the recommendation of the Commission—

- (i) shall apportion such water rights between the new holdings; or
- (ii) shall increase the number of such water rights and apportion such increased number of water rights between the new holdings; or
- (iii) may in any case where water rights are not to be attached to any new holding by virtue of the provisions of paragraph (d) of this subsection reduce the water rights which were attached to the former holding by not more than the proportion which the area of any such new holding bears to the area of the former holding and shall apportion such reduced number of water rights between the remaining new holdings.

(c) Water rights as apportioned in accordance with the provisions of paragraph (b) of this subsection shall attach to each of the new holdings on and from the date specified in accordance with the provisions of paragraph (a) of this subsection.

(d) Water rights shall not be attached to any new holding which, in the opinion of the Commission, does not contain land capable of being irrigated from the works of the district or provisional district, or to which, in the opinion of the Commission, it is impracticable to convey water for irrigation from such works.

(e)

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(Amendment).*

(e) Rates and charges for water shall be assessed and payable in respect of each of the new holdings as from the date specified in accordance with the provisions of paragraph (a) of this subsection.

(f) Any necessary adjustment of rates and charges for water already assessed and levied in respect of the former holding shall be made.

(g) The rates and charges for water in respect of the new holdings shall be payable notwithstanding that the means of supplying and conveying water from the works of the district or provisional district and of measuring such supply have not been provided in respect of all or any of such new holdings.

(ii) by omitting paragraph (f) of subsection ten of the same section and by inserting in lieu thereof the following paragraph:—

(f) (i) Where the owner of a holding has not in accordance with the provisions of paragraph (a) of this subsection constructed or fully constructed the works therein referred to the Commission may construct such works as have not been constructed by such owner and may recover the costs and expenses (including the cost of acquisition of any land or easement deemed by the Commission to be required for such works) incurred in so doing in any court of competent jurisdiction as a debt either from such owner, or from the owner of the new holding for the purposes of which the works are required to be constructed, as the Commission may determine.

(ii) Where pursuant to the provisions of subparagraph (i) of this paragraph any
part

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

part of the cost referred to in that subparagraph is recovered from any person other than the former owner of the holding, that person may, subject to the terms of any agreement between himself and such former owner, recover that part from such former owner.

(iii) Any works which the Commission constructs pursuant to the provisions of subparagraph (i) of this paragraph shall be deemed to be constructed as works of the district or provisional district, as the case may be, and the provisions of section one hundred and forty-eight of this Act shall apply to and in respect of the construction of such works.

(iii) by inserting at the end of subsection ten of the same section the following new paragraph:—

(h) If any works which are deemed by the Commission to be necessary to provide means of supplying and conveying water from the works of a district or provisional district to lands within that district or provisional district, as the case may be, which have been acquired by the Crown by purchase or resumption under the provisions of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, or by purchase or vesting under the provisions of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, or to any part or parts of any such lands, have not been otherwise constructed, the Commission shall have power and shall always be deemed to have had power to construct any such works

as

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

as works of the district or provisional district within which any such lands are situated and the provisions of section one hundred and forty-eight of this Act shall apply and shall always be deemed to have applied to and in respect of the construction of such works.

- (g) by inserting next after section one hundred and forty-seven the following new subheading and section:—

New sec.
147A.

Amalgamation of Holdings.

147A. (1) On application by the owner of two or more holdings the total area of which does not in the opinion of the Commission substantially exceed a home maintenance area the Commission may, if it thinks fit, recommend to the Governor that such holdings be amalgamated into one holding and thereupon the Governor may declare such holdings, as from the first day of July next following such declaration, to be one holding for the purposes of this Part and may fix the number of water rights which shall attach thereto.

Amalgama-
tion of
holdings.

(2) Where any declaration has been made in accordance with subsection one of this section the Commission shall determine which of the existing works of water supply are sufficient to serve adequately the holding into which holdings have been amalgamated as aforesaid and may at any time after the first day of July next following such declaration cease to supply water to such holding through any other work of water supply.

(3) All overdue rates and charges for water assessed in respect of any of the holdings declared to be one holding shall on the date on which the declaration referred to in subsection

(d)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

subsection one of this section takes effect be overdue rates and charges in respect of the holding into which such holdings have been amalgamated.

(4) For the purposes of this section "home maintenance area" means an area which, when used for the purpose for which the Commission considers it is reasonably fitted, would in the opinion of the Commission be sufficient for the maintenance in average seasons and circumstances of an average family.

Further
amendment
of Act No.
44, 1912.
New sec.
154A.

Additional
works.

14. The Water Act, 1912-1952, is further amended by inserting next after section one hundred and fifty-four the following new section:—

154A. At any time after the notification of the completion of the works of a provisional district or the proclamation of the constitution of a district the Commission may for the purposes of such provisional district or district construct or acquire any additional works and thereupon such additional works shall become works of the provisional district or district, as the case may be.

Further
amendment
of Act No.
44, 1912.

Sec. 165.
(Defini-
tions.)

15. The Water Act, 1912-1952, is further amended—

(a) by inserting in the definition of "Work" in section one hundred and sixty-five after the word "pipe" the words "sewer, bridge, culvert, fence";

Sec. 172.
(Contribu-
tions.)

(b) (i) by omitting from subsection three of section one hundred and seventy-two the words "and shall be at an equal rate per acre";

(ii) by inserting at the end of subsection five of the same section the following words:—

"For the purposes of Division 1 of Part XXIII of the Conveyancing Act, 1919-1954, the expression 'rate or tax' in paragraph

(b).

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

(b) of section one hundred and eighty-seven of the said Act shall be deemed to include every contribution referred to in this subsection."

- (c) by inserting next after section one hundred and seventy-five the following new section:—

New sec.
175A.

175A. Notwithstanding anything in this Part contained different amounts of contributions and different amounts of rates may be fixed for different holdings and for different parts of holdings in the same district or provisional district and in fixing such different amounts regard may be had to—

Benefit to be
taken into
account.

- (a) the degree of benefit conferred upon the lands by the works of the district or provisional district;
- (b) the value of the protection afforded to the lands by the works of the district or provisional district having regard to the purpose for which the lands are used; and
- (c) the quantity of water normally used for the classes of crops or plantings on the lands.

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

PART V.

AMENDMENT OF THE RIVERS AND FORESHORES IMPROVEMENT
Act, 1948.

Amendment
of Act No.
20, 1948.

Sec. 7.

(Work bene-
fitting land,
road or work
of a council.)

Further
amendment
of Act. No.
20, 1948.

New sec.
23A.

Removal of
soil from
or in
proximity
to banks
of rivers.

16. The Rivers and Foreshores Improvement Act, 1948, is amended by omitting from section seven the word "Commission" wherever occurring and by inserting in lieu thereof the words "Constructing Authority".

17. The Rivers and Foreshores Improvement Act, 1948, is further amended by inserting next after section twenty-three the following new section:—

23A. (1) No owner or occupier of land or other person whomsoever shall, except with the permission of the Constructing Authority—

- (a) make or cause or allow to be made any excavation on, in or under the bank of a river or on, in or under any land situate within a distance of two chains measured horizontally from the top of the bank of a river; or
- (b) remove or cause or allow to be removed any soil from the bank of a river or from any land situate within a distance of two chains measured horizontally from the top of the bank of a river.

(2) (a) Application for a permit under this section shall be made in writing to the Constructing Authority and shall specify the land in respect of which the permit is desired and supply full particulars of the work proposed to be undertaken.

(b) The Constructing Authority may, after such investigation as the Constructing Authority may deem necessary, refuse any permit applied for under this section or may grant the same subject to such limitations and conditions (including a condition limiting the time the permit shall remain in force) as the Constructing Authority may think fit.

(c)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

(c) The Constructing Authority may at any time revoke or vary any permit issued under the provisions of this section.

(3) Any owner or occupier of land or other person whomsoever who, in respect of any land—

(a) makes or causes or allows to be made any excavation or removes or causes or allows to be removed any soil contrary to the provisions of this section; or

(b) fails to comply with any of the limitations or conditions for the time being attached to any permit granted under the provisions of this section,

shall be guilty of an offence and shall be liable, for the first offence, to a penalty not exceeding fifty pounds and for a subsequent offence to a penalty not exceeding one hundred pounds.

(4) Where—

(a) any excavation has been or is being made or any soil has been or is being removed contrary to the provisions of this section after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955; or

(b) the Constructing Authority is of the opinion that any excavation on, in or under any land or the removal of soil from any land, although not contrary to the provisions of this section and whether made or effected before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955—

(i) is damaging or detrimentally affecting or is likely to damage or detrimentally affect the bank of a river; or

(ii) is likely to cause, whether directly or indirectly, a river to change its course,

the

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

the Constructing Authority may by notice in writing direct the owner or occupier of the land on which such excavation has been or is being made or from which soil has been or is being removed to take such measures and in such manner and within such time as may be specified in such notice as the Constructing Authority deems necessary to ensure that the bank of the river will not be damaged or detrimentally affected or that the river will not be caused, whether directly or indirectly, to change its course, as the case may be, by reason of such excavation or removal of soil.

(5) If any owner or occupier fails to comply with the terms of any notice given to him pursuant to subsection four of this section, the Constructing Authority may authorise any person to enter upon the land in respect of which such notice has been given and there to carry out the measures specified in such notice and may recover the cost incurred in so doing from such owner or occupier in any court of competent jurisdiction as a debt due and owing by him to the Constructing Authority and until repayment such cost shall be a charge on the land.

(6) The provisions of subsections one, two, three, four and five of this section shall not apply to or in respect of the exercise of any rights lawfully exercisable—

- (a) under any license, permit or authority for a joint water supply scheme issued under any of the provisions of the Water Act, 1912, as amended by subsequent Acts;
- (b) under any lease, license, permit or other right issued under the provisions of the Acts relating to mining or under the provisions of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, or of any other Act; or
- (c) by any statutory body or by any council.

(7) Where the Constructing Authority is of the opinion that the making of any excavation on, in or under the bank of a river, or on, in or under any

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(Amendment).*

any land, or the removal of soil from the bank of a river, or from any land, in the exercise of any of the rights referred to in subsection six of this section whether before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955—

- (a) is damaging or detrimentally affecting or is likely to damage or detrimentally affect the bank of a river; or
- (b) is likely to cause, whether directly or indirectly, a river to change its course,

the Constructing Authority may by notice in writing direct the person, statutory body or council by whom or on whose behalf any such excavation has been or is being made or any such soil has been or is being removed to take such measures and in such manner and within such time as may be specified in such notice as the Constructing Authority deems necessary to ensure that the bank of the river will not be damaged or detrimentally affected or that the river will not be caused, whether directly or indirectly, to change its course, as the case may be, by reason of such excavation or removal of soil and such person, statutory body or council shall comply with the terms of such notice accordingly.

(8) If any person or council fails to comply with the terms of any notice given pursuant to subsection seven of this section the Constructing Authority may authorise any person to enter upon the land in respect of which such notice has been given and there to carry out the measures specified in such notice and may recover the cost incurred in so doing from such firstmentioned person or from such council, as the case may be, in any court of competent jurisdiction as a debt due and owing by him or by it to the Constructing Authority.

(9) For the purposes of this section the Constructing Authority, or any person authorised by it, may enter upon and inspect any land.

(10)

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(Amendment).*

(10) In this section—

“Constructing Authority” means the Minister for Public Works or the Commission, respectively, according as to whether the waters of the river immediately adjacent to the land on which an excavation has been or is being made or from which soil has been or is being removed are tidal waters or are not tidal waters, as the case may be.

“Soil” means the surface of any land and all matter or material whatsoever lying beneath that surface.

PART VI.

AMENDMENT OF THE WESTERN LANDS ACT OF 1901.

Amendment of
Act No. 70,
1901.

18. The Western Lands Act of 1901, as amended by subsequent Acts, is amended—

Sec. 31.
(Determina-
tion of value
of improve-
ments.)

- (a) by omitting from subsection five of section thirty-one the word “shallow” wherever occurring;
- (b) by omitting from the same subsection the words “one hundred” and by inserting in lieu thereof the words “two hundred”.

PART VII.

AMENDMENT OF THE MURRUMBIDGEE IRRIGATION AREAS
OCCUPIERS RELIEF ACT, 1934.

Amendment
of Act No.
52, 1934.
Sees. 12
and 14.
(Determina-
tion of
water rights
attached to
holdings and
the prices
thereof;
numbers and
prices not to
be altered,
etc.)

19. The Murrumbidgee Irrigation Areas Occupiers Relief Act, 1934, as amended by subsequent Acts, is amended by omitting sections twelve and fourteen.

PART

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

PART VIII.

MISCELLANEOUS.

20. (1) Except as hereinafter provided this section shall apply to—

Reduction
of rentals
of certain
leases.

(a) any lease from the Crown—

- (i) within an irrigation area constituted under the Irrigation Act, 1912, as amended by subsequent Acts;
- (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;
- (iii) made under or by operation of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, before the first day of January, one thousand nine hundred and thirty-three; and
- (iv) being in respect of land notified in the Gazette as available for disposal for the purpose of residence, or described in the Gazette as suitable for residential purposes, or comprising an irrigation farm lease of an area not exceeding five acres;

(b) any lease from the Water Conservation and Irrigation Commission—

- (i) within the irrigation area constituted under the provisions of the Wentworth Irrigation Act;
- (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;
- (iii) made under or by operation of the Wentworth Irrigation Act;
- (iv) being in respect of land which in the opinion of the Water Conservation and Irrigation Commission is mainly suitable for residential purposes; and

(v)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

(v) being in respect of land which has throughout the whole of the period from the thirty-first day of December, one thousand nine hundred and thirty-two, to the first day of January, one thousand nine hundred and forty-eight—

(a) been leased land under the Wentworth Irrigation Act by way of lease subsisting at the said thirty-first day of December and of any new lease granted from time to time during such period; and

(b) been held by—

(i) the lessee under the lease subsisting at the said thirty-first day of December; or

(ii) that lessee and any lessee who became lessee by transfer or assignment from or devolution under the will or intestacy of any immediately prior lessee.

(2) This section shall not apply to any lease referred to in paragraph (a) of subsection one of this section—

(a) being in respect of land notified in the Gazette as available for disposal for the purpose of residence and in respect of which the Water Conservation and Irrigation Commission has, before the commencement of this section, pursuant to the provisions of subsection ten of section 142D of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to the land comprised in such lease being used for any of the purposes specified in the said subsection ten; or

(b)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

- (b) in respect of which the annual rental has before the commencement of this section been determined consequent upon the addition of land thereto.

(3) Subject to this section the annual rental of any lease to which this section applies shall as on and from the first day of January, one thousand nine hundred and forty-eight, be the annual rental of such lease as at the thirty-first day of December, one thousand nine hundred and thirty-two, reduced by twenty-two and one-half per centum:

Provided that where in pursuance of the provisions of section one hundred and forty-three of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, the annual rental for the second or any succeeding period of any lease referred to in paragraph (a) of subsection one of this section has been determined as in the said section one hundred and forty-three provided—

- (a) before the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the first day of January, one thousand nine hundred and forty-eight, and for the unexpired portion of the current period of such lease be the annual rental as so determined reduced by twenty-two and one-half per centum;
- (b) after the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the commencement of such second or succeeding period and for such period be the annual rental as so determined reduced by twenty-two and one-half per centum.

(4) Where by reason of any reduction made in pursuance of any enactment other than this section the annual rental under any lease to which this section applies has been decreased, the reduction prescribed by subsection three of this section shall not be in addition
to

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

to the amount of such decrease, but such decrease shall be taken into account in determining the annual rental to be paid consequent upon the reduction so prescribed.

(5) Where after the commencement of this section—

- (a) the Water Conservation and Irrigation Commission has, pursuant to the provisions of subsection ten of section 142D of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to any land comprised in a lease referred to in paragraph (a) of subsection one of this section and notified in the Gazette as available for disposal for the purpose of residence being used for any of the purposes specified in the said subsection ten; or
- (b) the annual rental of any lease referred to in paragraph (a) of subsection one of this section has been determined consequent upon the addition of land thereto; or
- (c) the Water Conservation and Irrigation Commission decides that the land comprised in any lease to which this section applies is used mainly or substantially for any business purpose,

the provisions of this section shall cease to apply to the lease referred to in paragraph (a), (b) or (c) of this subsection as from the date of such consent, determination or decision, as the case may require.

(6) This section shall be deemed to have commenced upon the first day of January, one thousand nine hundred and forty-eight.

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

J. NORTHCOTT,
Governor.

*Government House,
Sydney, 12th April, 1955.*

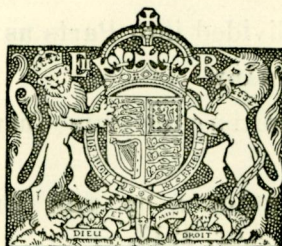
This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 23 March, 1955.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

J. R. STEVENSON,
Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, 24th March, 1955.

New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

Act No. , 1955.

An Act to limit the right of future acquisition of freehold tenures within irrigation areas; to make further provision with respect to the licensing of bores; to regulate the removal of soil from or adjacent to the banks of rivers; to make further provision for the reduction of rentals payable in respect of certain classes of tenures within irrigation areas; for these and other purposes to amend the Irrigation Act, 1912-1954, the Crown Lands Consolidation Act, 1913, the Water Act, 1912-1952, the Rivers and Foreshores Improvement Act, 1948, and certain other Acts in certain respects; and for purposes connected therewith.

80311 5—A

BE

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

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

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

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Irrigation, Short title,
division
into Parts
and
citation.
Water and Rivers and Foreshores Improvement (Amend-
10 ment) Act, 1955."

(2) This Act is divided into Parts as follows :—

PART I.—PRELIMINARY.

PART II.—AMENDMENT OF THE IRRIGATION ACT,
1912-1954.

15 PART III.—AMENDMENT OF THE CROWN LANDS
CONSOLIDATION ACT, 1913.

PART IV.—AMENDMENT OF THE WATER ACT, 1912-
1952.

20 PART V.—AMENDMENT OF THE RIVERS AND FORE-
SHORES IMPROVEMENT ACT, 1948.

PART VI.—AMENDMENT OF THE WESTERN LANDS
ACT OF 1901.

PART VII.—AMENDMENT OF THE MURRUMBIDGEE
IRRIGATION AREAS OCCUPIERS RELIEF ACT, 1934.

25 PART VIII.—MISCELLANEOUS.

(3) The Irrigation Act, 1912, as amended by sub-
sequent Acts and by this Act, may be cited as the
Irrigation Act, 1912-1955.

30 (4) The Water Act, 1912, as amended by sub-
sequent Acts and by this Act, may be cited as the Water
Act, 1912-1955.

(5) The Rivers and Foreshores Improvement Act,
1948, as amended by this Act, may be cited as the Rivers
and Foreshores Improvement Act, 1948-1955.

PART

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

PART II.

AMENDMENT OF THE IRRIGATION ACT, 1912-1954.

2. The Irrigation Act, 1912-1954, is amended—

Amendment
of Act No.
73, 1912.

5 (a) by omitting from section five the words “five hundred” wherever occurring and by inserting in lieu thereof the words “two thousand”; Sec. 5.
(Appoint-
ment of
officers.)

(b) by inserting next after section 5E the following new section:— New sec.
5F.

10 5F. Any person who at the date of commence- Certain
ment of the Irrigation, Water and Rivers and persons
Foreshores Improvement (Amendment) Act, deemed
1955, is in the service of the Commission and to have
whose yearly salary at such date does not exceed been
15 two thousand pounds shall, for the purpose of appointed
section five, section 5A and section 5B of this Act, by
be deemed to have been appointed by the Com- Commission.
mission.

3. The Irrigation Act, 1912-1954, is further amended—

Further
amendment
of Act No.
73, 1912.

20 (a) by inserting next after section 8B the following new section:— New sec.
8c.

8c. (1) (a) It shall be a function of the Com- Further
mission to make provision for— functions
and powers
of

25 (i) the systematic gauging and recording of Commission.
the volume and flow of rivers and
streams, and of the volume of lakes
and lagoons within the State and the
effect of climatic conditions upon such
volume; and

30 (ii) the gathering and recording of such
data concerning the ground water
resources of the State as the Com-
mission may deem practicable.

(b)

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(Amendment).*

(b) The Commission may publish and make available any information so ascertained or gathered.

5 (2) The Commission may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable to enable it effectively to carry out all or any of its powers, authorities, duties and functions under this or any other Act
10 and without limiting the generality of the foregoing may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable—

15 (a) to ascertain potential sites for works of water storage or water supply and the practicability and cost of constructing any such works;

20 (b) to ascertain the nature and extent of lands capable of being supplied with water from any existing or proposed works of water storage or water supply and the means whereby such lands may be so supplied;

25 (c) to ascertain the necessity of and potential sites for works for flood mitigation or flood control and the practicability and cost of constructing any such works;

30 (d) to ascertain the nature and extent of lands capable of being protected or partially protected from flooding or inundation by any works of flood mitigation or flood control;

35 (e) to ascertain the existence and location of subterranean waters and the character and quality thereof.

(3) The Commission, in the exercise of its powers, authorities, duties and functions under this or any other Act, may by its officers, servants,

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servants, workmen or agents enter upon any lands and do all such things as may be requisite for the purpose of—

5 (a) making and carrying out such inspections, tests, investigations, surveys, experiments and boring, drilling and other explorations as the Commission may deem necessary for the full and effective exercise of any of its powers, 10 authorities, duties and functions under this or any other Act; or

(b) constructing, maintaining, operating, or altering any works, 15 or for any other purpose connected with or related to or incidental to the exercise of any of its powers, authorities, duties and functions under this or any other Act, notwithstanding an easement or right so to enter or use such lands may not have been granted or acquired.

20 The powers conferred by this subsection shall be additional to and not in substitution for any other powers elsewhere conferred on the Commission.

25 (4) In the exercise of any of the powers conferred by subsection three of this section the Commission shall inflict as little damage as may be and shall make full compensation to all parties interested for all damage sustained by them in consequence of the exercise of such 30 powers.

(b) by omitting subsection four of section nine.

Sec. 9.
(Commis-
sion to
construct
works, etc.)

4. The Irrigation Act, 1912-1954, is further amended—

Further
amendment
of Act
No. 73, 1912.

35 (a) by inserting in section 11A after the word “shall” the words “except as hereinafter provided”;

Sec. 11A.
(Application
of ss.
11B-11F.)

(b)

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- (b) by inserting next after subsection one of section 11c the following new subsections:—

Sec. 11c.
(Conversion
of lease-
holds.)

5 (1A) The lessee of an irrigated lot within the
irrigation area constituted under the provisions
of the Wentworth Irrigation Act shall not be
entitled to purchase such lot unless the land
comprising such lot has, throughout the whole
of the period from the commencement of the
10 Irrigation, Water and Rivers and Foreshores
Improvement (Amendment) Act, 1955, to the
date of notification of his intention to pur-
chase—

15 (a) been leased land by way of lease
subsisting at such commencement and
of any new lease granted from time to
time during such period; and

(b) been held by—
(i) the lessee under the lease subsist-
ing at such commencement; or
20 (ii) that lessee and any lessee who
became lessee by transfer or
assignment from or devolution
under the will or intestacy of
any immediately prior lessee.

25 (1B) The lessee of an irrigated lot within the
irrigation area constituted under the provisions
of the Hay Irrigation Act, 1902, shall not be
entitled to purchase such lot unless he has
prior to the commencement of the Irrigation,
30 Water and Rivers and Foreshores Improvement
(Amendment) Act, 1955, notified the Commis-
sion on the form and in the manner prescribed
of his intention to purchase such lot.

5. The Irrigation Act, 1912-1954, is further amended—

Further
amendment
of Act. No.
73, 1912.

35 (a) by omitting subsection four of section twelve;

Sec. 12.

(b) (Water
rights.)

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- (b) by inserting in subsection one of section thirteen after the words "such additional water rights" the following new paragraph:—

Sec. 13.
(Additional
water
rights.)

5 After the full quantity of water to which an occupier is entitled pursuant to the water rights attached to his land and to any additional water rights which may have been allotted to him has been supplied, the Commission may, on application by the occupier, supply him with additional water at such charges as the Commission may determine.

- (c) by inserting next after section thirteen the following new section:—

New sec.
13A.

15 13A. (1) Where the Commission is prepared to make available and makes available to any land a supply of water solely during the hours of daylight, it may impose such special charge per acre foot for all water so supplied as it may from time to time determine. Notification of any such determination shall be published in the Gazette.

Supply of
water during
hours of
daylight.

25 (2) The special charge shall be in addition to the charges for any water rights which are attached to the land and for any additional water rights and for any water supplied to the land additional to the water supplied pursuant to such water rights and additional water rights.

30 (3) The special charge shall be determined by the Commission having regard to the additional cost per acre foot which the Commission estimates will be incurred by it in supplying water solely during the hours of daylight.

35 (4) The special charge shall be paid by the occupier of the land on or before the thirtieth day of June in each year in respect of water supplied during the year ending on the said thirtieth day of June.

(5)

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(5) In this section "acre foot" means such a quantity of water twelve inches deep as would cover an area of one acre.

5 (d) (i) by inserting in subsection one of section Sec. 15.
fifteen after the word "Act" where thirdly (Payment of
occurring the words "or for maintenance charges arising in relation to the supply of
charges.)
water";

10 (ii) by omitting from the same subsection the
words "as and when directed by the bank";

(iii) by inserting at the end of the same subsection the following new paragraph:—

15 The charges in respect of water rights
which are attached to the land, the charges
in respect of additional water rights, and
the charges in respect of the water supplied
to the land additional to water supplied pur-
suant to such water rights and additional
20 water rights shall be paid at the times and
in the manner prescribed, and all other rates
or charges for water and maintenance
charges shall, except where otherwise ex-
pressly provided, be paid at the times and
25 in the manner determined by the Commis-
sion and when no such determination has
been made then at such times and in such
manner as may have been agreed between
the Commission and the occupier.

6. The Irrigation Act, 1912-1954, is further amended—

30 (a) by inserting next after section 17A the following
new section:— Further
amendment
of Act No.
73, 1912.
New sec.
17AA.

35 17AA. Any person who destroys, damages or
interferes in any way with any work, structure
or other thing whatsoever vested in or made,
constructed or provided by or otherwise under
the control or management of the Commission
shall where no other provision is expressly made
by any other section of this Act be liable upon
summary
Damage
to or
interference
with works.

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- summary conviction to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding three months: Provided that nothing in this section shall in any way affect any liability to which any person who commits a breach of this section may be subject under any other Act or at common law but such person shall not be liable to be punished twice for the same offence.
- 5
- 10 (b) by inserting in subsection three of section eighteen after the word "Area" where thirdly occurring the words "and any other irrigation area constituted or which may be constituted under the provisions of this Act";
- 15 (c) by omitting from the same subsection the words and figures "and Part VII" and by inserting in lieu thereof the words and figures "Part VII and Part VIII".
- Sec. 18.
(Collection of rents, etc.)

PART III.

20 AMENDMENT OF THE CROWN LANDS CONSOLIDATION ACT,
1913.

7. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is amended—

- 25 (a) by inserting at the end of subsection two of section one hundred and forty the following proviso:—
- Sec. 140.
(Applications for holdings.)

30 Provided that in the case of lands set apart for disposal in accordance with the provisions of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, the survey fee shall not be required to accompany an application but shall be paid by the successful applicant at a time and in a manner to be specified in the notification under paragraph (d) of subsection two of section one hundred and thirty-nine of this Act that the

35 lands are available for disposal.

(b)

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- (b) (i) by omitting from subsection five of section one hundred and forty-two the word "six" and by inserting in lieu thereof the word "three";
- 5 (ii) by inserting in paragraph (a) of subsection six of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- 10 (iii) by omitting from paragraph (c) of the same subsection the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- 15 (iv) by omitting paragraph (d) of the same subsection and by inserting in lieu thereof the following paragraph:—
- 20 (d) A condition to the effect that the land or any specified part of the land shall not be used to plant—
- 25 (i) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or
- 30 (ii) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or areas specified in the condition,
- 35 may be attached to any irrigation farm purchase after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955,

Sec. 142.
(Conditions
etc., of
irrigation
farm
purchases.)

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1955, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such irrigation farm purchase.

- 5 (c) (i) by omitting from subsection four of section 142b the word "six" and by inserting in lieu thereof the word "three"; Sec. 142b.
(Conditions,
&c., of
leases
within
irrigation
areas.)
- 10 (ii) by inserting in subsection seven of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- 15 (iii) by omitting from subsection eight of the same section the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- 20 (iv) by omitting subsection nine of the same section and by inserting in lieu thereof the following subsections:—
- 25 (9) A condition to the effect that the land or any specified part of the land shall not be used to plant—
- (a) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or
- 30 (b) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or areas specified in the condition,
- 35 may be attached to any lease after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement
(Amendment)

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(Amendment) Act, 1955, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such lease.

5 (9A) (a) The Minister may, at any time, with the consent of the holder of the lease, by instrument under his hand in the prescribed form, cancel or vary any
10 condition mentioned in subsection seven, subsection eight or subsection nine of this section on such terms and conditions as he thinks fit and the condition as so varied shall, whether or not the perpetual lease
15 grant has issued, be the condition attaching to the land.

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

20 (d) (i) by inserting at the end of subsection one of Sec. 145. section one hundred and forty-five the words (Conversion of I.F.L. to I.F.P., &c.)
“or to an irrigation farm lease or a non-irrigable lease described in any notification
25 in the Gazette under the provisions of section one hundred and thirty-nine of this Act as suitable for farming purposes, granted after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955”;

30 (ii) by inserting in subsection three of the same section after the word “determined” the words “as at the date of receipt by the Commission of the notification referred to in subsection two of this section”;

35 (iii) by inserting at the end of paragraph (d) of subsection five of the same section the following new paragraphs:—

(e) Where any lease converted under this section is subject to a transfer by way of mortgage

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mortgage registered in the books of the Commission such transfer shall be—

- 5 (i) deemed to extend and always to have extended to the purchase into which the lease has been converted in the same manner as it applies to the lease; and
- 10 (ii) recorded in the books of the Commission as a transfer of the purchase.

15 The provisions of this paragraph shall not apply to a transfer by way of mortgage of a lease in respect of which a perpetual lease grant has been issued where such transfer was registered in the books of the Commission before the issue of such perpetual lease grant.

20 (f) Where immediately preceding the conversion of any lease under this section an easement is appurtenant to or a burden upon any land comprised in such lease such easement shall after such conversion continue to be appurtenant to or a burden upon such land.

25 (g) Where a perpetual lease grant has issued in respect of any lease converted under this section and the Commission lodges with the Registrar-General with the surrender referred to in subsection two of this section a notification that the lease has been converted into a purchase, the Registrar-General shall register such surrender without requiring that any easement to which the land is subject shall be released or that any mortgage or other security to which the land is subject shall be discharged.

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40 (h) Paragraphs (e), (f) and (g) of this subsection shall apply to conversions whether effected before or after the commencement of the Irrigation, Water and Rivers and

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(Amendment).*

and Foreshores Improvement (Amendment) Act, 1955.

8. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended—

Further amendment of Act No. 7, 1913.

5 (a) (i) by inserting in subsection one of section 147D after the words "irrigation farm lease" the words "or a non-irrigable lease";

Sec. 147D. (Application to Minister to acquire private lands.)

10 (ii) by inserting next after subsection four of the same section the following new subsections:—

15 (4A) The application whether made before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, may with the consent of the owner or owners of the private lands proposed to be included or excluded or the price of which is proposed to be increased or decreased and the approval of the Minister be varied by including therein additional private lands or excluding therefrom part of the lands included therein or by increasing or decreasing the price specified in the application.

25 (4B) The consent of the owner or owners under subsection one of this section whether given before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, and the consent of the owner or owners under subsection (4A) of this section shall not be withdrawn before the expiration of sixty days after such owner or owners has or have given to the Minister notice in writing of his or their intention so to withdraw: Provided that in no case shall such consent be withdrawn after the Minister has approved of the purchase.

(b)

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- (b) by omitting from section 147E the words “such lands” where firstly occurring and by inserting in lieu thereof the words “the lands the subject of such application”. Sec. 147E.
(Valuation.)
- 5 (c) (i) by inserting in section 147G after the word “made” where firstly occurring the words “or varied”; Sec. 147G.
(Purchase of land.)
- 10 (ii) by inserting in paragraph (c) of the same section after the words “irrigation farm lease” the words “or a non-irrigable lease”;
- 15 (iii) by inserting at the end of the same section the words “or he may at his discretion refuse the application: Provided that the Minister shall not so approve where in his opinion the amount of capital (including shares in any company or any interest in any land) held by any applicant or by his or her spouse or by his or her parent or parents is such as to warrant refusal of the application”;
- 20 (d) by omitting from subsection one of section 147H the words “Where, under section 147D of this Act, an application has been made to the Minister to acquire any lands and the Minister has approved of the purchase of such lands” and by inserting in lieu thereof the words “Where the Minister has approved of the purchase of lands”; Sec. 147H.
(Vesting of land in the Crown.)
- 25 (e) (i) by inserting at the end of paragraph (a) of subsection one of section 147J the following words “or non-irrigable leases”; Sec. 147J.
(Vesting of land in applicant.)
- 30 (ii) by inserting next after the same paragraph the following new paragraphs:—
- 35 (a1) Any lands deemed by the Minister to be necessary for roads, or any purpose which he considers to be a community

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- 5 community purpose or a public purpose, or any lands which the Minister considers should be excluded for any reason may be excluded from the holdings and any adjacent Crown lands may be included in such holdings.
- 10 (a2) The subdivision may be made into holdings before the holdings are measured, and in such case the holdings may be notified under paragraph (c) of this subsection according to the design thereof.
- 15 (iii) by inserting in subparagraph (vi) of paragraph (c) of the same subsection after the words "irrigation farm lease" the words "or a non-irrigable lease";
- 20 (iv) by inserting in subsection four of the same section after the words "irrigation farm lease" where firstly occurring the words "or a non-irrigable lease";
- 25 (v) by inserting in the same subsection after the words "irrigation farm lease" where secondly and thirdly occurring the words "or non-irrigable lease";
- (vi) by inserting next after the same subsection the following new subsections:—
- 30 (4A) Where a holding has been measured after publication in the Gazette of a notification under paragraph (c) of subsection one of this section any necessary adjustment shall thereafter be made as to the area and annual rental of the holding and of the nature and value of any improvements
- 35 which are the property of the Crown and which are to be paid for by the incoming tenants,

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tenants, and of the terms and conditions upon which payment for the improvements shall be made.

5 (4B) Any lands excluded from the holdings under paragraph (a1) of subsection one of this section may be retained by the Crown either permanently or for a limited period and the Commission may expend moneys necessary to maintain adequately
10 such lands and the improvements thereon, and, if necessary, to replace improvements on such lands during such time as they are retained by the Crown. Such lands may be used for such purposes or leased by the
15 Commission for such terms and upon such conditions as the Minister may approve, or may be otherwise disposed of under the provisions of this Act.

20 (vii) by inserting in subsection five of the same section after the words "irrigation farm lease" the words "or a non-irrigable lease";

25 (viii) by inserting in the same subsection after the words "irrigation farm purchase" the words "or a non-irrigable purchase";

(ix) by inserting in subsection six of the same section after the words "irrigation farm leases" the words "or non-irrigable leases";

30 (f) by inserting in subsection two of section 147K Sec. 147K. after the words "irrigation farm lease" the (Penalties.) words "or a non-irrigable lease".

9. The Crown Lands Consolidation Act, 1913, as Further
amended by subsequent Acts, is further amended— amendment
of Act
No. 7,
1913.

35 (a) by inserting in subsection one of section one Sec. 197.
hundred and ninety-seven after the word (Exchanges
"settlement" where firstly occurring the words and
purchases
for public
purposes.)

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“or for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown”;

5 (b) by omitting from the same subsection the words
“The local land board” where firstly occurring
and by inserting in lieu thereof the words
“Except as hereinafter provided the local land
board”;

10 (c) by inserting at the end of the same section the
following new subsections:—

15 (5) In the application of the provisions of this
section to any exchange or purchase or resump-
tion of land for constitution as an irrigation
area or for the alteration of an irrigation area
by including additional lands of the Crown, the
following provisions shall have effect—

20 (a) the provisions of subsection one of this
section relating to inquiry into and
report by the local land board upon any
application or proposal for the
exchange or purchase or resumption of
any land and determination of the
values of any land to be acquired or
25 granted in pursuance thereof and the
price to be paid for the land resumed
shall not apply;

30 (b) subsection one of this section shall be
read and construed as if for the words
“the Minister” where thirdly occurring
there were substituted the words “the
Commission”;

35 (c) the compensation to be paid in respect
of any resumption to which this sub-
section applies shall be the value of the
land as determined by an advisory
board or the Land and Valuation Court
on appeal;

(d)

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- (d) subsection two of this section shall be read and construed as if for the words “a local land board” there were substituted the words “an advisory board”;
- 5 (e) in determining the value of the land as referred to in paragraph (c) of this subsection—
- 10 (i) the provisions of paragraph (b) of subsection four of section four of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall be taken into account; and
- 15 (ii) there shall be excluded any added value which would accrue or has accrued to the land from the construction or utilisation of the works of any district or provisional district constituted under the provisions of Part VI of the
- 20 Water Act, 1912, as amended by subsequent Acts;
- 25 (f) the provisions of sections nine and ten of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall mutatis mutandis apply to and in respect of any resumption to which this subsection applies;
- 30 (g) the provisions of subsection one of this section as amended by this subsection shall extend to the resumption of any public road;
- 35 (h) in this subsection the expression “advisory board” means a Closer Settlement Advisory Board constituted under section two of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts.

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(6) Where any public road is resumed under the authority of this section in connection with the resumption of lands for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown the following provisions shall notwithstanding anything contained in this section have effect:—

cf. Act
No. 42,
1910,
s. 6 (2B).

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(a) the municipal or shire council within whose area the public road so resumed is situated shall be entitled to claim compensation therefor;

(b) subject to paragraphs (c) to (j) inclusive of this subsection the compensation shall be an amount not exceeding the capital sum spent by the council upon the construction of the road together with the sum, if any, paid by the council for purchase or resumption of the land therefor;

(c) in any case where the council decides that it is necessary to purchase or resume and construct a new road to replace that resumed it shall notify the Commission of its decision;

(d) any notification referred to in paragraph (c) of this subsection shall be accompanied by a plan of the location of the proposed new road, together with an estimate of the cost of the purchase or resumption and construction of the proposed new road;

(e) where, having regard to the requirements of the public as at the date upon which the public road is resumed, the Commission is of opinion—

(i) that it is not necessary to replace the road resumed; or

(ii)

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- (ii) that the location of the proposed new road is not satisfactory; or
 - (iii) that the cost of the purchase or resumption and construction of the proposed new road is excessive; or
 - (iv) that, for any reason whatsoever, the decision of the council should not be carried out either wholly or in part—
- the Commission shall notify the council accordingly;
- (f) the notification referred to in paragraph (e) of this subsection shall be accompanied by—
 - (i) a statement setting out the grounds upon which the opinion of the Commission is based;
 - (ii) details of any alternative proposal which in the opinion of the the Commission should be adopted, together with such plans and estimates of costs (if any) as may be necessary to provide the council with full information in relation to the carrying out of such alternative proposal;
 - (g) any matter in dispute between the council and the Commission under paragraphs (e) and (f) of this subsection may be referred by either the council or the Commission to the Land and Valuation Court in accordance with rules of court;
 - (h) the Land and Valuation Court shall have jurisdiction to hear and determine any matter referred to it pursuant to the

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- the provisions of paragraph (g) of this subsection and that court may in its discretion award such costs as it thinks fit in relation to any matter so referred;
- 5 (i) the determination of the Land and Valuation Court in relation to any matter referred to it under the provisions of paragraph (g) of this subsection shall be final and shall be carried
- 10 into effect by the council and the Commission;
- (j) where the Land and Valuation Court by its determination decides that it is necessary to replace any public road to
- 15 which the provisions of this subsection apply the amount of compensation shall be such sum, not exceeding the cost of purchase or resumption and construction of the new road, as the said court
- 20 may determine and in making such determination the said court shall have regard to the actual condition of such public road as at the date of resumption and to the extent to which the same was
- 25 used by the public before that date and also to any damage to the road caused by the Commission before that date;
- (k) any amount paid to the council by way of compensation pursuant to the provisions of paragraphs (c) to (j) inclusive
- 30 of this subsection shall be placed by the council in a trust fund until expended on such new road.

PART

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(Amendment).*

PART IV.

AMENDMENT OF THE WATER ACT, 1912-1952.

10. The Water Act, 1912-1952, is amended—

Amendment
of Act No.
44, 1912.

- 5 (a) by inserting at the end of the definition of
“River” in subsection three of section 4A the
words “and includes those waters of a tidal
river which are at any time capable of being
used for irrigation or for watering stock”;
- 10 (b) (i) by omitting from the definition of “Joint
water supply scheme” in section five the
words “but not all”;
- 15 (ii) by inserting at the end of the same definition
the words “and includes any work to which
this Part extends which is used or proposed
to be used for the purpose of supplying
water for irrigation by any occupier or
occupiers other than the occupier or
occupiers of the site of the work”;
- 20 (iii) by inserting at the end of the definition of
“River” in the same section the words “and
includes those waters of a tidal river which
are at any time capable of being used for
irrigation or for watering stock”;
- 25 (c) by inserting in subsection one of section 17c next
after the word “servants” the words “or
agents”;
- (d) by inserting next after subsection three of sec-
tion 18B the following new subsection:—
- 30 (3A) Notwithstanding the provisions of sub-
sections two and three of this section—
- (a) where any such license is held by a
member of the forces, discharged
member of the forces, discharged
soldier, other eligible person, member
35 of the Korea and Malaya Operations
Forces or discharged member of the
Korea

Sec. 4A.
(Right to
flow of
water.)

Sec. 5.
(Interpreta-
tion.)

Sec. 17c.
(Power to
enter and
remove
works.)

Sec. 18B.
(Classifica-
tion of
existing
licenses and
authorities.)

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5 Korea and Malaya Operations Forces
as defined in the War Service Land
Settlement Act, 1941, as amended by
subsequent Acts, (hereinafter in this
Division referred to as a war service
settler) in respect of any work to which
this Part extends which is used in
connection with a holding set apart for
disposal in accordance with the provi-
10 sions of section three of the War
Service Land Settlement Act, 1941, as
amended by subsequent Acts, or
acquired under the provisions of Part
IVA of the Closer Settlement Amend-
15 ment (Conversion) Act, 1943, as
amended by subsequent Acts (herein-
after in this Division referred to as a
war service holding) such license shall
be classified as Class A; and

20 (b) in the case of any such authority, where
the whole of the lands within the joint
water supply scheme the subject of the
authority are war service holdings,
such authority shall be classified as
25 Class A.

(e) by omitting section 18c and by inserting in lieu Subst.
thereof the following section:— sec. 18c.

30 18c. Any license or authority to appropriate water for the purpose of irrigation from a river
or lake or section of a river in respect of which
a proclamation has been made under the provi-
sions of section 18A of this Act, which is granted
after the date of such proclamation, shall—
Classification of new licenses and authorities.

35 (a) if any such license is granted to a war
service settler in respect of any work
to which this Part extends which is used
in connection with a war service
holding, be classified by the Commis-
sion as a Class A license;

(b)

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(Amendment).*

5 (b) if, in respect of any such authority the whole of the lands within the joint water supply scheme the subject of the authority are war service holdings, be classified by the Commission as a Class A authority; and

(c) in every other case, be classified by the Commission as a Class C license or authority.

10 (f) (i) by inserting next after subsection seven of section 18D the following new subsection:—

Sec. 18D.
(Reclas-
sification of
licenses and
authorities.)

15 (7A) If at any time a war service settler becomes the holder of a license which has been classified or reclassified by the Commission as a Class B or a Class C license and the licensed work is used in connection with a war service holding, such license shall be reclassified by the Commission as a Class A license.

20 (ii) by inserting at the end of the same section the following new subsection:—

25 (9) (a) Notwithstanding the provisions of subsection eight of this section, a license which is held by a war service settler in respect of any work to which this Part extends which is used in connection with a war service holding shall not, except as provided in subsection (7A) of this section, be subject to reclassification by the Commission for a period of five years from the date upon which the license commenced to be held by the war service settler.

30 (b) Notwithstanding the provisions of subsection eight of this section, where the whole of the lands within a joint water supply scheme the subject of an authority are war service holdings, the authority shall not

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not be subject to reclassification by the Commission for a period of five years from the date of the granting of the authority.

11. The Water Act, 1912-1952, is further amended by
5 inserting next after section thirty-eight the following
new section:—

Further
amendment of
Act No. 44,
1912.

New sec.
38A.

Transfer of
Crown bores
to trusts.

10 38A. (1) Where a trust has been constituted on
terms that the trust shall pay a charge for water to
be supplied by the Crown from works which include
a bore and the Commission is of the opinion that such
works should be taken over, administered and
managed by the trust, the Commission may notify
15 in the Gazette and in some newspaper circulating in
the trust district a proposal that the works by
means of which water is supplied to the trust shall
be transferred to the trust to be so taken over,
administered and managed and that the trust shall
be required to repay the value of the works.

(2) Any such proposal shall embody—

- 20 (a) a description of the works;
(b) a statement of the value of the works;
(c) a statement of the terms upon which the
trust shall repay the value of the works and
interest thereon specifying—
- 25 (i) that such repayment be made by
the provision of a sinking fund;
(ii) the rate of interest which shall be
paid by the trust on the value of
the works;
- 30 (iii) the number of years within which
such repayment shall be made;
- (d) if it is proposed to vary the maximum rate
which may be assessed by the trust, a
revised maximum rate which may be
35 assessed by the trust after the works have
been transferred to the trust; and
- (e) such other provisions as the Commission
may deem necessary or desirable.

(3)

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(Amendment).*

5 (3) If within eight weeks after such notification a petition is presented to the Commission, signed by at least one-third in number of the owners of land within the trust district, objecting, upon grounds stated in the petition, to—

- (a) the value of the works;
- (b) the number of years within which the repayment referred to in paragraph (c) of subsection two of this section is to be made;
- 10 (c) the revised maximum rate (if any) which may be assessed by the trust,

the Commission shall refer the matter or matters regarding which objection has been so made to the Board for inquiry and report.

15 (4) If within the said period no such petition is received, or upon receipt of the report of the Board in respect of any reference to it pursuant to the provisions of subsection three of this section, as the case may be, the Governor by proclamation in
20 the Gazette may—

(a) transfer to the trust the works described in the proposal referred to in subsection one of this section upon the terms set out in such proposal with such amendments, if
25 any,—

- (i) where no reference has been made to the Board, as the Commission may think fit; or
- (ii) in any other case, as the Board may
30 recommend; and

(b) appoint a date, hereinafter called the “transfer day”, not being earlier than the date of publication of the proclamation, or and from which the transfer of the works
35 to the trust shall be and become effective

(5)

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(Amendment).*

(5) Upon the transfer day the following provisions shall take effect:—

- 5 (a) the trust shall take over and shall there-
after administer and manage the works so
transferred and in respect thereof may
exercise all the powers and shall discharge
all the duties conferred and imposed by this
Part in respect of works taken over by or
in charge of a trust, except such powers as
10 are conferred solely on the Commission;
- (b) the trust shall become liable to repay the
value of the works and interest and the
charge for interest and payments to the
sinking fund shall commence to run;
- 15 (c) the liability of the trust to pay the charge
for water to be supplied by the Crown shall
cease and determine: Provided that—
 - 20 (i) nothing in this paragraph shall be
deemed to discharge or to modify
or affect in any way the liability
of the trust to pay for water
supplied by the Crown at any time
prior to the transfer day;
 - 25 (ii) the charge for water to be supplied
by the Crown in respect of the
period then current shall be deemed
to accrue from day to day and be
apportioned accordingly;
 - 30 (iii) if the trust has paid the charge for
water to be supplied by the Crown
in respect of the period then
current, the proportion thereof
which relates to that part of such
period as has not elapsed on the
35 transfer day shall be credited
towards the liability of the trust
in respect of charges for interest
and

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and payments to the sinking fund pursuant to the provisions of this section;

5 (iv) if the charge for water to be supplied by the Crown in respect of the period then current has not become due and payable, the trust shall, unless such charge has been paid by the trust, be liable to pay and shall pay the proportion thereof which relates to that part of the said period which has elapsed on the transfer day on the date which but for this section would have been the due date for payment of such charge next ensuing after the transfer day;

20 (d) the revised maximum rate (if any) specified in the proposal referred to in subsection one of this section or any amendment thereof made by the proclamation referred to in subsection four of this section shall be and become the maximum rate which may be assessed by the trust thereafter and the trustees may assess rates up to such revised maximum notwithstanding that a rate may already have been fixed and levied in respect of the rating year then current;

30 (e) the trust shall from such transfer day observe and perform all of the terms and conditions upon which the works have been transferred.

35 (6) Notwithstanding anything contained in this section the trust may, subject to the approval of the Commission, have the option of repaying the value of the works by a lump sum or in a less number of years than the period determined under the foregoing provisions of this section for such repayment.

(7)

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5 (7) (a) In this section the expression "the value of the works" means the value, as determined by the Commission or where varied under the foregoing provisions of this section as so varied, of the works by means of which water is supplied to a trust by the Crown.

(b) In determining such value the Commission shall—

10 (i) determine the value as at the date of the notification in the Gazette of the proposal referred to in subsection one of this section;

15 (ii) if the charge for water to be supplied by the Crown to be paid by a trust to which this section applies has been fixed to include the payment of the cost of the works, take into consideration the amount which has been paid by the trust towards the cost of the works; and

20 (iii) have regard to any certificate issued under the provisions of section 73b of this Act.

12. The Water Act, 1912-1952, is further amended—

Further
amendment of
Act No. 44,
1912.

25 (a) by omitting from section one hundred and five the definition "Bore" and "Well" and by inserting in lieu thereof the following definition:—

Sec. 105.

(Definition.)

30 "Bore" means any bore or well or any excavation or other work connected or proposed to be connected with sources of sub-surface water and used or proposed to be used or capable of being used to obtain supplies of such water whether the water

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water flows naturally at all times or has
to be raised either wholly or at times
by pumping or other artificial means, but
does not include a work to which Part
II of this Act extends.

5

(b) by omitting section 111A;

Sec. 111A.

(Boun-
daries.)

(c) by omitting from subsection one of section one
hundred and twelve the words "to increase the
flow of water therefrom";

Sec. 112.

(Wells to be
licensed.)

10

(d) by inserting in subsection two of section one
hundred and thirteen after the word "bore"
where secondly occurring the words "or the
circumstances so warrant";

Sec. 113.

(Applica-
tion for
license.)

15

(e) by omitting from subsection one of section one
hundred and fourteen the words "in the case
of an application with respect to an artesian
bore";

Sec. 114.

(Inquiry.)

20

(f) by omitting section one hundred and fifteen and
by inserting in lieu thereof the following sec-
tions:—

Subst.

sec. 115

and new sec.
115A.

25

115. (1) In any case where an application has
not been advertised pursuant to subsection two
of section one hundred and thirteen of this Act
the Commission shall, as soon as practicable
after it has investigated and considered the
application, issue a license to the applicant in
the prescribed form, subject to such terms,
limitations and conditions as it may deem fit
and proper.

Issue of
license.

30

(2) In any other case the Commission
shall—

(a) where an inquiry has been held pur-
suant to section one hundred and four-
teen of this Act and the board reports
in favour of the issuing of a license; or

(b)

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(Amendment).*

- (b) where no inquiry has been held pursuant to section one hundred and fourteen of this Act and the Commission decides to grant the application,
- 5 on payment of the prescribed fee issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.
- 10 115A. (1) Every owner of land upon which at the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, there exists a bore or a partially constructed bore for the sinking of which a license under the provisions of this Part has not been issued shall within a period of twelve months after such commencement notify the Commission in writing of the existence of each such bore and shall make application for a license for and in respect of each such bore. Licensing of existing bores or wells.
- 15
- 20 (2) The provisions of subsection one of section one hundred and thirteen shall, mutatis mutandis, apply to and in respect of an application under this section.
- 25 (3) The Commission shall, as soon as practicable after receipt of an application under this section, issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.
- 30 (4) Any person who contravenes the provisions of this section shall, upon conviction, be liable to a penalty not exceeding one hundred pounds and a further penalty not exceeding five pounds for each day during which the contravention continues after such conviction.
- 35 (g) by omitting from section one hundred and seventeen the word "well" and by inserting in lieu thereof the word "bore"; Sec. 117. (Benefit of license.)

(h)

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(Amendment).*

- (h) by omitting from section one hundred and eighteen the word "well" wherever occurring and by inserting in lieu thereof the word "bore";
- 5 (i) by inserting next after section one hundred and eighteen the following new section:—
- 118A. (1) No person shall, after the expiration of three months from the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, act as a driller on or in connection with the construction of a bore **on any land other than that of which he is the owner or occupier** unless he is the holder of a driller's license issued by the Commission.
- 10
- 15 (2) Any person who contravenes the provisions of subsection one of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction.
- 20 (3) A driller's license may be issued by the Commission to any competent and capable person upon application being made therefor in writing and upon the Commission having been furnished with such information as to the competency and capability of the applicant as it may require.
- 25 (4) ~~A driller who acts as such~~ **A holder of a driller's license who acts as a driller** on or in connection with the construction of a bore shall, upon demand being made by the Commission and within such time as the Commission may specify, furnish to the Commission or to such person as the Commission may direct and in such form as the Commission may require, such information relating to—
- 30
- 35 (a) the nature and thickness of the various strata met with during the drilling performed by him in connection with the bore;
- 40

Sec. 118.
(Penalty for alterations of licensed well or contravention of license.)

New sec.
118A.

Drillers to
be licensed.

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(Amendment).*

- (b) the location, quantities and quality of all supplies of water met with during such drilling;
- 5 (c) the height each such supply of water stands relative to the natural surface of the ground at the site of the bore; and
- 10 (d) the depth, diameter and other particulars of the bore and the casing inserted in the bore,

as the Commission may require.

- (5) Any driller who contravenes the provisions of subsection four of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and to a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction and, in addition to the imposition of the said penalty, the Commission may cancel his driller's license.
- 15
- 20

- (6) The Commission may at any time cancel any license issued pursuant to subsection three of this section if in its opinion the holder of the license is or has become incompetent or incapable or is not a fit and proper person to continue to be licensed as a driller or for such other good and sufficient cause as to the Commission seems proper.
- 25

- (7) No person shall be entitled to claim or be paid any compensation whatsoever arising out of or by reason of the exercise by the Commission of the powers conferred by subsection six of this section.
- 30

- (j) (i) by inserting in subsection one of section one hundred and twenty-three after the word "well" where firstly occurring the words "or bore";
- 35

(ii)

Sec. 123.
(Waste of water.)

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(Amendment).*

- (ii) by omitting from the same subsection the words "partial closing" and by inserting in lieu thereof the words "closing or partial closing";
- 5 (iii) by omitting from the same subsection the words "such well" and by inserting in lieu thereof the words "such artesian well or bore";
- 10 (iv) by omitting from subsection two of the same section the words "such well" and by inserting in lieu thereof the words "such artesian well or bore";
- (k) (i) by omitting from subsection one of section one hundred and twenty-four the words "artesian wells" and by inserting in lieu thereof the words "artesian well or bore";
- 15 (ii) by omitting from the same subsection the words "such wells" and by inserting in lieu thereof the words "any artesian well or bore".
- 20

13. The Water Act, 1912-1952, is further amended—

- (a) by inserting in the definition of "Work" in section one hundred and thirty after the word "sewer" the words "bridge, culvert, fence,";
- 25 (b) by omitting subsection two of section 133A and by inserting in lieu thereof the following subsection:—
- (2) Where by virtue of any such further proclamation lands previously described as comprising two or more holdings become one holding or lands previously described as comprising one holding become two or more holdings such further proclamation may attach to the new holding or each of the new holdings such number of water rights as the Governor may consider proper.
- 30
- 35

Further amendment of Act No. 44, 1912.

Sec. 130. (Definitions.)

Sec. 133A. (Correction of errors in constitution of districts and provisional districts.)

(c)

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(Amendment).*

- (c) by inserting next after section 133A the following new subheading and section:— New sec.
133B.

Additional Works.

5 133B. At any time after the notification of the completion of the works of a provisional district or the proclamation of the constitution of a district the Commission may, for the purposes of such provisional district or district, construct or acquire any additional works and thereupon such additional works shall become works of the provisional district or district, as the case may be. Additional
works.

10

- (d) by inserting next after section one hundred and thirty-seven the following new section:— New sec.
137A.

15 137A. (1) In any provisional district or district in which water is supplied through pipes under pressure and any meter is installed by the Commission for the purpose of measuring the quantity of water so supplied to a holding, the Commission may impose such annual charge for the use of such meter as it may from time to time determine. The charge shall be paid to the bank by the owner of the land on or before the fifteenth day of September in each year. Meter
charges.

20

25 (2) The owner of the land shall pay to the Commission on demand all costs, charges and expenses incurred by the Commission in repairing or replacing any such meter which has become damaged or destroyed from any cause whatsoever and upon default in payment the amount of such costs, charges and expenses may be recovered by the Commission from such owner in any court of competent jurisdiction as a debt due and owing to the Commission.

30

- 35 (e) (i) by inserting in subsection three of section one hundred and thirty-nine after the word "rates" the words "or charges for water"; Sec. 139.
(Assessment
of rates and
charges.)

(ii)

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(Amendment).*

- (ii) by inserting in the same subsection after the word "rate" wherever occurring the words "or charge";
- 5 (iii) by inserting in subsection four of the same section after the word "rate" the words "or charge for water";
- (iv) by inserting in subsection five of the same section after the word "rate" the words "or charge for water";
- 10 (v) by inserting in subsection six of the same section after the word "rate" where firstly occurring the words "or charge for water";
- 15 (vi) by inserting in the same subsection after the word "miscalculation" the words "or for any other reason whatsoever";
- (vii) by inserting in the same subsection after the word "rate" where secondly occurring the words "or charge";
- 20 (f) (i) by omitting subsections nine and (9A) of section one hundred and forty-seven and by inserting in lieu thereof the following subsection:—
- Sec. 147.
(Supply of water.)
- 25 (9) (a) Upon the Commission becoming aware that an owner has subdivided his holding and has disposed of any part or parts or all the parts thereof the Governor shall on the recommendation of the Commission declare that, as from a specified date not being earlier than the date the Commission became aware of such subdivi-
- 30 sion and disposal, the holding shall for the purposes of this Part cease to be a holding and that new holdings shall be deemed to be constituted in respect of each part dis-
- 35 posed of and the part, if any, retained by the owner

(b)

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(b) Thereupon if water rights were attached to the former holding the Governor on the recommendation of the Commission—

5 (i) shall apportion such water rights between the new holdings; or

(ii) shall increase the number of such water rights and apportion such increased number of water rights
10 between the new holdings; or

(iii) may in any case where water rights are not to be attached to any new holding by virtue of the provisions of paragraph (d) of this subsection reduce the water rights which were attached to the former holding by not more than the proportion which the area of any such new holding bears to the area of the former holding and shall apportion such reduced number of water rights between the remaining new holdings.
15
20

(c) Water rights as apportioned in accordance with the provisions of paragraph (b) of this subsection shall attach to each of the new holdings on and from the date specified in accordance with the provisions of paragraph (a) of this subsection.
25

(d) Water rights shall not be attached to any new holding which, in the opinion of the Commission, does not contain land capable of being irrigated from the works of the district or provisional district, or to which, in the opinion of the Commission, it is impracticable to convey water for irrigation from such works.
30
35

(e)

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(Amendment).*

5 (e) Rates and charges for water shall be assessed and payable in respect of each of the new holdings as from the date specified in accordance with the provisions of paragraph (a) of this subsection.

(f) Any necessary adjustment of rates and charges for water already assessed and levied in respect of the former holding shall be made.

10 (g) The rates and charges for water in respect of the new holdings shall be payable notwithstanding that the means of supplying and conveying water from the works of the district or provisional district and of measuring such supply have not been
15 provided in respect of all or any of such new holdings.

(ii) by omitting paragraph (f) of subsection ten of the same section and by inserting in lieu thereof the following paragraph:—
20

(f) (i) Where the owner of a holding has not in accordance with the provisions of paragraph (a) of this subsection constructed or fully constructed the works therein
25 referred to the Commission may construct such works as have not been constructed by such owner and may recover the costs and expenses (including the cost of acquisition of any land or easement deemed
30 by the Commission to be required for such works) incurred in so doing in any court of competent jurisdiction as a debt either from such owner, or from the owner of the new holding for the purposes of which the
35 works are required to be constructed, as the Commission may determine.

(ii) Where pursuant to the provisions of subparagraph (i) of this paragraph any
part

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5 part of the cost referred to in that subparagraph is recovered from any person other than the former owner of the holding, that person may, subject to the terms of any agreement between himself and such former owner, recover that part from such former owner.

10 (iii) Any works which the Commission constructs pursuant to the provisions of subparagraph (i) of this paragraph shall be deemed to be constructed as works of the district or provisional district, as the case may be, and the provisions of section one hundred and forty-eight of this Act shall
15 apply to and in respect of the construction of such works.

(iii) by inserting at the end of subsection ten of the same section the following new paragraph:—

20 (h) If any works which are deemed by the Commission to be necessary to provide means of supplying and conveying water from the works of a district or provisional district to lands within that district or provisional district, as the case may be, which
25 have been acquired by the Crown by purchase or resumption under the provisions of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, or by purchase or vesting under the provisions of the Closer Settlement Amendment
30 (Conversion) Act, 1943, as amended by subsequent Acts, or to any part or parts of any such lands, have not been otherwise constructed, the Commission shall
35 have power and shall always be deemed to have had power to construct any such works

as

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5 as works of the district or provisional district within which any such lands are situated and the provisions of section one hundred and forty-eight of this Act shall apply and shall always be deemed to have applied to and in respect of the construction of such works.

10 (g) by inserting next after section one hundred and forty-seven the following new subheading and section:—

New sec.
147A.

Amalgamation of Holdings.

15 147A. (1) On application by the owner of two or more holdings the total area of which does not in the opinion of the Commission substantially exceed a home maintenance area the Commission may, if it thinks fit, recommend to the Governor that such holdings be amalgamated into one holding and thereupon the Governor may declare such holdings, as from
20 the first day of July next following such declaration, to be one holding for the purposes of this Part and may fix the number of water rights which shall attach thereto.

Amalgama-
tion of
holdings.

25 (2) Where any declaration has been made in accordance with subsection one of this section the Commission shall determine which of the existing works of water supply are sufficient to serve adequately the holding into which holdings have been amalgamated as afore-
30 said and may at any time after the first day of July next following such declaration cease to supply water to such holding through any other work of water supply.

35 (3) All overdue rates and charges for water assessed in respect of any of the holdings declared to be one holding shall on the date on which the declaration referred to in subsection

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subsection one of this section takes effect be
overdue rates and charges in respect of the
holding into which such holdings have been
amalgamated.

- 5 (4) For the purposes of this sec-
tion "home maintenance area" means an area
which, when used for the purpose for which the
Commission considers it is reasonably fitted,
10 would in the opinion of the Commission be suffi-
cient for the maintenance in average seasons
and circumstances of an average family.

14. The Water Act, 1912-1952, is further amended by
inserting next after section one hundred and fifty-four
the following new section:—

Further
amendment
of Act No.
44, 1912.
New sec.
154A.

- 15 154A. At any time after the notification of the com-
pletion of the works of a provisional district or the
proclamation of the constitution of a district the
Commission may for the purposes of such provisional
district or district construct or acquire any
20 additional works and thereupon such additional
works shall become works of the provisional district
or district, as the case may be.

Additional
works.

15. The Water Act, 1912-1952, is further amended—

Further
amendment
of Act No.
44, 1912.

- 25 (a) by inserting in the definition of "Work" in sec-
tion one hundred and sixty-five after the word
"pipe" the words "sewer, bridge, culvert,
fence";
- (b) (i) by omitting from subsection three of section
one hundred and seventy-two the words
30 "and shall be at an equal rate per acre";
- (ii) by inserting at the end of subsection five
of the same section the following words:—
"For the purposes of Division 1 of Part
XXIII of the Conveyancing Act, 1919-1954,
35 the expression 'rate or tax' in paragraph
(b)

Sec. 165.
(Defini-
tions.)

Sec. 172.
(Contribu-
tions.)

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(b) of section one hundred and eighty-seven of the said Act shall be deemed to include every contribution referred to in this subsection."

- 5 (c) by inserting next after section one hundred and seventy-five the following new section:— New sec.
175A.

10 175A. Notwithstanding anything in this Part contained different amounts of contributions and different amounts of rates may be fixed for different holdings and for different parts of holdings in the same district or provisional district and in fixing such different amounts regard may be had to— Benefit to be
taken into
account.

15 (a) the degree of benefit conferred upon the lands by the works of the district or provisional district;

20 (b) the value of the protection afforded to the lands by the works of the district or provisional district having regard to the purpose for which the lands are used; and

(c) the quantity of water normally used for the classes of crops or plantings on the lands.

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PART V.

AMENDMENT OF THE RIVERS AND FORESHORES IMPROVEMENT
Act, 1948.

16. The Rivers and Foreshores Improvement Act, Amendment
5 1948, is amended by omitting from section seven the word of Act No.
"Commission" wherever occurring and by inserting in 20, 1948.
lieu thereof the words "Constructing Authority". Sec. 7.
(Work bene-
fitting land,
road or work
of a council.)

17. The Rivers and Foreshores Improvement Act, Further
1948, is further amended by inserting next after section amendment
10 twenty-three the following new section:— of Act. No.
20, 1948.
New sec.
23A.

23A. (1) No owner or occupier of land or other Removal of
person whomsoever shall, except with the permis- soil from
sion of the Constructing Authority— or in
proximity
to banks
of rivers.

15 (a) make or cause or allow to be made any
excavation on, in or under the bank of a
river or on, in or under any land situate
within a distance of two chains measured
horizontally from the top of the bank of a
river; or

20 (b) remove or cause or allow to be removed any
soil from the bank of a river or from any
land situate within a distance of two chains
measured horizontally from the top of the
bank of a river.

25 (2) (a) Application for a permit under this
section shall be made in writing to the Constructing
Authority and shall specify the land in respect of
which the permit is desired and supply full particu-
lars of the work proposed to be undertaken.

30 (b) The Constructing Authority may,
after such investigation as the Constructing Auth-
ority may deem necessary, refuse any permit applied
for under this section or may grant the same subject
to such limitations and conditions (including a condi-
35 tion limiting the time the permit shall remain in
force) as the Constructing Authority may think fit.

(c)

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(Amendment).*

(c) The Constructing Authority may at any time revoke or vary any permit issued under the provisions of this section.

5 (3) Any owner or occupier of land or other person whomsoever who, in respect of any land—

(a) makes or causes or allows to be made any excavation or removes or causes or allows to be removed any soil contrary to the provisions of this section; or

10 (b) fails to comply with any of the limitations or conditions for the time being attached to any permit granted under the provisions of this section,

15 shall be guilty of an offence and shall be liable, for the first offence, to a penalty not exceeding fifty pounds and for a subsequent offence to a penalty not exceeding one hundred pounds.

(4) Where—

20 (a) any excavation has been or is being made or any soil has been or is being removed contrary to the provisions of this section after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955; or

25 (b) the Constructing Authority is of the opinion that any excavation on, in or under any land or the removal of soil from any land, although not contrary to the provisions of this section and whether made or effected before or after the commencement of the
30 Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955—

35 (i) is damaging or detrimentally affecting or is likely to damage or detrimentally affect the bank of a river; or

40 (ii) is likely to cause, whether directly or indirectly, a river to change its course,

the

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

5 the Constructing Authority may by notice in writing
direct the owner or occupier of the land on which
such excavation has been or is being made or from
which soil has been or is being removed to take such
measures and in such manner and within such time
as may be specified in such notice as the Construct-
ing Authority deems necessary to ensure that the
bank of the river will not be damaged or detrimen-
tally affected or that the river will not be caused,
10 whether directly or indirectly, to change its course,
as the case may be, by reason of such excavation
or removal of soil.

(5) If any owner or occupier fails to comply
with the terms of any notice given to him pursuant
to subsection four of this section, the Constructing
Authority may authorise any person to enter upon
the land in respect of which such notice has been
given and there to carry out the measures specified
in such notice and may recover the cost incurred in
so doing from such owner or occupier in any court
20 of competent jurisdiction as a debt due and owing
by him to the Constructing Authority and until re-
payment such cost shall be a charge on the land.

(6) The provisions of subsections one, two,
25 three, four and five of this section shall not apply to
or in respect of the exercise of any rights lawfully
exercisable—

(a) under any license, permit or authority for
a joint water supply scheme issued under
30 any of the provisions of the Water Act,
1912, as amended by subsequent Acts;

(b) under any lease, license, permit or other
right issued under the provisions of the
Acts relating to mining or under the pro-
visions of the Crown Lands Consolidation
35 Act, 1913, as amended by subsequent Acts,
or of any other Act; or

(c) by any statutory body or by any council.

(7) Where the Constructing Authority is of
the opinion that the making of any excavation on,
10 in or under the bank of a river, or on, in or under
any

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

5 any land, or the removal of soil from the bank of
a river, or from any land, in the exercise of any of
the rights referred to in subsection six of this section
whether before or after the commencement of the
Irrigation, Water and Rivers and Foreshores Im-
provement (Amendment) Act, 1955—

(a) is damaging or detrimentally affecting or
is likely to damage or detrimentally affect
the bank of a river; or

10 (b) is likely to cause, whether directly or in-
directly, a river to change its course,

the Constructing Authority may by notice in writing
direct the person, statutory body or council by
whom or on whose behalf any such excavation has
15 been or is being made or any such soil has been
or is being removed to take such measures and in
such manner and within such time as may be speci-
fied in such notice as the Constructing Authority
deems necessary to ensure that the bank of the river
20 will not be damaged or detrimentally affected or that
the river will not be caused, whether directly or
indirectly, to change its course, as the case may be,
by reason of such excavation or removal of soil and
such person, statutory body or council shall comply
25 with the terms of such notice accordingly.

(8) If any person or council fails to comply
with the terms of any notice given pursuant to sub-
section seven of this section the Constructing Autho-
rity may authorise any person to enter upon the land
30 in respect of which such notice has been given and
there to carry out the measures specified in such
notice and may recover the cost incurred in so doing
from such firstmentioned person or from such coun-
cil, as the case may be, in any court of competent
35 jurisdiction as a debt due and owing by him or by
it to the Constructing Authority.

(9) For the purposes of this section the Con-
structing Authority, or any person authorised by it,
may enter upon and inspect any land.

(10)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

(10) In this section—

- 5 “Constructing Authority” means the Minister
for Public Works or the Commission, re-
spectively, according as to whether the
waters of the river immediately adjacent to
the land on which an excavation has been
or is being made or from which soil has
been or is being removed are tidal waters
or are not tidal waters, as the case may be.
- 10 “Soil” means the surface of any land and all
matter or material whatsoever lying be-
neath that surface.

PART VI.

AMENDMENT OF THE WESTERN LANDS ACT OF 1901.

- 15 **18.** The Western Lands Act of 1901, as amended by
subsequent Acts, is amended—
- (a) by omitting from subsection five of section
thirty-one the word “shallow” wherever occur-
ring;
- 20 (b) by omitting from the same subsection the words
“one hundred” and by inserting in lieu thereof
the words “two hundred”.

Amendment of
Act No. 70,
1901.
Sec. 31.
(Determina-
tion of value
of improve-
ments.)

PART VII.

AMENDMENT OF THE MURRUMBIDGEE IRRIGATION AREAS
OCCUPIERS RELIEF ACT, 1934.

- 25 **19.** The Murrumbidgee Irrigation Areas Occupiers
Relief Act, 1934, as amended by subsequent Acts, is
amended by omitting sections twelve and fourteen.

Amendment
of Act No.
52, 1934.
Secs. 12
and 14.
(Determina-
tion of
water rights
attached to
holdings and
the prices
thereof;
numbers and
prices not to
be altered,
etc.)

PART

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

PART VIII.

MISCELLANEOUS.

20. (1) Except as hereinafter provided this section shall apply to—

Reduction
of rentals
of certain
leases.

5 (a) any lease from the Crown—

(i) within an irrigation area constituted under the Irrigation Act, 1912, as amended by subsequent Acts;

10 (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;

15 (iii) made under or by operation of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, before the first day of January, one thousand nine hundred and thirty-three; and

20 (iv) being in respect of land notified in the Gazette as available for disposal for the purpose of residence, or described in the Gazette as suitable for residential purposes, or comprising an irrigation farm lease of an area not exceeding five acres;

25 (b) any lease from the Water Conservation and Irrigation Commission—

(i) within the irrigation area constituted under the provisions of the Wentworth Irrigation Act;

30 (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;

(iii) made under or by operation of the Wentworth Irrigation Act;

35 (iv) being in respect of land which in the opinion of the Water Conservation and Irrigation Commission is mainly suitable for residential purposes; and

5-D

(v)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

5 (v) being in respect of land which has throughout the whole of the period from the thirty-first day of December, one thousand nine hundred and thirty-two, to the first day of January, one thousand nine hundred and forty-eight—

10 (a) been leased land under the Wentworth Irrigation Act by way of lease subsisting at the said thirty-first day of December and of any new lease granted from time to time during such period; and

(b) been held by—

15 (i) the lessee under the lease subsisting at the said thirty-first day of December; or

20 (ii) that lessee and any lessee who became lessee by transfer or assignment from or devolution under the will or intestacy of any immediately prior lessee.

(2) This section shall not apply to any lease referred to in paragraph (a) of subsection one of this
25 section—

30 (a) being in respect of land notified in the Gazette as available for disposal for the purpose of residence and in respect of which the Water Conservation and Irrigation Commission has, before the commencement of this section, pursuant to the provisions of subsection ten of section 142b of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to the land comprised in such lease being used for
35 any of the purposes specified in the said subsection ten; or

(b)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

(b) in respect of which the annual rental has before the commencement of this section been determined consequent upon the addition of land thereto.

5 (3) Subject to this section the annual rental of any lease to which this section applies shall as on and from the first day of January, one thousand nine hundred and forty-eight, be the annual rental of such lease as at the thirty-first day of December, one thousand nine
10 hundred and thirty-two, reduced by twenty-two and one-half per centum:

Provided that where in pursuance of the provisions of section one hundred and forty-three of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts,
15 the annual rental for the second or any succeeding period of any lease referred to in paragraph (a) of subsection one of this section has been determined as in the said section one hundred and forty-three provided—

20 (a) before the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the first day of January, one thousand nine hundred and forty-eight, and for the unexpired portion of the current period of such
25 lease be the annual rental as so determined reduced by twenty-two and one-half per centum;

30 (b) after the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the commencement of such second or succeeding period and for such period be the annual rental as so determined reduced by twenty-two and one-half per centum.

35 (4) Where by reason of any reduction made in pursuance of any enactment other than this section the annual rental under any lease to which this section applies has been decreased, the reduction prescribed by subsection three of this section shall not be in addition
to

Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).

to the amount of such decrease, but such decrease shall be taken into account in determining the annual rental to be paid consequent upon the reduction so prescribed.

(5) Where after the commencement of this
5 section—

10 (a) the Water Conservation and Irrigation Commission has, pursuant to the provisions of subsection ten of section 142b of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to any land comprised in a lease referred to in paragraph (a) of subsection one of this section and notified in the Gazette as available for disposal for the purpose of residence being used for any of the purposes specified in the said subsection ten; or

15 (b) the annual rental of any lease referred to in paragraph (a) of subsection one of this section has been determined consequent upon the addition of land thereto; or

20 (c) the Water Conservation and Irrigation Commission decides that the land comprised in any lease to which this section applies is used mainly or substantially for any business purpose,

the provisions of this section shall cease to apply to the
25 lease referred to in paragraph (a), (b) or (c) of this subsection as from the date of such consent, determination or decision, as the case may require.

(6) This section shall be deemed to have commenced upon the first day of January, one thousand nine
30 hundred and forty-eight.

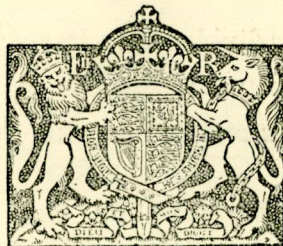
This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 23 March, 1955.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, March, 1955.

New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

Act No. , 1955.

An Act to limit the right of future acquisition of freehold tenures within irrigation areas; to make further provision with respect to the licensing of bores; to regulate the removal of soil from or adjacent to the banks of rivers; to make further provision for the reduction of rentals payable in respect of certain classes of tenures within irrigation areas; for these and other purposes to amend the Irrigation Act, 1912-1954, the Crown Lands Consolidation Act, 1913, the Water Act, 1912-1952, the Rivers and Foreshores Improvement Act, 1948, and certain other Acts in certain respects; and for purposes connected therewith.

80311 5—A

BE

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

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

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

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Irrigation, Water and Rivers and Foreshores Improvement (Amend-
10 ment) Act, 1955." Short title,
division
into Parts
and
citation.

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—AMENDMENT OF THE IRRIGATION ACT,
1912-1954.

15 PART III.—AMENDMENT OF THE CROWN LANDS
CONSOLIDATION ACT, 1913.

PART IV.—AMENDMENT OF THE WATER ACT, 1912-
1952.

20 PART V.—AMENDMENT OF THE RIVERS AND FORE-
SHORES IMPROVEMENT ACT, 1948.

PART VI.—AMENDMENT OF THE WESTERN LANDS
ACT OF 1901.

PART VII.—AMENDMENT OF THE MURRUMBIDGEE
IRRIGATION AREAS OCCUPIERS RELIEF ACT, 1934.

25 PART VIII.—MISCELLANEOUS.

(3) The Irrigation Act, 1912, as amended by sub-
sequent Acts and by this Act, may be cited as the
Irrigation Act, 1912-1955.

30 (4) The Water Act, 1912, as amended by sub-
sequent Acts and by this Act, may be cited as the Water
Act, 1912-1955.

(5) The Rivers and Foreshores Improvement Act,
1948, as amended by this Act, may be cited as the Rivers
and Foreshores Improvement Act, 1948-1955.

PART

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

PART II.

AMENDMENT OF THE IRRIGATION ACT, 1912-1954.

2. The Irrigation Act, 1912-1954, is amended—

Amendment
of Act No.
73, 1912.

- 5 (a) by omitting from section five the words “five hundred” wherever occurring and by inserting in lieu thereof the words “two thousand”; Sec. 5.
(Appoint-
ment of
officers.)

- (b) by inserting next after section 5E the following new section:— New sec.
5F.

10 5F. Any person who at the date of commence- Certain
persons
deemed
to have
been
appointed
by
Commission.
ment of the Irrigation, Water and Rivers and
Foreshores Improvement (Amendment) Act,
1955, is in the service of the Commission and
whose yearly salary at such date does not exceed
15 two thousand pounds shall, for the purpose of
section five, section 5A and section 5B of this Act,
be deemed to have been appointed by the Com-
mission.

3. The Irrigation Act, 1912-1954, is further amended—

Further
amendment
of Act No.
73, 1912.

- 20 (a) by inserting next after section 8B the following new section:— New sec.
8C.

8C. (1) (a) It shall be a function of the Com- Further
functions
and powers
of
Commission.
mission to make provision for—

- 25 (i) the systematic gauging and recording of
the volume and flow of rivers and
streams, and of the volume of lakes
and lagoons within the State and the
effect of climatic conditions upon such
volume; and

- 30 (ii) the gathering and recording of such
data concerning the ground water
resources of the State as the Com-
mission may deem practicable.

(b)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

(b) The Commission may publish and make available any information so ascertained or gathered.

5 (2) The Commission may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable to enable it effectively to carry out all or any of its powers, authorities, duties and functions under this or any other Act and without limiting the generality of the foregoing may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable—

15 (a) to ascertain potential sites for works of water storage or water supply and the practicability and cost of constructing any such works;

20 (b) to ascertain the nature and extent of lands capable of being supplied with water from any existing or proposed works of water storage or water supply and the means whereby such lands may be so supplied;

25 (c) to ascertain the necessity of and potential sites for works for flood mitigation or flood control and the practicability and cost of constructing any such works;

30 (d) to ascertain the nature and extent of lands capable of being protected or partially protected from flooding or inundation by any works of flood mitigation or flood control;

35 (e) to ascertain the existence and location of subterranean waters and the character and quality thereof.

(3) The Commission, in the exercise of its powers, authorities, duties and functions under this or any other Act, may by its officers, servants,

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

servants, workmen or agents enter upon any lands and do all such things as may be requisite for the purpose of—

5 (a) making and carrying out such inspections, tests, investigations, surveys, experiments and boring, drilling and other explorations as the Commission may deem necessary for the full and effective exercise of any of its powers, 10 authorities, duties and functions under this or any other Act; or

(b) constructing, maintaining, operating, or altering any works, 15 or for any other purpose connected with or related to or incidental to the exercise of any of its powers, authorities, duties and functions under this or any other Act, notwithstanding an easement or right so to enter or use such lands may not have been granted or acquired.

20 The powers conferred by this subsection shall be additional to and not in substitution for any other powers elsewhere conferred on the Commission.

25 (4) In the exercise of any of the powers conferred by subsection three of this section the Commission shall inflict as little damage as may be and shall make full compensation to all parties interested for all damage sustained by them in consequence of the exercise of such powers. 30

(b) by omitting subsection four of section nine.

Sec. 9.
(Commis-
sion to
construct
works, etc.)

4. The Irrigation Act, 1912-1954, is further amended—

Further
amendment
of Act
No. 73, 1912.

35 (a) by inserting in section 11A after the word “shall” the words “except as hereinafter provided”;

Sec. 11A.
(Application
of ss.
11B-11F.)

(b)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

- (b) by inserting next after subsection one of section 11c the following new subsections:—

Sec. 11c.
(Conversion
of lease-
holds.)

5 (1A) The lessee of an irrigated lot within the
irrigation area constituted under the provisions
of the Wentworth Irrigation Act shall not be
entitled to purchase such lot unless the land
comprising such lot has, throughout the whole
of the period from the commencement of the
10 Irrigation, Water and Rivers and Foreshores
Improvement (Amendment) Act, 1955, to the
date of notification of his intention to pur-
chase—

15 (a) been leased land by way of lease
subsisting at such commencement and
of any new lease granted from time to
time during such period; and

(b) been held by—
(i) the lessee under the lease subsist-
ing at such commencement; or
20 (ii) that lessee and any lessee who
became lessee by transfer or
assignment from or devolution
under the will or intestacy of
any immediately prior lessee.

25 (1B) The lessee of an irrigated lot within the
irrigation area constituted under the provisions
of the Hay Irrigation Act, 1902, shall not be
entitled to purchase such lot unless he has
prior to the commencement of the Irrigation,
30 Water and Rivers and Foreshores Improvement
(Amendment) Act, 1955, notified the Commis-
sion on the form and in the manner prescribed
of his intention to purchase such lot.

5. The Irrigation Act, 1912-1954, is further amended—

- 35 (a) by omitting subsection four of section twelve;

Further
amendment
of Act. No.
73, 1912.
Sec. 12.
(Water
rights.)

(b)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

- (b) by inserting in subsection one of section thirteen after the words "such additional water rights" the following new paragraph:—

Sec. 13.
(Additional
water
rights.)

5 After the full quantity of water to which an occupier is entitled pursuant to the water rights attached to his land and to any additional water rights which may have been allotted to him has been supplied, the Commission may, on application by the occupier, supply him with additional water at such charges as the Commission may determine.

- (c) by inserting next after section thirteen the following new section:—

New sec.
13A.

15 13A. (1) Where the Commission is prepared to make available and makes available to any land a supply of water solely during the hours of daylight, it may impose such special charge per acre foot for all water so supplied as it may from time to time determine. Notification of any such determination shall be published in the Gazette.

Supply of
water during
hours of
daylight.

25 (2) The special charge shall be in addition to the charges for any water rights which are attached to the land and for any additional water rights and for any water supplied to the land additional to the water supplied pursuant to such water rights and additional water rights.

30 (3) The special charge shall be determined by the Commission having regard to the additional cost per acre foot which the Commission estimates will be incurred by it in supplying water solely during the hours of daylight.

35 (4) The special charge shall be paid by the occupier of the land on or before the thirtieth day of June in each year in respect of water supplied during the year ending on the said thirtieth day of June.

(5)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

(5) In this section "acre foot" means such a quantity of water twelve inches deep as would cover an area of one acre.

5 (d) (i) by inserting in subsection one of section Sec. 15.
fifteen after the word "Act" where thirdly (Payment of
occurring the words "or for maintenance charges arising in relation to the supply of
water";

10 (ii) by omitting from the same subsection the words "as and when directed by the bank";

(iii) by inserting at the end of the same subsection the following new paragraph:—

15 The charges in respect of water rights which are attached to the land, the charges in respect of additional water rights, and the charges in respect of the water supplied to the land additional to water supplied pursuant to such water rights and additional water rights shall be paid at the times and in the manner prescribed, and all other rates or charges for water and maintenance charges shall, except where otherwise expressly provided, be paid at the times and in the manner determined by the Commission and when no such determination has been made then at such times and in such manner as may have been agreed between the Commission and the occupier.

6. The Irrigation Act, 1912-1954, is further amended--

30 (a) by inserting next after section 17A the following new section:—

35 17AA. Any person who destroys, damages or interferes in any way with any work, structure or other thing whatsoever vested in or made, constructed or provided by or otherwise under the control or management of the Commission shall where no other provision is expressly made by any other section of this Act be liable upon summary

Further amendment of Act No. 73, 1912. New sec. 17AA.

Damage to or interference with works.

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

- 5 summary conviction to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding three months: Provided that nothing in this section shall in any way affect any liability to which any person who commits a breach of this section may be subject under any other Act or at common law but such person shall not be liable to be punished twice for the same offence.
- 10 (b) by inserting in subsection three of section eighteen after the word "Area" where thirdly occurring the words "and any other irrigation area constituted or which may be constituted under the provisions of this Act"; Sec. 18. (Collection of rents, etc.)
- 15 (c) by omitting from the same subsection the words and figures "and Part VII" and by inserting in lieu thereof the words and figures "Part VII and Part VIII".

PART III.

20 AMENDMENT OF THE CROWN LANDS CONSOLIDATION ACT,
1913.

7. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is amended— Amendment of Act No. 7, 1913.

- 25 (a) by inserting at the end of subsection two of section one hundred and forty the following proviso:— Sec. 140. (Applications for holdings.)

30 Provided that in the case of lands set apart for disposal in accordance with the provisions of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, the survey fee shall not be required to accompany an application but shall be paid by the successful applicant at a time and in a manner to be specified in the notification under paragraph (d) of subsection two of section one hundred and thirty-nine of this Act that the lands are available for disposal.

35

(b)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

- (b) (i) by omitting from subsection five of section one hundred and forty-two the word "six" and by inserting in lieu thereof the word "three";
- 5 (ii) by inserting in paragraph (a) of subsection six of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- 10 (iii) by omitting from paragraph (c) of the same subsection the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- 15 (iv) by omitting paragraph (d) of the same subsection and by inserting in lieu thereof the following paragraph:—
- 20 (d) A condition to the effect that the land or any specified part of the land shall not be used to plant—
- 25 (i) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or
- 30 (ii) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or areas specified in the condition,
- 35 may be attached to any irrigation farm purchase after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955,

Sec. 142.
(Conditions
etc., of
irrigation
farm
purchases.)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

1955, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such irrigation farm purchase.

- 5 (c) (i) by omitting from subsection four of section 142^b the word "six" and by inserting in lieu thereof the word "three";
- (ii) by inserting in subsection seven of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- 10 (iii) by omitting from subsection eight of the same section the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- 15 (iv) by omitting subsection nine of the same section and by inserting in lieu thereof the following subsections:—
- 20 (9) A condition to the effect that the land or any specified part of the land shall not be used to plant—
- 25 (a) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or
- 30 (b) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or areas specified in the condition,
- 35 may be attached to any lease after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment)

Sec. 142^b.
(Conditions,
&c., of
leases
within
irrigation
areas.)

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(Amendment).*

(Amendment) Act, 1955, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such lease.

5

(9A) (a) The Minister may, at any time, with the consent of the holder of the lease, by instrument under his hand in the prescribed form, cancel or vary any condition mentioned in subsection seven, subsection eight or subsection nine of this section on such terms and conditions as he thinks fit and the condition as so varied shall, whether or not the perpetual lease grant has issued, be the condition attaching to the land.

10

15

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

20

(d) (i) by inserting at the end of subsection one of Sec. 145. section one hundred and forty-five the words (Conversion of I.F.L. to I.F.P., &c.)
“or to an irrigation farm lease or a non-irrigable lease described in any notification

25

in the Gazette under the provisions of section one hundred and thirty-nine of this Act as suitable for farming purposes, granted after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955”;

30

(ii) by inserting in subsection three of the same section after the word “determined” the words “as at the date of receipt by the Commission of the notification referred to in subsection two of this section”;

35

(iii) by inserting at the end of paragraph (d) of subsection five of the same section the following new paragraphs:—

(e) Where any lease converted under this section is subject to a transfer by way of mortgage

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mortgage registered in the books of the Commission such transfer shall be—

- 5 (i) deemed to extend and always to have extended to the purchase into which the lease has been converted in the same manner as it applies to the lease; and
- 10 (ii) recorded in the books of the Commission as a transfer of the purchase.

15 The provisions of this paragraph shall not apply to a transfer by way of mortgage of a lease in respect of which a perpetual lease grant has been issued where such transfer was registered in the books of the Commission before the issue of such perpetual lease grant.

20 (f) Where immediately preceding the conversion of any lease under this section an easement is appurtenant to or a burden upon any land comprised in such lease such easement shall after such conversion continue to be appurtenant to or a burden upon such land.

25 (g) Where a perpetual lease grant has issued in respect of any lease converted under this section and the Commission lodges with the Registrar-General with the surrender referred to in subsection two of this section a notification that the lease has been converted into a purchase, the Registrar-General shall register such surrender without requiring that any easement to which the land is subject shall be released or that any mortgage or other security to which the land is subject shall be discharged.

30 (h) Paragraphs (e), (f) and (g) of this subsection shall apply to conversions whether effected before or after the commencement of the Irrigation, Water and Rivers
40 and

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and Foreshores Improvement (Amendment) Act, 1955.

8. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended—

Further amendment of Act No. 7, 1913.

5 (a) (i) by inserting in subsection one of section 147D after the words "irrigation farm lease" the words "or a non-irrigable lease";

Sec. 147D. (Application to Minister to acquire private lands.)

10 (ii) by inserting next after subsection four of the same section the following new subsections:—

15 (4A) The application whether made before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, may with the consent of the owner or owners of the private lands proposed to be included or excluded or the price of which is proposed to be increased or decreased and the approval of the Minister be varied by including therein additional private lands or excluding therefrom part of the lands included therein or by increasing or decreasing the price specified in the application.

25 (4B) The consent of the owner or owners under subsection one of this section whether given before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, and the consent of the owner or owners under subsection (4A) of this section shall not be withdrawn before the expiration of sixty days after such owner or owners has or have given to the Minister notice in writing of his or their intention so to withdraw: Provided that in no case shall such consent be withdrawn after the Minister has approved of the purchase.

(b)

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- (b) by omitting from section 147E the words "such lands" where firstly occurring and by inserting in lieu thereof the words "the lands the subject of such application". Sec. 147E.
(Valuation.)
- 5 (c) (i) by inserting in section 147G after the word "made" where firstly occurring the words "or varied"; Sec. 147G.
(Purchase of land.)
- 10 (ii) by inserting in paragraph (c) of the same section after the words "irrigation farm lease" the words "or a non-irrigable lease";
- 15 (iii) by inserting at the end of the same section the words "or he may at his discretion refuse the application: Provided that the Minister shall not so approve where in his opinion the amount of capital (including shares in any company or any interest in any land) held by any applicant or by his or her spouse or by his or her parent or parents is such as to warrant refusal of the application";
- 20 (d) by omitting from subsection one of section 147H the words "Where, under section 147D of this Act, an application has been made to the Minister to acquire any lands and the Minister has approved of the purchase of such lands" and by inserting in lieu thereof the words "Where the Minister has approved of the purchase of lands"; Sec. 147H.
(Vesting of land in the Crown.)
- 25 (e) (i) by inserting at the end of paragraph (a) of subsection one of section 147J the following words "or non-irrigable leases"; Sec. 147J.
(Vesting of land in applicant.)
- 30 (ii) by inserting next after the same paragraph the following new paragraphs:—
- 35 (a1) Any lands deemed by the Minister to be necessary for roads, or any purpose which he considers to be a community

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5 community purpose or a public purpose, or any lands which the Minister considers should be excluded for any reason may be excluded from the holdings and any adjacent Crown lands may be included in such holdings.

10 (a2) The subdivision may be made into holdings before the holdings are measured, and in such case the holdings may be notified under paragraph (c) of this subsection according to the design thereof.

15 (iii) by inserting in subparagraph (vi) of paragraph (c) of the same subsection after the words "irrigation farm lease" the words "or a non-irrigable lease";

20 (iv) by inserting in subsection four of the same section after the words "irrigation farm lease" where firstly occurring the words "or a non-irrigable lease";

25 (v) by inserting in the same subsection after the words "irrigation farm lease" where secondly and thirdly occurring the words "or non-irrigable lease";

(vi) by inserting next after the same subsection the following new subsections:—

30 (4A) Where a holding has been measured after publication in the Gazette of a notification under paragraph (c) of subsection one of this section any necessary adjustment shall thereafter be made as to the area and annual rental of the holding and of the nature and value of any improvements
35 which are the property of the Crown and which are to be paid for by the incoming tenants,

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tenants, and of the terms and conditions upon which payment for the improvements shall be made.

5 (4B) Any lands excluded from the holdings under paragraph (a1) of subsection one of this section may be retained by the Crown either permanently or for a limited period and the Commission may expend
10 moneys necessary to maintain adequately such lands and the improvements thereon, and, if necessary, to replace improvements on such lands during such time as they are retained by the Crown. Such lands may be
15 used for such purposes or leased by the Commission for such terms and upon such conditions as the Minister may approve, or may be otherwise disposed of under the provisions of this Act.

20 (vii) by inserting in subsection five of the same section after the words "irrigation farm lease" the words "or a non-irrigable lease";

25 (viii) by inserting in the same subsection after the words "irrigation farm purchase" the words "or a non-irrigable purchase";

(ix) by inserting in subsection six of the same section after the words "irrigation farm leases" the words "or non-irrigable leases";

30 (f) by inserting in subsection two of section 147K Sec. 147K. after the words "irrigation farm lease" the (Penalties.) words "or a non-irrigable lease".

9. The Crown Lands Consolidation Act, 1913, as Further amended by subsequent Acts, is further amended— amendment of Act No. 7, 1913.

35 (a) by inserting in subsection one of section one hundred and ninety-seven after the word "settlement" where firstly occurring the words (Exchanges and purchases for public purposes.) "or purposes.)

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“or for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown”;

5 (b) by omitting from the same subsection the words
“The local land board” where firstly occurring
and by inserting in lieu thereof the words
“Except as hereinafter provided the local land
board”;

10 (c) by inserting at the end of the same section the
following new subsections:—

15 (5) In the application of the provisions of this
section to any exchange or purchase or resump-
tion of land for constitution as an irrigation
area or for the alteration of an irrigation area
by including additional lands of the Crown, the
following provisions shall have effect—

20 (a) the provisions of subsection one of this
section relating to inquiry into and
report by the local land board upon any
application or proposal for the
exchange or purchase or resumption of
any land and determination of the
values of any land to be acquired or
25 granted in pursuance thereof and the
price to be paid for the land resumed
shall not apply;

30 (b) subsection one of this section shall be
read and construed as if for the words
“the Minister” where thirdly occurring
there were substituted the words “the
Commission”;

35 (c) the compensation to be paid in respect
of any resumption to which this sub-
section applies shall be the value of the
land as determined by an advisory
board or the Land and Valuation Court
on appeal;

(d)

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- (d) subsection two of this section shall be read and construed as if for the words "a local land board" there were substituted the words "an advisory board";
- 5 (e) in determining the value of the land as referred to in paragraph (c) of this subsection—
 - 10 (i) the provisions of paragraph (b) of subsection four of section four of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall be taken into account; and
 - 15 (ii) there shall be excluded any added value which would accrue or has accrued to the land from the construction or utilisation of the works of any district or provisional district constituted under the provisions of Part VI of the
 - 20 Water Act, 1912, as amended by subsequent Acts;
- 25 (f) the provisions of sections nine and ten of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall mutatis mutandis apply to and in respect of any resumption to which this subsection applies;
- 30 (g) the provisions of subsection one of this section as amended by this subsection shall extend to the resumption of any public road;
- 35 (h) in this subsection the expression "advisory board" means a Closer Settlement Advisory Board constituted under section two of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts.

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- 5 (6) Where any public road is resumed under the authority of this section in connection with the resumption of lands for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown the following provisions shall notwithstanding anything contained in this section have effect:—
- 10 (a) the municipal or shire council within whose area the public road so resumed is situated shall be entitled to claim compensation therefor;
- 15 (b) subject to paragraphs (c) to (j) inclusive of this subsection the compensation shall be an amount not exceeding the capital sum spent by the council upon the construction of the road together with the sum, if any, paid by the council for purchase or resumption of the land therefor;
- 20 (c) in any case where the council decides that it is necessary to purchase or resume and construct a new road to replace that resumed it shall notify the Commission of its decision;
- 25 (d) any notification referred to in paragraph (c) of this subsection shall be accompanied by a plan of the location of the proposed new road, together with an estimate of the cost of the purchase or resumption and construction of the proposed new road;
- 30 (e) where, having regard to the requirements of the public as at the date upon which the public road is resumed, the Commission is of opinion—
- 35 (i) that it is not necessary to replace the road resumed; or
- (ii)

cf. Act
No. 42,
1910,
s. 6 (2b).

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- 5 (ii) that the location of the proposed new road is not satisfactory; or
- (iii) that the cost of the purchase or resumption and construction of the proposed new road is excessive; or
- 10 (iv) that, for any reason whatsoever, the decision of the council should not be carried out either wholly or in part—
- the Commission shall notify the council accordingly;
- 15 (f) the notification referred to in paragraph (e) of this subsection shall be accompanied by—
- (i) a statement setting out the grounds upon which the opinion of the Commission is based;
- 20 (ii) details of any alternative proposal which in the opinion of the the Commission should be adopted, together with such plans and estimates of costs (if any) as may be necessary to provide
- 25 the council with full information in relation to the carrying out of such alternative proposal;
- (g) any matter in dispute between the council and the Commission under paragraphs (e) and (f) of this subsection may be referred by either the council or the Commission to the Land and Valuation Court in accordance with rules of court;
- 30
- 35 (h) the Land and Valuation Court shall have jurisdiction to hear and determine any matter referred to it pursuant to
- the

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- the provisions of paragraph (g) of this subsection and that court may in its discretion award such costs as it thinks fit in relation to any matter so referred;
- 5 (i) the determination of the Land and Valuation Court in relation to any matter referred to it under the provisions of paragraph (g) of this subsection shall be final and shall be carried
- 10 into effect by the council and the Commission;
- (j) where the Land and Valuation Court by its determination decides that it is necessary to replace any public road to which the provisions of this subsection
- 15 apply the amount of compensation shall be such sum, not exceeding the cost of purchase or resumption and construction of the new road, as the said court may determine and in making such
- 20 determination the said court shall have regard to the actual condition of such public road as at the date of resumption and to the extent to which the same was
- 25 used by the public before that date and also to any damage to the road caused by the Commission before that date;
- (k) any amount paid to the council by way of compensation pursuant to the provisions of paragraphs (e) to (j) inclusive
- 30 of this subsection shall be placed by the council in a trust fund until expended on such new road.

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PART IV.

AMENDMENT OF THE WATER ACT, 1912-1952.

10. The Water Act, 1912-1952, is amended—

Amendment
of Act No.
44, 1912.

- 5 (a) by inserting at the end of the definition of
“River” in subsection three of section 4A the
words “and includes those waters of a tidal
river which are at any time capable of being
used for irrigation or for watering stock”;
- 10 (b) (i) by omitting from the definition of “Joint
water supply scheme” in section five the
words “but not all”;
- 15 (ii) by inserting at the end of the same definition
the words “and includes any work to which
this Part extends which is used or proposed
to be used for the purpose of supplying
water for irrigation by any occupier or
occupiers other than the occupier or
occupiers of the site of the work”;
- 20 (iii) by inserting at the end of the definition of
“River” in the same section the words “and
includes those waters of a tidal river which
are at any time capable of being used for
irrigation or for watering stock”;
- 25 (c) by inserting in subsection one of section 17c next
after the word “servants” the words “or
agents”;
- (d) by inserting next after subsection three of sec-
tion 18B the following new subsection:—
- 30 (3A) Notwithstanding the provisions of sub-
sections two and three of this section—
- 35 (a) where any such license is held by a
member of the forces, discharged
member of the forces, discharged
soldier, other eligible person, member
of the Korea and Malaya Operations
Forces or discharged member of the
Korea

Sec. 4A.
(Right to
flow of
water.)

Sec. 5.
(Interpreta-
tion.)

Sec. 17c.
(Power to
enter and
remove
works.)

Sec. 18B.
(Classifica-
tion of
existing
licenses and
authorities.)

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- 5 Korea and Malaya Operations Forces
as defined in the War Service Land
Settlement Act, 1941, as amended by
subsequent Acts, (hereinafter in this
Division referred to as a war service
settler) in respect of any work to which
this Part extends which is used in
connection with a holding set apart for
disposal in accordance with the provi-
10 sions of section three of the War
Service Land Settlement Act, 1941, as
amended by subsequent Acts, or
acquired under the provisions of Part
IVA of the Closer Settlement Amend-
15 ment (Conversion) Act, 1943, as
amended by subsequent Acts (herein-
after in this Division referred to as a
war service holding) such license shall
be classified as Class A; and
- 20 (b) in the case of any such authority, where
the whole of the lands within the joint
water supply scheme the subject of the
authority are war service holdings,
such authority shall be classified as
Class A.
- 25 (e) by omitting section 18c and by inserting in lieu
thereof the following section:—
- 30 18c. Any license or authority to appropriate
water for the purpose of irrigation from a river
or lake or section of a river in respect of which
a proclamation has been made under the provi-
sions of section 18A of this Act, which is granted
after the date of such proclamation, shall—
- 35 (a) if any such license is granted to a war
service settler in respect of any work
to which this Part extends which is used
in connection with a war service
holding, be classified by the Commis-
sion as a Class A license;
- (b)

Subst.
sec. 18c.

Classifica-
tion of
new licenses
and
authorities.

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5 (b) if, in respect of any such authority the whole of the lands within the joint water supply scheme the subject of the authority are war service holdings, be classified by the Commission as a Class A authority; and

(c) in every other case, be classified by the Commission as a Class C license or authority.

10 (f) (i) by inserting next after subsection seven of section 18D the following new subsection:—

Sec. 18D.
(Reclas-
sification of
licenses and
authorities.)

15 (7A) If at any time a war service settler becomes the holder of a license which has been classified or reclassified by the Commission as a Class B or a Class C license and the licensed work is used in connection with a war service holding, such license shall be reclassified by the Commission as a Class A license.

20 (ii) by inserting at the end of the same section the following new subsection:—

25 (9) (a) Notwithstanding the provisions of subsection eight of this section, a license which is held by a war service settler in respect of any work to which this Part extends which is used in connection with a war service holding shall not, except as provided in subsection (7A) of this section, be subject to reclassification by the Commission for a period of five years from the date upon which the license commenced to be held by the war service settler.

35 (b) Notwithstanding the provisions of subsection eight of this section, where the whole of the lands within a joint water supply scheme the subject of an authority are war service holdings, the authority shall

(8) not

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not be subject to reclassification by the Commission for a period of five years from the date of the granting of the authority.

11. The Water Act, 1912-1952, is further amended by
5 inserting next after section thirty-eight the following
new section:—

Further
amendment of
Act No. 44,
1912.

New sec.
38A.

Transfer of
Crown bores
to trusts.

38A. (1) Where a trust has been constituted on
terms that the trust shall pay a charge for water to
be supplied by the Crown from works which include
10 a bore and the Commission is of the opinion that such
works should be taken over, administered and
managed by the trust, the Commission may notify
in the Gazette and in some newspaper circulating in
the trust district a proposal that the works by
15 means of which water is supplied to the trust shall
be transferred to the trust to be so taken over,
administered and managed and that the trust shall
be required to repay the value of the works.

(2) Any such proposal shall embody—

- 20 (a) a description of the works;
(b) a statement of the value of the works;
(c) a statement of the terms upon which the
trust shall repay the value of the works and
interest thereon specifying—
25 (i) that such repayment be made by
the provision of a sinking fund;
(ii) the rate of interest which shall be
paid by the trust on the value of
the works;
30 (iii) the number of years within which
such repayment shall be made;
(d) if it is proposed to vary the maximum rate
which may be assessed by the trust, a
revised maximum rate which may be
35 assessed by the trust after the works have
been transferred to the trust; and
(e) such other provisions as the Commission
may deem necessary or desirable.

(3)

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5 (3) If within eight weeks after such notification a petition is presented to the Commission, signed by at least one-third in number of the owners of land within the trust district, objecting, upon grounds stated in the petition, to—

- (a) the value of the works;
- (b) the number of years within which the repayment referred to in paragraph (c) of subsection two of this section is to be made;
- 10 (c) the revised maximum rate (if any) which may be assessed by the trust,

the Commission shall refer the matter or matters regarding which objection has been so made to the Board for inquiry and report.

15 (4) If within the said period no such petition is received, or upon receipt of the report of the Board in respect of any reference to it pursuant to the provisions of subsection three of this section, as the case may be, the Governor by proclamation in
20 the Gazette may—

(a) transfer to the trust the works described in the proposal referred to in subsection one of this section upon the terms set out in such proposal with such amendments, if
25 any,—

- (i) where no reference has been made to the Board, as the Commission may think fit; or
- (ii) in any other case, as the Board may
30 recommend; and

(b) appoint a date, hereinafter called the
“transfer day”, not being earlier than the
date of publication of the proclamation, on
and from which the transfer of the works
35 to the trust shall be and become effective.

(5)

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(5) Upon the transfer day the following provisions shall take effect:—

- 5 (a) the trust shall take over and shall there-
after administer and manage the works so
transferred and in respect thereof may
exercise all the powers and shall discharge
all the duties conferred and imposed by this
Part in respect of works taken over by or
in charge of a trust, except such powers as
10 are conferred solely on the Commission;
- (b) the trust shall become liable to repay the
value of the works and interest and the
charge for interest and payments to the
sinking fund shall commence to run;
- 15 (c) the liability of the trust to pay the charge
for water to be supplied by the Crown shall
cease and determine: Provided that—
- 20 (i) nothing in this paragraph shall be
deemed to discharge or to modify
or affect in any way the liability
of the trust to pay for water
supplied by the Crown at any time
prior to the transfer day;
- 25 (ii) the charge for water to be supplied
by the Crown in respect of the
period then current shall be deemed
to accrue from day to day and be
apportioned accordingly;
- 30 (iii) if the trust has paid the charge for
water to be supplied by the Crown
in respect of the period then
current, the proportion thereof
which relates to that part of such
period as has not elapsed on the
transfer day shall be credited
35 towards the liability of the trust
in respect of charges for interest
and

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and payments to the sinking fund pursuant to the provisions of this section;

5 (iv) if the charge for water to be supplied by the Crown in respect of the period then current has not become due and payable, the trust shall, unless such charge has been paid by the trust, be liable to pay and shall pay the proportion thereof which relates to that part of the said period which has elapsed on the transfer day on the date which but for this section would have been the due date for payment of such charge next ensuing after the transfer day;

10

15

(d) the revised maximum rate (if any) specified in the proposal referred to in subsection one of this section or any amendment thereof made by the proclamation referred to in subsection four of this section shall be and become the maximum rate which may be assessed by the trust thereafter and the trustees may assess rates up to such revised maximum notwithstanding that a rate may already have been fixed and levied in respect of the rating year then current;

20

25

(e) the trust shall from such transfer day observe and perform all of the terms and conditions upon which the works have been transferred.

30

(6) Notwithstanding anything contained in this section the trust may, subject to the approval of the Commission, have the option of repaying the value of the works by a lump sum or in a less number of years than the period determined under the foregoing provisions of this section for such repayment.

35

(7)

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5 (7) (a) In this section the expression "the value of the works" means the value, as determined by the Commission or where varied under the foregoing provisions of this section as so varied, of the works by means of which water is supplied to a trust by the Crown.

(b) In determining such value the Commission shall—

10 (i) determine the value as at the date of the notification in the Gazette of the proposal referred to in subsection one of this section;

15 (ii) if the charge for water to be supplied by the Crown to be paid by a trust to which this section applies has been fixed to include the payment of the cost of the works, take into consideration the amount which has been paid by the trust towards the cost of the works; and

20 (iii) have regard to any certificate issued under the provisions of section 73D of this Act.

12. The Water Act, 1912-1952, is further amended— Further amendment of Act No. 44, 1912.

25 (a) by omitting from section one hundred and five the definition "Bore" and "Well" and by inserting in lieu thereof the following definition:— Sec. 105. (Definition.)

30 "Bore" means any bore or well or any excavation or other work connected or proposed to be connected with sources of sub-surface water and used or proposed to be used or capable of being used to obtain supplies of such water whether the water

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5 water flows naturally at all times or has
to be raised either wholly or at times
by pumping or other artificial means, but
does not include a work to which Part
II of this Act extends.

- (b) by omitting section 111A; Sec. 111A.
(Boun-
daries.)
- (c) by omitting from subsection one of section one hundred and twelve the words "to increase the flow of water therefrom"; Sec. 112.
(Wells to be
licensed.)
- 10 (d) by inserting in subsection two of section one hundred and thirteen after the word "bore" where secondly occurring the words "or the circumstances so warrant"; Sec. 113.
(Applica-
tion for
license.)
- 15 (e) by omitting from subsection one of section one hundred and fourteen the words "in the case of an application with respect to an artesian bore"; Sec. 114.
(Inquiry.)
- 20 (f) by omitting section one hundred and fifteen and by inserting in lieu thereof the following sections:— Subst.
sec. 115
and new sec.
115A.
- 25 115. (1) In any case where an application has not been advertised pursuant to subsection two of section one hundred and thirteen of this Act the Commission shall, as soon as practicable after it has investigated and considered the application, issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper. Issue of
license.
- 30 (2) In any other case the Commission shall—
- (a) where an inquiry has been held pursuant to section one hundred and fourteen of this Act and the board reports in favour of the issuing of a license; or
- (b)

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- (b) where no inquiry has been held pursuant to section one hundred and fourteen of this Act and the Commission decides to grant the application,
- 5 on payment of the prescribed fee issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.
- 10 115A. (1) Every owner of land upon which at the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, there exists a bore or a partially constructed bore for the sinking of which a license under the provisions of this Part has not been issued shall within a period of twelve months after such commencement notify the Commission in writing of the existence of each such bore and shall make application for a license for and in respect of each such bore. Licensing of existing bores or wells.
- 15
- 20 (2) The provisions of subsection one of section one hundred and thirteen shall, mutatis mutandis, apply to and in respect of an application under this section.
- 25 (3) The Commission shall, as soon as practicable after receipt of an application under this section, issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.
- 30 (4) Any person who contravenes the provisions of this section shall, upon conviction, be liable to a penalty not exceeding one hundred pounds and a further penalty not exceeding five pounds for each day during which the contravention continues after such conviction.
- 35 (g) by omitting from section one hundred and seventeen the word "well" and by inserting in lieu thereof the word "bore"; Sec. 117. (Benefit of license.)

(h)

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(h) by omitting from section one hundred and eighteen the word "well" wherever occurring and by inserting in lieu thereof the word "bore";

Sec. 118.
(Penalty for alterations of licensed well or contravention of license.)

5 (i) by inserting next after section one hundred and eighteen the following new section:—

New sec. 118A.

10 118A. (1) No person shall, after the expiration of three months from the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, act as a driller on or in connection with the construction of a bore **on any land other than that of which he is the owner or occupier** unless he is the holder of a driller's license issued by the Commission.

Drillers to be licensed.

15 (2) Any person who contravenes the provisions of subsection one of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction.

20 (3) A driller's license may be issued by the Commission to any competent and capable person upon application being made therefor in writing and upon the Commission having been furnished with such information as to the competency and capability of the applicant as it may require.

25 (4) ~~A driller who acts as such~~ **A holder of a driller's license who acts as a driller** on or in connection with the construction of a bore shall, upon demand being made by the Commission and within such time as the Commission may specify, furnish to the Commission or to such person as the Commission may direct and in such form as the Commission may require, such information relating to—

30 (a) the nature and thickness of the various strata met with during the drilling performed by him in connection with the bore;

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(Amendment).*

- (b) the location, quantities and quality of all supplies of water met with during such drilling;
- 5 (c) the height each such supply of water stands relative to the natural surface of the ground at the site of the bore; and
- 10 (d) the depth, diameter and other particulars of the bore and the casing inserted in the bore,
- as the Commission may require.
- (5) Any driller who contravenes the provisions of subsection four of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and to a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction and, in addition to the imposition of the said penalty, the Commission may
- 15 cancel his driller's license.
- 20 (6) The Commission may at any time cancel any license issued pursuant to subsection three of this section if in its opinion the holder of the license is or has become incompetent or incapable or is not a fit and proper person to continue to be licensed as a driller or for such other good and sufficient cause as to the Commission seems proper.
- 25 (7) No person shall be entitled to claim or be paid any compensation whatsoever arising out of or by reason of the exercise by the Commission of the powers conferred by subsection six of this section.
- 30 (j) (i) by inserting in subsection one of section one hundred and twenty-three after the word "well" where firstly occurring the words "or bore";
- 35

Sec. 123.
(Waste of water.)

(ii)

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(Amendment).*

- (ii) by omitting from the same subsection the words "partial closing" and by inserting in lieu thereof the words "closing or partial closing";
- 5 (iii) by omitting from the same subsection the words "such well" and by inserting in lieu thereof the words "such artesian well or bore";
- 10 (iv) by omitting from subsection two of the same section the words "such well" and by inserting in lieu thereof the words "such artesian well or bore";
- 15 (k) (i) by omitting from subsection one of section one hundred and twenty-four the words "artesian wells" and by inserting in lieu thereof the words "artesian well or bore";
- 20 (ii) by omitting from the same subsection the words "such wells" and by inserting in lieu thereof the words "any artesian well or bore".
- 13.** The Water Act, 1912-1952, is further amended—
- (a) by inserting in the definition of "Work" in section one hundred and thirty after the word "sewer" the words "bridge, culvert, fence,";
- 25 (b) by omitting subsection two of section 133A and by inserting in lieu thereof the following subsection:—
- (2) Where by virtue of any such further proclamation lands previously described as comprising two or more holdings become one holding or lands previously described as comprising one holding become two or more holdings such further proclamation may attach to the new holding or each of the new holdings such number of water rights as the Governor may consider proper.

Further
amendment
of Act No.
44, 1912.

Sec. 130.
(Definitions.)

Sec. 133A.
(Correction of
errors in con-
stitution of
districts and
provisional
districts.)

(c)

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- (c) by inserting next after section 133A the following new subheading and section:— New sec.
133B.

Additional Works.

5 133B. At any time after the notification of the completion of the works of a provisional district or the proclamation of the constitution of a district the Commission may, for the purposes of such provisional district or district, construct or acquire any additional works and thereupon such additional works shall become works of the provisional district or district, as the case may be. Additional
works.

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- (d) by inserting next after section one hundred and thirty-seven the following new section:— New sec.
137A.

15 137A. (1) In any provisional district or district in which water is supplied through pipes under pressure and any meter is installed by the Commission for the purpose of measuring the quantity of water so supplied to a holding, the Commission may impose such annual charge for the use of such meter as it may from time to time determine. The charge shall be paid to the bank by the owner of the land on or before the fifteenth day of September in each year. Meter
charges.

20

25 (2) The owner of the land shall pay to the Commission on demand all costs, charges and expenses incurred by the Commission in repairing or replacing any such meter which has become damaged or destroyed from any cause whatsoever and upon default in payment the amount of such costs, charges and expenses may be recovered by the Commission from such owner in any court of competent jurisdiction as a debt due and owing to the Commission.

30

- 35 (c) (i) by inserting in subsection three of section one hundred and thirty-nine after the word "rates" the words "or charges for water"; Sec. 139.
(Assessment
of rates and
charges.)

(ii)

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(Amendment).*

- (ii) by inserting in the same subsection after the word "rate" wherever occurring the words "or charge";
- 5 (iii) by inserting in subsection four of the same section after the word "rate" the words "or charge for water";
- (iv) by inserting in subsection five of the same section after the word "rate" the words "or charge for water";
- 10 (v) by inserting in subsection six of the same section after the word "rate" where firstly occurring the words "or charge for water";
- (vi) by inserting in the same subsection after the word "miscalculation" the words "or for any other reason whatsoever";
- 15 (vii) by inserting in the same subsection after the word "rate" where secondly occurring the words "or charge";
- 20 (f) (i) by omitting subsections nine and (9A) of Sec. 147. section one hundred and forty-seven and by (Supply of water.) inserting in lieu thereof the following subsection:—
- 25 (9) (a) Upon the Commission becoming aware that an owner has subdivided his holding and has disposed of any part or parts or all the parts thereof the Governor shall on the recommendation of the Commission declare that, as from a specified date not being earlier than the date the Commission became aware of such subdivision and disposal, the holding shall for the purposes of this Part cease to be a holding and that new holdings shall be deemed to be constituted in respect of each part disposed of and the part, if any, retained by
- 30 the owner.
- 35

(b)

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(Amendment).*

(b) Thereupon if water rights were attached to the former holding the Governor on the recommendation of the Commission—

- 5 (i) shall apportion such water rights between the new holdings; or
- (ii) shall increase the number of such water rights and apportion such increased number of water rights
- 10 between the new holdings; or
- (iii) may in any case where water rights are not to be attached to any new holding by virtue of the provisions of paragraph (d) of this subsection reduce the water rights which were attached to the former holding by not more than the proportion which the area of any such new holding bears to the area of the former holding and shall apportion such reduced number of water rights between the remaining new holdings.
- 15
- 20

(c) Water rights as apportioned in accordance with the provisions of paragraph (b) of this subsection shall attach to each of the new holdings on and from the date specified in accordance with the provisions of paragraph (a) of this subsection.

25

(d) Water rights shall not be attached to any new holding which, in the opinion of the Commission, does not contain land capable of being irrigated from the works of the district or provisional district, or to which, in the opinion of the Commission, it is impracticable to convey water for irrigation from such works.

30

35

(e)

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(Amendment).*

5 (e) Rates and charges for water shall be assessed and payable in respect of each of the new holdings as from the date specified in accordance with the provisions of paragraph (a) of this subsection.

(f) Any necessary adjustment of rates and charges for water already assessed and levied in respect of the former holding shall be made.

10 (g) The rates and charges for water in respect of the new holdings shall be payable notwithstanding that the means of supplying and conveying water from the works of the district or provisional district and of measuring such supply have not been
15 provided in respect of all or any of such new holdings.

(ii) by omitting paragraph (f) of subsection ten of the same section and by inserting in lieu thereof the following paragraph:—
20

(f) (i) Where the owner of a holding has not in accordance with the provisions of paragraph (a) of this subsection constructed or fully constructed the works therein referred to the Commission may construct such works as have not been constructed by such owner and may recover the costs and expenses (including the cost of acquisition of any land or easement deemed by the Commission to be required for such works) incurred in so doing in any court of competent jurisdiction as a debt either from such owner, or from the owner of the new holding for the purposes of which the works are required to be constructed, as the
25
30
35 Commission may determine.

(ii) Where pursuant to the provisions of subparagraph (i) of this paragraph any
part

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5 part of the cost referred to in that subparagraph is recovered from any person other than the former owner of the holding, that person may, subject to the terms of any agreement between himself and such former owner, recover that part from such former owner.

10 (iii) Any works which the Commission constructs pursuant to the provisions of subparagraph (i) of this paragraph shall be deemed to be constructed as works of the district or provisional district, as the case may be, and the provisions of section one hundred and forty-eight of this Act shall
15 apply to and in respect of the construction of such works.

(iii) by inserting at the end of subsection ten of the same section the following new paragraph:—

20 (h) If any works which are deemed by the Commission to be necessary to provide means of supplying and conveying water from the works of a district or provisional district to lands within that district or provisional district, as the case may be, which
25 have been acquired by the Crown by purchase or resumption under the provisions of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, or by purchase or vesting under the provisions of the Closer Settlement Amendment
30 (Conversion) Act, 1943, as amended by subsequent Acts, or to any part or parts of any such lands, have not been otherwise constructed, the Commission shall have power and shall always be deemed to have had power to construct any such works
35

as

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5 as works of the district or provisional district within which any such lands are situated and the provisions of section one hundred and forty-eight of this Act shall apply and shall always be deemed to have applied to and in respect of the construction of such works.

10 (g) by inserting next after section one hundred and forty-seven the following new subheading and section:—

Amalgamation of Holdings.

15 147A. (1) On application by the owner of two or more holdings the total area of which does not in the opinion of the Commission substantially exceed a home maintenance area the Commission may, if it thinks fit, recommend to the Governor that such holdings be amalgamated into one holding and thereupon the Governor may declare such holdings, as from
20 the first day of July next following such declaration, to be one holding for the purposes of this Part and may fix the number of water rights which shall attach thereto.

25 (2) Where any declaration has been made in accordance with subsection one of this section the Commission shall determine which of the existing works of water supply are sufficient to serve adequately the holding into which holdings have been amalgamated as aforesaid and may at any time after the first day of
30 July next following such declaration cease to supply water to such holding through any other work of water supply.

35 (3) All overdue rates and charges for water assessed in respect of any of the holdings declared to be one holding shall on the date on which the declaration referred to in

(d) subsection

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subsection one of this section takes effect be
overdue rates and charges in respect of the
holding into which such holdings have been
amalgamated.

- 5 (4) For the purposes of this sec-
tion "home maintenance area" means an area
which, when used for the purpose for which the
Commission considers it is reasonably fitted,
10 would in the opinion of the Commission be suffi-
cient for the maintenance in average seasons
and circumstances of an average family.

14. The Water Act, 1912-1952, is further amended by
inserting next after section one hundred and fifty-four
the following new section:—

Further
amendment
of Act No.
44, 1912.
New sec.
154A.

- 15 154A. At any time after the notification of the com-
pletion of the works of a provisional district or the
proclamation of the constitution of a district the
Commission may for the purposes of such provisional
district or district construct or acquire any
20 additional works and thereupon such additional
works shall become works of the provisional district
or district, as the case may be.

Additional
works.

15. The Water Act, 1912-1952, is further amended—

Further
amendment
of Act No.
44, 1912.

- 25 (a) by inserting in the definition of "Work" in sec-
tion one hundred and sixty-five after the word
"pipe" the words "sewer, bridge, culvert,
fence";
- (b) (i) by omitting from subsection three of section
30 one hundred and seventy-two the words
"and shall be at an equal rate per acre";
- (ii) by inserting at the end of subsection five
of the same section the following words:—
"For the purposes of Division 1 of Part
XXIII of the Conveyancing Act, 1919-1954,
35 the expression 'rate or tax' in paragraph
(b).

Sec. 165.
(Defini-
tions.)

Sec. 172.
(Contribu-
tions.)

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(Amendment).*

(b) of section one hundred and eighty-seven of the said Act shall be deemed to include every contribution referred to in this subsection."

- 5 (c) by inserting next after section one hundred and seventy-five the following new section:— New sec.
175A.

10 175A. Notwithstanding anything in this Part contained different amounts of contributions and different amounts of rates may be fixed for different holdings and for different parts of holdings in the same district or provisional district and in fixing such different amounts regard may be had to— Benefit to be
taken into
account.

15 (a) the degree of benefit conferred upon the lands by the works of the district or provisional district;

20 (b) the value of the protection afforded to the lands by the works of the district or provisional district having regard to the purpose for which the lands are used; and

(c) the quantity of water normally used for the classes of crops or plantings on the lands.

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(Amendment).*

PART V.

AMENDMENT OF THE RIVERS AND FORESHORES IMPROVEMENT
Act, 1948.

16. The Rivers and Foreshores Improvement Act, Amendment
5 1948, is amended by omitting from section seven the word of Act No.
"Commission" wherever occurring and by inserting in 20, 1948.
lieu thereof the words "Constructing Authority". Sec. 7.
(Work bene-
fitting land,
road or work
of a council.)

17. The Rivers and Foreshores Improvement Act, Further
1948, is further amended by inserting next after section amendment
10 twenty-three the following new section:— of Act. No.
20, 1948.
New sec.
23A.

23A. (1) No owner or occupier of land or other Removal of
person whomsoever shall, except with the permis- soil from
sion of the Constructing Authority— or in
proximity
to banks
of rivers.

15 (a) make or cause or allow to be made any
excavation on, in or under the bank of a
river or on, in or under any land situate
within a distance of two chains measured
horizontally from the top of the bank of a
river; or

20 (b) remove or cause or allow to be removed any
soil from the bank of a river or from any
land situate within a distance of two chains
measured horizontally from the top of the
bank of a river.

25 (2) (a) Application for a permit under this
section shall be made in writing to the Constructing
Authority and shall specify the land in respect of
which the permit is desired and supply full particu-
lars of the work proposed to be undertaken.

30 (b) The Constructing Authority may,
after such investigation as the Constructing Auth-
ority may deem necessary, refuse any permit applied
for under this section or may grant the same subject
to such limitations and conditions (including a condi-
35 tion limiting the time the permit shall remain in
force) as the Constructing Authority may think fit.

(c)

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(c) The Constructing Authority may at any time revoke or vary any permit issued under the provisions of this section.

5 (3) Any owner or occupier of land or other person whomsoever who, in respect of any land—

(a) makes or causes or allows to be made any excavation or removes or causes or allows to be removed any soil contrary to the provisions of this section; or

10 (b) fails to comply with any of the limitations or conditions for the time being attached to any permit granted under the provisions of this section,

15 shall be guilty of an offence and shall be liable, for the first offence, to a penalty not exceeding fifty pounds and for a subsequent offence to a penalty not exceeding one hundred pounds.

(4) Where—

20 (a) any excavation has been or is being made or any soil has been or is being removed contrary to the provisions of this section after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955; or

25 (b) the Constructing Authority is of the opinion that any excavation on, in or under any land or the removal of soil from any land, although not contrary to the provisions of this section and whether made or effected before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955—

35 (i) is damaging or detrimentally affecting or is likely to damage or detrimentally affect the bank of a river; or

40 (ii) is likely to cause, whether directly or indirectly, a river to change its course,

the

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(Amendment).*

the Constructing Authority may by notice in writing direct the owner or occupier of the land on which such excavation has been or is being made or from which soil has been or is being removed to take such measures and in such manner and within such time as may be specified in such notice as the Constructing Authority deems necessary to ensure that the bank of the river will not be damaged or detrimentally affected or that the river will not be caused, whether directly or indirectly, to change its course, as the case may be, by reason of such excavation or removal of soil.

(5) If any owner or occupier fails to comply with the terms of any notice given to him pursuant to subsection four of this section, the Constructing Authority may authorise any person to enter upon the land in respect of which such notice has been given and there to carry out the measures specified in such notice and may recover the cost incurred in so doing from such owner or occupier in any court of competent jurisdiction as a debt due and owing by him to the Constructing Authority and until repayment such cost shall be a charge on the land.

(6) The provisions of subsections one, two, three, four and five of this section shall not apply to or in respect of the exercise of any rights lawfully exercisable—

(a) under any license, permit or authority for a joint water supply scheme issued under any of the provisions of the Water Act, 1912, as amended by subsequent Acts;

(b) under any lease, license, permit or other right issued under the provisions of the Acts relating to mining or under the provisions of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, or of any other Act; or

(c) by any statutory body or by any council.

(7) Where the Constructing Authority is of the opinion that the making of any excavation on, in or under the bank of a river, or on, in or under any

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any land, or the removal of soil from the bank of a river, or from any land, in the exercise of any of the rights referred to in subsection six of this section whether before or after the commencement of the
5 Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955—

(a) is damaging or detrimentally affecting or is likely to damage or detrimentally affect the bank of a river; or

10 (b) is likely to cause, whether directly or indirectly, a river to change its course,

the Constructing Authority may by notice in writing direct the person, statutory body or council by whom or on whose behalf any such excavation has
15 been or is being made or any such soil has been or is being removed to take such measures and in such manner and within such time as may be specified in such notice as the Constructing Authority deems necessary to ensure that the bank of the river
20 will not be damaged or detrimentally affected or that the river will not be caused, whether directly or indirectly, to change its course, as the case may be, by reason of such excavation or removal of soil and
25 such person, statutory body or council shall comply with the terms of such notice accordingly.

(8) If any person or council fails to comply with the terms of any notice given pursuant to subsection seven of this section the Constructing Authority may authorise any person to enter upon the land
30 in respect of which such notice has been given and there to carry out the measures specified in such notice and may recover the cost incurred in so doing from such firstmentioned person or from such council, as the case may be, in any court of competent
35 jurisdiction as a debt due and owing by him or by it to the Constructing Authority.

(9) For the purposes of this section the Constructing Authority, or any person authorised by it, may enter upon and inspect any land.

(10)

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(10) In this section—

5 “Constructing Authority” means the Minister
for Public Works or the Commission, re-
spectively, according as to whether the
waters of the river immediately adjacent to
the land on which an excavation has been
or is being made or from which soil has
been or is being removed are tidal waters
or are not tidal waters, as the case may be.

10 “Soil” means the surface of any land and all
matter or material whatsoever lying be-
neath that surface.

PART VI.

AMENDMENT OF THE WESTERN LANDS ACT OF 1901.

15 18. The Western Lands Act of 1901, as amended by
subsequent Acts, is amended—

(a) by omitting from subsection five of section
thirty-one the word “shallow” wherever occur-
ring;

20 (b) by omitting from the same subsection the words
“one hundred” and by inserting in lieu thereof
the words “two hundred”.

Amendment of
Act No. 70,
1901.
Sec. 31.
(Determina-
tion of value
of improve-
ments.)

PART VII.

AMENDMENT OF THE MURRUMBIDGEE IRRIGATION AREAS
OCCUPIERS RELIEF ACT, 1934.

25 19. The Murrumbidgee Irrigation Areas Occupiers
Relief Act, 1934, as amended by subsequent Acts, is
amended by omitting sections twelve and fourteen.

Amendment
of Act No.
52, 1934.
Secs. 12
and 14.
(Determina-
tion of
water rights
attached to
holdings and
the prices
thereof;
numbers and
prices not to
be altered,
etc.)

PART

Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).

PART VIII.

MISCELLANEOUS.

20. (1) Except as hereinafter provided this section shall apply to—

Reduction
of rentals
of certain
leases.

- 5 (a) any lease from the Crown—
- (i) within an irrigation area constituted under the Irrigation Act, 1912, as amended by subsequent Acts;
 - 10 (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;
 - (iii) made under or by operation of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, before the
15 first day of January, one thousand nine hundred and thirty-three; and
 - (iv) being in respect of land notified in the Gazette as available for disposal for the purpose of residence, or described in the
20 Gazette as suitable for residential purposes, or comprising an irrigation farm lease of an area not exceeding five acres;
- 25 (b) any lease from the Water Conservation and Irrigation Commission—
- (i) within the irrigation area constituted under the provisions of the Wentworth Irrigation Act;
 - 30 (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;
 - (iii) made under or by operation of the Wentworth Irrigation Act;
 - 35 (iv) being in respect of land which in the opinion of the Water Conservation and Irrigation Commission is mainly suitable for residential purposes; and

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5 (v) being in respect of land which has throughout the whole of the period from the thirty-first day of December, one thousand nine hundred and thirty-two, to the first day of January, one thousand nine hundred and forty-eight—

10 (a) been leased land under the Wentworth Irrigation Act by way of lease subsisting at the said thirty-first day of December and of any new lease granted from time to time during such period; and

(b) been held by—
15 (i) the lessee under the lease subsisting at the said thirty-first day of December; or
20 (ii) that lessee and any lessee who became lessee by transfer or assignment from or devolution under the will or intestacy of any immediately prior lessee.

(2) This section shall not apply to any lease referred to in paragraph (a) of subsection one of this
25 section—

30 (a) being in respect of land notified in the Gazette as available for disposal for the purpose of residence and in respect of which the Water Conservation and Irrigation Commission has, before the commencement of this section, pursuant to the provisions of subsection ten of section 142b of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to the land comprised in such lease being used for
35 any of the purposes specified in the said subsection ten; or

(b)

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(b) in respect of which the annual rental has before the commencement of this section been determined consequent upon the addition of land thereto.

5 (3) Subject to this section the annual rental of any lease to which this section applies shall as on and from the first day of January, one thousand nine hundred and forty-eight, be the annual rental of such lease as at the thirty-first day of December, one thousand nine
10 hundred and thirty-two, reduced by twenty-two and one-half per centum:

Provided that where in pursuance of the provisions of section one hundred and forty-three of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts,
15 the annual rental for the second or any succeeding period of any lease referred to in paragraph (a) of subsection one of this section has been determined as in the said section one hundred and forty-three provided—

20 (a) before the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the first day of January, one thousand nine hundred and forty-eight, and for the unexpired portion of the current period of such
25 lease be the annual rental as so determined reduced by twenty-two and one-half per centum;

30 (b) after the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the commencement of such second or succeeding period and for such period be the annual rental as so determined reduced by twenty-two and one-half per centum.

35 (4) Where by reason of any reduction made in pursuance of any enactment other than this section the annual rental under any lease to which this section applies has been decreased, the reduction prescribed by subsection three of this section shall not be in addition
to

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to the amount of such decrease, but such decrease shall be taken into account in determining the annual rental to be paid consequent upon the reduction so prescribed.

(5) Where after the commencement of this
5 section—

(a) the Water Conservation and Irrigation Commission has, pursuant to the provisions of subsection ten of section 142D of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to any land comprised
10 in a lease referred to in paragraph (a) of subsection one of this section and notified in the Gazette as available for disposal for the purpose of residence being used for any of the purposes specified in the said subsection ten; or

15 (b) the annual rental of any lease referred to in paragraph (a) of subsection one of this section has been determined consequent upon the addition of land thereto; or

20 (c) the Water Conservation and Irrigation Commission decides that the land comprised in any lease to which this section applies is used mainly or substantially for any business purpose,

the provisions of this section shall cease to apply to the
25 lease referred to in paragraph (a), (b) or (c) of this subsection as from the date of such consent, determination or decision, as the case may require.

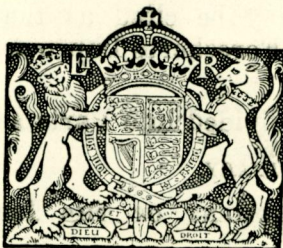
(6) This section shall be deemed to have commenced upon the first day of January, one thousand nine
30 hundred and forty-eight.

*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.*

H. ROBBINS,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 23 March, 1955.*

New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

Act No. , 1955.

An Act to limit the right of future acquisition of freehold tenures within irrigation areas; to make further provision with respect to the licensing of bores; to regulate the removal of soil from or adjacent to the banks of rivers; to make further provision for the reduction of rentals payable in respect of certain classes of tenures within irrigation areas; for these and other purposes to amend the Irrigation Act, 1912-1954, the Crown Lands Consolidation Act, 1913, the Water Act, 1912-1952, the Rivers and Foreshores Improvement Act, 1948, and certain other Acts in certain respects: and for purposes connected therewith.

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(Amendment).*

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

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Irrigation, Short title,
division
into Parts
and
citation.
Water and Rivers and Foreshores Improvement (Amend-
10 ment) Act, 1955."

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—AMENDMENT OF THE IRRIGATION ACT,
1912-1954.

15 PART III.—AMENDMENT OF THE CROWN LANDS
CONSOLIDATION ACT, 1913.

PART IV.—AMENDMENT OF THE WATER ACT, 1912-
1952.

20 PART V.—AMENDMENT OF THE RIVERS AND FORE-
SHORES IMPROVEMENT ACT, 1948.

PART VI.—AMENDMENT OF THE WESTERN LANDS
ACT OF 1901.

PART VII.—AMENDMENT OF THE MURRUMBIDGEE
IRRIGATION AREAS OCCUPIERS RELIEF ACT, 1934.

25 PART VIII.—MISCELLANEOUS.

(3) The Irrigation Act, 1912, as amended by sub-
sequent Acts and by this Act, may be cited as the
Irrigation Act, 1912-1955.

30 (4) The Water Act, 1912, as amended by sub-
sequent Acts and by this Act, may be cited as the Water
Act, 1912-1955.

(5) The Rivers and Foreshores Improvement Act,
1948, as amended by this Act, may be cited as the Rivers
and Foreshores Improvement Act, 1948-1955.

PART

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

PART II.

AMENDMENT OF THE IRRIGATION ACT, 1912-1954.

2. The Irrigation Act, 1912-1954, is amended—

Amendment
of Act No.
73, 1912.

5 (a) by omitting from section five the words “five hundred” wherever occurring and by inserting in lieu thereof the words “two thousand”;

Sec. 5.
(Appoint-
ment of
officers.)

(b) by inserting next after section 5E the following new section:—

New sec.
5F.

10 5F. Any person who at the date of commence-
ment of the Irrigation, Water and Rivers and
Foreshores Improvement (Amendment) Act,
1955, is in the service of the Commission and
whose yearly salary at such date does not exceed
15 two thousand pounds shall, for the purpose of
section five, section 5A and section 5B of this Act,
be deemed to have been appointed by the Com-
mission.

Certain
persons
deemed
to have
been
appointed
by
Commission.

3. The Irrigation Act, 1912-1954, is further amended—

Further
amendment
of Act No.
73, 1912.

20 (a) by inserting next after section 8B the following new section:—

New sec.
8C.

8C. (1) (a) It shall be a function of the Com-
mission to make provision for—

Further
functions
and powers
of
Commission.

25 (i) the systematic gauging and recording of
the volume and flow of rivers and
streams, and of the volume of lakes
and lagoons within the State and the
effect of climatic conditions upon such
volume; and

30 (ii) the gathering and recording of such
data concerning the ground water
resources of the State as the Com-
mission may deem practicable.

(b)

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(b) The Commission may publish and make available any information so ascertained or gathered.

5 (2) The Commission may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable to enable it effectively to carry out all or any of its powers, authorities, duties and functions under this or any other Act
10 and without limiting the generality of the foregoing may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable—

15 (a) to ascertain potential sites for works of water storage or water supply and the practicability and cost of constructing any such works;

20 (b) to ascertain the nature and extent of lands capable of being supplied with water from any existing or proposed works of water storage or water supply and the means whereby such lands may be so supplied;

25 (c) to ascertain the necessity of and potential sites for works for flood mitigation or flood control and the practicability and cost of constructing any such works;

30 (d) to ascertain the nature and extent of lands capable of being protected or partially protected from flooding or inundation by any works of flood mitigation or flood control;

35 (e) to ascertain the existence and location of subterranean waters and the character and quality thereof.

(3) The Commission, in the exercise of its powers, authorities, duties and functions under this or any other Act, may by its officers, servants,

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(Amendment).*

servants, workmen or agents enter upon any lands and do all such things as may be requisite for the purpose of—

5

(a) making and carrying out such inspections, tests, investigations, surveys, experiments and boring, drilling and other explorations as the Commission may deem necessary for the full and effective exercise of any of its powers, authorities, duties and functions under this or any other Act; or

10

(b) constructing, maintaining, operating, or altering any works,

15

or for any other purpose connected with or related to or incidental to the exercise of any of its powers, authorities, duties and functions under this or any other Act, notwithstanding an easement or right so to enter or use such lands may not have been granted or acquired.

20

The powers conferred by this subsection shall be additional to and not in substitution for any other powers elsewhere conferred on the Commission.

25

(4) In the exercise of any of the powers conferred by subsection three of this section the Commission shall inflict as little damage as may be and shall make full compensation to all parties interested for all damage sustained by them in consequence of the exercise of such powers.

30

(b) by omitting subsection four of section nine.

Sec. 9.
(Commission to construct works, etc.)

4. The Irrigation Act, 1912-1954, is further amended—

Further amendment of Act No. 73, 1912.

(a) by inserting in section 11A after the word “shall” the words “except as hereinafter provided”;

Sec. 11A.
(Application of ss. 11B-11F.)

35

(b)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

(b) by inserting next after subsection one of section 11c the following new subsections:—

Sec. 11c.
(Conversion
of lease-
holds.)

5 (1A) The lessee of an irrigated lot within the
irrigation area constituted under the provisions
of the Wentworth Irrigation Act shall not be
entitled to purchase such lot unless the land
comprising such lot has, throughout the whole
of the period from the commencement of the
10 Irrigation, Water and Rivers and Foreshores
Improvement (Amendment) Act, 1955, to the
date of notification of his intention to pur-
chase,—

15 (a) been leased land by way of lease
subsisting at such commencement and
of any new lease granted from time to
time during such period; and

(b) been held by—

(i) the lessee under the lease subsist-
ing at such commencement, or

20 (ii) that lessee and any lessee who
became lessee by transfer or
assignment from or devolution
under the will or intestacy of
any immediately prior lessee.

25 (1B) The lessee of an irrigated lot within the
irrigation area constituted under the provisions
of the Hay Irrigation Act, 1902, shall not be
entitled to purchase such lot unless he has
prior to the commencement of the Irrigation,
30 Water and Rivers and Foreshores Improvement
(Amendment) Act, 1955, notified the Commis-
sion on the form and in the manner prescribed
of his intention to purchase such lot.

5. The Irrigation Act, 1912-1954, is further amended—

Further
amendment
of Act. No.
73, 1912.

35 (a) by omitting subsection four of section twelve;

Sec. 12.

(b) (Water
rights.)

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(Amendment).*

- (b) by inserting in subsection one of section thirteen after the words "such additional water rights" the following new paragraph:—

Sec. 13.
(Additional
water
rights.)

5 After the full quantity of water to which an occupier is entitled pursuant to the water rights attached to his land and to any additional water rights which may have been allotted to him has been supplied, the Commission may, on application by the occupier, supply him with additional water at such charges as the Commission may determine.

- (c) by inserting next after section thirteen the following new section:—

New sec.
13A.

15 13A. (1) Where the Commission is prepared to make available and makes available to any land a supply of water solely during the hours of daylight, it may impose such special charge per acre foot for all water so supplied as it may from time to time determine. Notification of any such determination shall be published in the Gazette.

Supply of
water during
hours of
daylight.

25 (2) The special charge shall be in addition to the charges for any water rights which are attached to the land and for any additional water rights and for any water supplied to the land additional to the water supplied pursuant to such water rights and additional water rights.

30 (3) The special charge shall be determined by the Commission having regard to the additional cost per acre foot which the Commission estimates will be incurred by it in supplying water solely during the hours of daylight.

35 (4) The special charge shall be paid by the occupier of the land on or before the thirtieth day of June in each year in respect of water supplied during the year ending on the said thirtieth day of June.

(5)

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(5) In this section "acre foot" means such a quantity of water twelve inches deep as would cover an area of one acre.

5 (d) (i) by inserting in subsection one of section Sec. 15.
fifteen after the word "Act" where (Payment of charges.) thirdly
occurring the words "or for maintenance
charges arising in relation to the supply of
water";

10 (ii) by omitting from the same subsection the
words "as and when directed by the bank";

(iii) by inserting at the end of the same subsec-
tion the following new paragraph:—

15 The charges in respect of water rights
which are attached to the land, the charges
in respect of additional water rights, and
the charges in respect of the water supplied
to the land additional to water supplied pur-
suant to such water rights and additional
20 water rights shall be paid at the times and
in the manner prescribed, and all other rates
or charges for water and maintenance
charges shall, except where otherwise ex-
pressly provided, be paid at the times and
in the manner determined by the Commis-
25 sion and when no such determination has
been made then at such times and in such
manner as may have been agreed between
the Commission and the occupier.

6. The Irrigation Act, 1912-1954, is further amended— Further amendment of Act No. 73, 1912. New sec. 17AA.

30 (a) by inserting next after section 17A the following
new section:—

35 17AA. Any person who destroys, damages or
interferes in any way with any work, structure
or other thing whatsoever vested in or made,
constructed or provided by or otherwise under
the control or management of the Commission
shall where no other provision is expressly made
by any other section of this Act be liable upon
summary

Damage to or interference with works.

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- 5 summary conviction to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding three months: Provided that nothing in this section shall in any way affect any liability to which any person who commits a breach of this section may be subject under any other Act or at common law but such person shall not be liable to be punished twice for the same offence.
- 10 (b) by inserting in subsection three of section eighteen after the word "Area" where thirdly occurring the words "and any other irrigation area constituted or which may be constituted under the provisions of this Act";
- 15 (c) by omitting from the same subsection the words and figures "and Part VII" and by inserting in lieu thereof the words and figures "Part VII and Part VIII".

PART III.

20 AMENDMENT OF THE CROWN LANDS CONSOLIDATION ACT,
1913.

7. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is amended—

- 25 (a) by inserting at the end of subsection two of section one hundred and forty the following proviso:—

Provided that in the case of lands set apart for disposal in accordance with the provisions of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, the survey fee shall not be required to accompany an application but shall be paid by the successful applicant at a time and in a manner to be specified in the notification under paragraph (d) of subsection two of section one hundred and thirty-nine of this Act that the lands are available for disposal.

(b)

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- (b) (i) by omitting from subsection five of section one hundred and forty-two the word "six" and by inserting in lieu thereof the word "three"; Sec. 142.
(Conditions etc., of irrigation farm purchases.)
- 5 (ii) by inserting in paragraph (a) of subsection six of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- 10 (iii) by omitting from paragraph (c) of the same subsection the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words
- 15 "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- (iv) by omitting paragraph (d) of the same subsection and by inserting in lieu thereof the following paragraph:—
- 20 (d) A condition to the effect that the land or any specified part of the land shall not be used to plant—
- (i) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or
- 25 (ii) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or areas specified in the condition,
- 30 may be attached to any irrigation farm purchase after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act,
- 35 1955,

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1955, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such irrigation farm purchase.

- 5 (c) (i) by omitting from subsection four of section 142b the word "six" and by inserting in lieu thereof the word "three";
- (ii) by inserting in subsection seven of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- 10 (iii) by omitting from subsection eight of the same section the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";
- 15 (iv) by omitting subsection nine of the same section and by inserting in lieu thereof the following subsections:—
- (9) A condition to the effect that the land or any specified part of the land shall not be used to plant—
- 25 (a) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or
- 30 (b) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or areas specified in the condition,
- 35 may be attached to any lease after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment)

Sec. 142b.
(Conditions,
&c., of
leases
within
irrigation
areas.)

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(Amendment).*

(Amendment) Act, 1955, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such lease.

5

(9A) (a) The Minister may, at any time, with the consent of the holder of the lease, by instrument under his hand in the prescribed form, cancel or vary any condition mentioned in subsection seven, subsection eight or subsection nine of this section on such terms and conditions as he thinks fit and the condition as so varied shall, whether or not the perpetual lease grant has issued, be the condition attaching to the land.

10

15

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

20

(d) (i) by inserting at the end of subsection one of Sec. 145. section one hundred and forty-five the words (Conversion of I.F.L. to I.F.P., &c.) "or to an irrigation farm lease or a non-irrigable lease described in any notification in the Gazette under the provisions of section one hundred and thirty-nine of this Act as suitable for farming purposes, granted after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955";

25

30

(ii) by inserting in subsection three of the same section after the word "determined" the words "as at the date of receipt by the Commission of the notification referred to in subsection two of this section";

35

(iii) by inserting at the end of paragraph (d) of subsection five of the same section the following new paragraphs:—

(e) Where any lease converted under this section is subject to a transfer by way of mortgage

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mortgage registered in the books of the
Commission such transfer shall be—

5

- (i) deemed to extend and always to
have extended to the purchase into
which the lease has been converted
in the same manner as it applies
to the lease; and

10

- (ii) recorded in the books of the Com-
mission as a transfer of the
purchase.

15

(f) Where immediately preceding the
conversion of any lease under this section
an easement is appurtenant to or a burden
upon any land comprised in such lease such
easement shall after such conversion con-
tinue to be appurtenant to or a burden upon
such land.

20

25

(g) Where a perpetual lease grant has
issued in respect of any lease converted
under this section and the Commission
lodges with the Registrar-General with the
surrender referred to in subsection two of
this section a notification that the lease has
been converted into a purchase, the
Registrar-General shall register such sur-
render without requiring that any easement
to which the land is subject shall be released
or that any mortgage or other security to
which the land is subject shall be discharged.

30

35

(h) Paragraphs (e), (f) and (g) of this
subsection shall apply to conversions whe-
ther effected before or after the commence-
ment of the Irrigation, Water and Rivers
and Foreshores Improvement (Amend-
ment) Act, 1955.

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8. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended—

Further amendment of Act No. 7, 1913.

- (a) (i) by inserting in subsection one of section 147D after the words "irrigation farm lease" the words "or a non-irrigable lease";
- (ii) by inserting next after subsection four of the same section the following new subsections:—

Sec. 147D.
(Applica-
tion to
Minister
to acquire
private
lands.)

(4A) The application whether made before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, may with the consent of the owner or owners of the private lands proposed to be included or excluded or the price of which is proposed to be increased or decreased and the approval of the Minister be varied by including therein additional private lands or excluding therefrom part of the lands included therein or by increasing or decreasing the price specified in the application.

(4B) The consent of the owner or owners under subsection one of this section whether given before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, and the consent of the owner or owners under subsection (4A) of this section shall not be withdrawn before the expiration of sixty days after such owner or owners has or have given to the Minister notice in writing of his or their intention so to withdraw: Provided that in no case shall such consent be withdrawn after the Minister has approved of the purchase.

(b)

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- (b) by omitting from section 147E the words “such lands” where firstly occurring and by inserting in lieu thereof the words “the lands the subject of such application”.
- 5 (c) (i) by inserting in section 147G after the word “made” where firstly occurring the words “or varied”;
- (ii) by inserting in paragraph (c) of the same section after the words “irrigation farm lease” the words “or a non-irrigable lease”;
- 10 (iii) by inserting at the end of the same section the words “or he may at his discretion refuse the application: Provided that the Minister shall not so approve where in his opinion the amount of capital (including shares in any company or any interest in any land) held by any applicant or by his or her spouse or by his or her parent or parents is such as to warrant refusal of the application”;
- 15 (d) by omitting from subsection one of section 147H the words “Where, under section 147D of this Act, an application has been made to the Minister to acquire any lands and the Minister has approved of the purchase of such lands” and by inserting in lieu thereof the words “Where the Minister has approved of the purchase of lands”;
- 20 (e) (i) by inserting at the end of paragraph (a) of subsection one of section 147J the following words “or non-irrigable leases”;
- 25 (ii) by inserting next after the same paragraph the following new paragraphs:—
- 30 (a1) Any lands deemed by the Minister to be necessary for roads, or any purpose which he considers to be a community
- 35

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- 5 community purpose or a public purpose, or any lands which the Minister considers should be excluded for any reason may be excluded from the holdings and any adjacent Crown lands may be included in such holdings.
- 10 (a2) The subdivision may be made into holdings before the holdings are measured, and in such case the holdings may be notified under paragraph (c) of this subsection according to the design thereof.
- 15 (iii) by inserting in subparagraph (vi) of paragraph (c) of the same subsection after the words "irrigation farm lease" the words "or a non-irrigable lease";
- 20 (iv) by inserting in subsection four of the same section after the words "irrigation farm lease" where firstly occurring the words "or a non-irrigable lease";
- 25 (v) by inserting in the same subsection after the words "irrigation farm lease" where secondly and thirdly occurring the words "or non-irrigable lease";
- (vi) by inserting next after the same subsection the following new subsections:—
- 30 (4A) Where a holding has been measured after publication in the Gazette of a notification under paragraph (c) of subsection one of this section any necessary adjustment shall thereafter be made as to the area and annual rental of the holding and of the nature and value of any improvements
- 35 which are the property of the Crown and which are to be paid for by the incoming tenants,

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tenants, and of the terms and conditions upon which payment for the improvements shall be made.

- 5 (4B) Any lands excluded from the holdings under paragraph (a1) of subsection one of this section may be retained by the Crown either permanently or for a limited period and the Commission may expend moneys necessary to maintain adequately such lands and the improvements thereon, and, if necessary, to replace improvements on such lands during such time as they are retained by the Crown. Such lands may be used for such purposes or leased by the Commission for such terms and upon such conditions as the Minister may approve, or may be otherwise disposed of under the provisions of this Act.
- 10
- 15
- 20 (vii) by inserting in subsection five of the same section after the words "irrigation farm lease" the words "or a non-irrigable lease";
- (viii) by inserting in the same subsection after the words "irrigation farm purchase" the words "or a non-irrigable purchase";
- 25 (ix) by inserting in subsection six of the same section after the words "irrigation farm leases" the words "or non-irrigable leases";
- 30 (f) by inserting in subsection two of section 147K Sec. 147K. after the words "irrigation farm lease" the words "or a non-irrigable lease".

9. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended—

- 35 (a) by inserting in subsection one of section one hundred and ninety-seven after the word "settlement" where firstly occurring the words
- Further amendment of Act No. 7, 1913.
Sec. 197.
(Exchanges and purchases for public purposes.)
- "or

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“or for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown”;

5 (b) by omitting from the same subsection the words
“The local land board” where firstly occurring
and by inserting in lieu thereof the words
“Except as hereinafter provided the local land
board”;

10 (c) by inserting at the end of the same section the
following new subsections:—

15 (5) In the application of the provisions of this
section to any exchange or purchase or resump-
tion of land for constitution as an irrigation
area or for the alteration of an irrigation area
by including additional lands of the Crown, the
following provisions shall have effect—

20 (a) the provisions of subsection one of this
section relating to inquiry into and
report by the local land board upon any
application or proposal for the
exchange or purchase or resumption of
any land and determination of the
values of any land to be acquired or
granted in pursuance thereof and the
price to be paid for the land resumed
shall not apply;

30 (b) subsection one of this section shall be
read and construed as if for the words
“the Minister” where thirdly occurring
there were substituted the words “the
Commission”;

35 (c) the compensation to be paid in respect
of any resumption to which this sub-
section applies shall be the value of the
land as determined by an advisory
board or the Land and Valuation Court
on appeal;

(d)

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- (d) subsection two of this section shall be read and construed as if for the words “a local land board” there were substituted the words “an advisory board”;
- 5 (e) in determining the value of the land as referred to in paragraph (c) of this subsection—
- 10 (i) the provisions of paragraph (b) of subsection four of section four of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall be taken into account; and
- 15 (ii) there shall be excluded any added value which would accrue or has accrued to the land from the construction or utilisation of the works of any district or provisional district constituted under the provisions of Part VI of the
- 20 Water Act, 1912, as amended by subsequent Acts;
- 25 (f) the provisions of sections nine and ten of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall mutatis mutandis apply to and in respect of any resumption to which this subsection applies;
- 30 (g) the provisions of subsection one of this section as amended by this subsection shall extend to the resumption of any public road;
- 35 (h) in this subsection the expression “advisory board” means a Closer Settlement Advisory Board constituted under section two of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts.

(6)

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- (6) Where any public road is resumed under the authority of this section in connection with the resumption of lands for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown the following provisions shall notwithstanding anything contained in this section have effect:—
- 5
- (a) the municipal or shire council within whose area the public road so resumed is situated shall be entitled to claim compensation therefor;
- 10
- (b) subject to paragraphs (c) to (j) inclusive of this subsection the compensation shall be an amount not exceeding the capital sum spent by the council upon the construction of the road together with the sum, if any, paid by the council for purchase or resumption of the land therefor;
- 15
- 20
- (c) in any case where the council decides that it is necessary to purchase or resume and construct a new road to replace that resumed it shall notify the Commission of its decision;
- 25
- (d) any notification referred to in paragraph (c) of this subsection shall be accompanied by a plan of the location of the proposed new road, together with an estimate of the cost of the purchase or resumption and construction of the proposed new road;
- 30
- (e) where, having regard to the requirements of the public as at the date upon which the public road is resumed, the Commission is of opinion—
- 35
- (i) that it is not necessary to replace the road resumed; or
- (ii)

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- 5 (ii) that the location of the proposed
new road is not satisfactory; or
- (iii) that the cost of the purchase or
resumption and construction of
the proposed new road is
excessive; or
- 10 (iv) that, for any reason whatsoever,
the decision of the council should
not be carried out either wholly
or in part—
- the Commission shall notify the council
accordingly;
- 15 (f) the notification referred to in paragraph
(e) of this subsection shall be accom-
panied by—
- (i) a statement setting out the
grounds upon which the opinion
of the Commission is based;
- 20 (ii) details of any alternative pro-
posal which in the opinion of the
the Commission should be
adopted, together with such plans
and estimates of costs (if any)
as may be necessary to provide
25 the council with full information
in relation to the carrying out
of such alternative proposal;
- (g) any matter in dispute between the
council and the Commission under
30 paragraphs (e) and (f) of this subsec-
tion may be referred by either the
council or the Commission to the Land
and Valuation Court in accordance with
rules of court;
- 35 (h) the Land and Valuation Court shall
have jurisdiction to hear and determine
any matter referred to it pursuant to
the

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the provisions of paragraph (g) of this subsection and that court may in its discretion award such costs as it thinks fit in relation to any matter so referred;

5 (i) the determination of the Land and Valuation Court in relation to any matter referred to it under the provisions of paragraph (g) of this subsection shall be final and shall be carried
10 into effect by the council and the Commission;

(j) where the Land and Valuation Court by its determination decides that it is necessary to replace any public road to which the provisions of this subsection
15 apply the amount of compensation shall be such sum, not exceeding the cost of purchase or resumption and construction of the new road, as the said court may determine and in making such
20 determination the said court shall have regard to the actual condition of such public road as at the date of resumption and to the extent to which the same was used by the public before that date and
25 also to any damage to the road caused by the Commission before that date;

(k) any amount paid to the council by way of compensation pursuant to the provisions of paragraphs (c) to (j) inclusive
30 of this subsection shall be placed by the council in a trust fund until expended on such new road.

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

PART IV.

AMENDMENT OF THE WATER ACT, 1912-1952.

10. The Water Act, 1912-1952, is amended—

Amendment
of Act No.
44, 1912.

- 5 (a) by inserting at the end of the definition of
“River” in subsection three of section 4A the
words “and includes those waters of a tidal
river which are at any time capable of being
used for irrigation or for watering stock”;
- 10 (b) (i) by omitting from the definition of “Joint
water supply scheme” in section five the
words “but not all”;
- 15 (ii) by inserting at the end of the same definition
the words “and includes any work to which
this Part extends which is used or proposed
to be used for the purpose of supplying
water for irrigation by any occupier or
occupiers other than the occupier or
occupiers of the site of the work”;
- 20 (iii) by inserting at the end of the definition of
“River” in the same section the words “and
includes those waters of a tidal river which
are at any time capable of being used for
irrigation or for watering stock”;
- 25 (c) by inserting in subsection one of section 17c next
after the word “servants” the words “or
agents”;
- (d) by inserting next after subsection three of sec-
tion 18B the following new subsection:—
- 30 (3A) Notwithstanding the provisions of sub-
sections two and three of this section—
- 35 (a) where any such license is held by a
member of the forces, discharged
member of the forces, discharged
soldier, other eligible person, member
of the Korea and Malaya Operations
Forces or discharged member of the
Korea

Sec. 4A.
(Right to
flow of
water.)

Sec. 5.
(Interpreta-
tion.)

Sec. 17c.
(Power to
enter and
remove
works.)

Sec. 18B.
(Classifica-
tion of
existing
licenses and
authorities.)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

5 Korea and Malaya Operations Forces
as defined in the War Service Land
Settlement Act, 1941, as amended by
subsequent Acts, (hereinafter in this
Division referred to as a war service
settler) in respect of any work to which
this Part extends which is used in
connection with a holding set apart for
disposal in accordance with the provi-
10 sions of section three of the War
Service Land Settlement Act, 1941, as
amended by subsequent Acts, or
acquired under the provisions of Part
IVA of the Closer Settlement Amend-
15 ment (Conversion) Act, 1943, as
amended by subsequent Acts (herein-
after in this Division referred to as a
war service holding) such license shall
be classified as Class A; and

20 (b) in the case of any such authority, where
the whole of the lands within the joint
water supply scheme the subject of the
authority are war service holdings,
such authority shall be classified as
25 Class A.

(e) by omitting section 18c and by inserting in lieu Subst.
thereof the following section:— sec. 18c.

30 18c. Any license or authority to appropriate water for the purpose of irrigation from a river
or lake or section of a river in respect of which
a proclamation has been made under the provi-
sions of section 18A of this Act, which is granted
after the date of such proclamation, shall—
Classification of new licenses and authorities.

35 (a) if any such license is granted to a war
service settler in respect of any work
to which this Part extends which is used
in connection with a war service
holding, be classified by the Commis-
sion as a Class A license;

(b)

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- 5 (b) if, in respect of any such authority the whole of the lands within the joint water supply scheme the subject of the authority are war service holdings, be classified by the Commission as a Class A authority; and
- (c) in every other case, be classified by the Commission as a Class C license or authority.

- 10 (f) (i) by inserting next after subsection seven of section 18n the following new subsection:—
- Sec. 18D.
(Reclas-
sification of
licenses and
authorities.)

15 (7A) If at any time a war service settler becomes the holder of a license which has been classified or reclassified by the Commission as a Class B or a Class C license and the licensed work is used in connection with a war service holding, such licence shall be reclassified by the Commission as a Class A license.

- 20 (ii) by inserting at the end of the same section the following new subsection:—

25 (9) (a) Notwithstanding the provisions of subsection eight of this section, a license which is held by a war service settler in respect of any work to which this Part extends which is used in connection with a war service holding shall not, except as provided in subsection (7A) of this section, be subject to reclassification by the Commission for a period of five years from the date upon which the license commenced to be held by the war service settler.

30 (b) Notwithstanding the provisions of subsection eight of this section, where the whole of the lands within a joint water supply scheme the subject of an authority are war service holdings, the authority shall

35 not

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(Amendment).*

not be subject to reclassification by the Commission for a period of five years from the date of the granting of the authority.

11. The Water Act, 1912-1952, is further amended by inserting next after section thirty-eight the following new section:—

Further amendment of Act No. 44, 1912.
New sec.
38A.

Transfer of Crown bores to trusts.

38A. (1) Where a trust has been constituted on terms that the trust shall pay a charge for water to be supplied by the Crown from works which include a bore and the Commission is of the opinion that such works should be taken over, administered and managed by the trust, the Commission may notify in the Gazette and in some newspaper circulating in the trust district a proposal that the works by means of which water is supplied to the trust shall be transferred to the trust to be so taken over, administered and managed and that the trust shall be required to repay the value of the works.

(2) Any such proposal shall embody—

- (a) a description of the works;
- (b) a statement of the value of the works;
- (c) a statement of the terms upon which the trust shall repay the value of the works and interest thereon specifying—
 - (i) that such repayment be made by the provision of a sinking fund;
 - (ii) the rate of interest which shall be paid by the trust on the value of the works;
 - (iii) the number of years within which such repayment shall be made;
- (d) if it is proposed to vary the maximum rate which may be assessed by the trust, a revised maximum rate which may be assessed by the trust after the works have been transferred to the trust; and
- (e) such other provisions as the Commission may deem necessary or desirable.

(3)

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(Amendment).*

5 (3) If within eight weeks after such notification a petition is presented to the Commission, signed by at least one-third in number of the owners of land within the trust district, objecting, upon grounds stated in the petition, to—

- (a) the value of the works;
- (b) the number of years within which the repayment referred to in paragraph (c) of subsection two of this section is to be made;
- 10 (c) the revised maximum rate (if any) which may be assessed by the trust,

the Commission shall refer the matter or matters regarding which objection has been so made to the Board for inquiry and report.

15 (4) If within the said period no such petition is received, or upon receipt of the report of the Board in respect of any reference to it pursuant to the provisions of subsection three of this section, as the case may be, the Governor by proclamation in
20 the Gazette may—

(a) transfer to the trust the works described in the proposal referred to in subsection one of this section upon the terms set out in such proposal with such amendments, if
25 any,—

- (i) where no reference has been made to the Board, as the Commission may think fit; or
- (ii) in any other case, as the Board may
30 recommend; and

(b) appoint a date, hereinafter called the “transfer day”, not being earlier than the date of publication of the proclamation, on and from which the transfer of the works
35 to the trust shall be and become effective.

(5)

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(Amendment).*

(5) Upon the transfer day the following provisions shall take effect:—

- 5 (a) the trust shall take over and shall there-
after administer and manage the works so
transferred and in respect thereof may
exercise all the powers and shall discharge
all the duties conferred and imposed by this
Part in respect of works taken over by or
in charge of a trust, except such powers as
10 are conferred solely on the Commission;
- (b) the trust shall become liable to repay the
value of the works and interest and the
charge for interest and payments to the
sinking fund shall commence to run;
- 15 (c) the liability of the trust to pay the charge
for water to be supplied by the Crown shall
cease and determine: Provided that—
 - (i) nothing in this paragraph shall be
20 deemed to discharge or to modify
or affect in any way the liability
of the trust to pay for water
supplied by the Crown at any time
prior to the transfer day;
 - (ii) the charge for water to be supplied
25 by the Crown in respect of the
period then current shall be deemed
to accrue from day to day and be
apportioned accordingly;
 - (iii) if the trust has paid the charge for
30 water to be supplied by the Crown
in respect of the period then
current, the proportion thereof
which relates to that part of such
period as has not elapsed on the
35 transfer day shall be credited
towards the liability of the trust
in respect of charges for interest

and

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and payments to the sinking fund pursuant to the provisions of this section;

5 (iv) if the charge for water to be supplied by the Crown in respect of the period then current has not become due and payable, the trust shall, unless such charge has been paid by the trust, be liable to pay and shall pay the proportion thereof which relates to that part of the said period which has elapsed on the transfer day on the date which but for this section would have been the due date for payment of such charge next ensuing after the transfer day;

20 (d) the revised maximum rate (if any) specified in the proposal referred to in subsection one of this section or any amendment thereof made by the proclamation referred to in subsection four of this section shall be and become the maximum rate which may be assessed by the trust thereafter and the trustees may assess rates up to such revised maximum notwithstanding that a rate may already have been fixed and levied in respect of the rating year then current;

30 (e) the trust shall from such transfer day observe and perform all of the terms and conditions upon which the works have been transferred.

35 (6) Notwithstanding anything contained in this section the trust may, subject to the approval of the Commission, have the option of repaying the value of the works by a lump sum or in a less number of years than the period determined under the foregoing provisions of this section for such repayment.

(7)

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5 (7) (a) In this section the expression "the value of the works" means the value, as determined by the Commission or where varied under the foregoing provisions of this section as so varied, of the works by means of which water is supplied to a trust by the Crown.

(b) In determining such value the Commission shall—

10 (i) determine the value as at the date of the notification in the Gazette of the proposal referred to in subsection one of this section;

15 (ii) if the charge for water to be supplied by the Crown to be paid by a trust to which this section applies has been fixed to include the payment of the cost of the works, take into consideration the amount which has been paid by the trust towards the cost of the works; and

20 (iii) have regard to any certificate issued under the provisions of section 73D of this Act.

12. The Water Act, 1912-1952, is further amended— Further amendment of Act No. 44, 1912.

25 (a) by omitting from section one hundred and five the definition "Bore" and "Well" and by inserting in lieu thereof the following definition:— Sec. 105. (Definition.)

30 "Bore" means any bore or well or any excavation or other work connected or proposed to be connected with sources of sub-surface water and used or proposed to be used or capable of being used to obtain supplies of such water whether the water

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- 5 water flows naturally at all times or has to be raised either wholly or at times by pumping or other artificial means, but does not include a work to which Part II of this Act extends.
- (b) by omitting section 111A; Sec. 111A.
(Boundaries.)
- (c) by omitting from subsection one of section one hundred and twelve the words "to increase the flow of water therefrom"; Sec. 112.
(Wells to be licensed.)
- 10 (d) by inserting in subsection two of section one hundred and thirteen after the word "bore" where secondly occurring the words "or the circumstances so warrant"; Sec. 113.
(Application for license.)
- 15 (e) by omitting from subsection one of section one hundred and fourteen the words "in the case of an application with respect to an artesian bore"; Sec. 114.
(Inquiry.)
- 20 (f) by omitting section one hundred and fifteen and by inserting in lieu thereof the following sections:— Subst.
sec. 115
and new sec.
115A.
- 25 115. (1) In any case where an application has not been advertised pursuant to subsection two of section one hundred and thirteen of this Act the Commission shall, as soon as practicable after it has investigated and considered the application, issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper. Issue of
license.
- 30 (2) In any other case the Commission shall—
- (a) where an inquiry has been held pursuant to section one hundred and fourteen of this Act and the board reports in favour of the issuing of a license; or
- (b)

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- (b) where no inquiry has been held pursuant to section one hundred and fourteen of this Act and the Commission decides to grant the application,
- 5 on payment of the prescribed fee issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.
- 10 115A. (1) Every owner of land upon which at the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, there exists a bore or a partially constructed bore for the sinking of which a license under the provisions of this Part has not been issued shall within a period of twelve months after such commencement notify the Commission in writing of the existence of each such bore and shall make application for a license for and in respect of each such bore. Licensing of existing bores or wells.
- 15
- 20 (2) The provisions of subsection one of section one hundred and thirteen shall, mutatis mutandis, apply to and in respect of an application under this section.
- 25 (3) The Commission shall, as soon as practicable after receipt of an application under this section, issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.
- 30 (4) Any person who contravenes the provisions of this section shall, upon conviction, be liable to a penalty not exceeding one hundred pounds and a further penalty not exceeding five pounds for each day during which the contravention continues after such conviction.
- 35 (g) by omitting from section one hundred and seventeen the word "well" and by inserting in lieu thereof the word "bore"; Sec. 117. (Benefit of license.)

(h)

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(Amendment).*

(h) by omitting from section one hundred and eighteen the word "well" wherever occurring and by inserting in lieu thereof the word "bore";

Sec. 118.
(Penalty for alterations of licensed well or contravention of license.)

5 (i) by inserting next after section one hundred and eighteen the following new section:—

New sec. 118A.

10 118A. (1) No person shall, after the expiration of three months from the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955, act as a driller on or in connection with the construction of a bore unless he is the holder of a driller's license issued by the Commission.

Drillers to be licensed.

15 (2) Any person who contravenes the provisions of subsection one of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction.

20 (3) A driller's license may be issued by the Commission to any competent and capable person upon application being made therefor in writing and upon the Commission having been furnished with such information as to the competency and capability of the applicant as it may require.

25 (4) A driller who acts as such on or in connection with the construction of a bore shall, upon demand being made by the Commission and within such time as the Commission may specify, furnish to the Commission or to such person as the Commission may direct and in such form as the Commission may require, such information relating to—

30 (a) the nature and thickness of the various strata met with during the drilling performed by him in connection with the bore;

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- (b) the location, quantities and quality of all supplies of water met with during such drilling;
- 5 (c) the height each such supply of water stands relative to the natural surface of the ground at the site of the bore; and
- 10 (d) the depth, diameter and other particulars of the bore and the casing inserted in the bore,
- as the Commission may require.
- (5) Any driller who contravenes the provisions of subsection four of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and to a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction and, in addition to the imposition of the said penalty, the Commission may cancel his driller's license.
- 15 20
- (6) The Commission may at any time cancel any license issued pursuant to subsection three of this section if in its opinion the holder of the license is or has become incompetent or incapable or is not a fit and proper person to continue to be licensed as a driller or for such other good and sufficient cause as to the Commission seems proper.
- 25
- (7) No person shall be entitled to claim or be paid any compensation whatsoever arising out of or by reason of the exercise by the Commission of the powers conferred by subsection six of this section.
- 30
- (j) (i) by inserting in subsection one of section one hundred and twenty-three after the word "well" where firstly occurring the words "or bore";
- 35

Sec. 123.
(Waste of water.)

(ii)

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(Amendment).*

- (ii) by omitting from the same subsection the words "partial closing" and by inserting in lieu thereof the words "closing or partial closing";
- 5 (iii) by omitting from the same subsection the words "such well" and by inserting in lieu thereof the words "such artesian well or bore";
- 10 (iv) by omitting from subsection two of the same section the words "such well" and by inserting in lieu thereof the words "such artesian well or bore";
- 15 (k) (i) by omitting from subsection one of section one hundred and twenty-four the words "artesian wells" and by inserting in lieu thereof the words "artesian well or bore";
- 20 (ii) by omitting from the same subsection the words "such wells" and by inserting in lieu thereof the words "any artesian well or bore".

13. The Water Act, 1912-1952, is further amended—

- (a) by inserting in the definition of "Work" in section one hundred and thirty after the word "sewer" the words "bridge, culvert, fence,";
- 25 (b) by omitting subsection two of section 133A and by inserting in lieu thereof the following subsection:—
- 30 (2) Where by virtue of any such further proclamation lands previously described as comprising two or more holdings become one holding or lands previously described as comprising one holding become two or more holdings such further proclamation may attach to the new holding or each of the new holdings such number of water rights as the Governor may consider proper.
- 35

Further amendment of Act No. 44, 1912.

Sec. 130. (Definitions.)

Sec. 133A. (Correction of errors in constitution of districts and provisional districts.)

(c)

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- (c) by inserting next after section 133A the following new subheading and section:— New sec.
133B.

Additional Works.

5 133B. At any time after the notification of the Additional
works.
completion of the works of a provisional district
or the proclamation of the constitution of a
district the Commission may, for the purposes
of such provisional district or district, construct
10 or acquire any additional works and thereupon
such additional works shall become works of
the provisional district or district, as the case
may be.

- (d) by inserting next after section one hundred and New sec.
137A.
thirty-seven the following new section:—

15 137A. (1) In any provisional district or dis- Meter
charges.
trict in which water is supplied through pipes
under pressure and any meter is installed by
the Commission for the purpose of measuring
the quantity of water so supplied to a holding,
20 the Commission may impose such annual charge
for the use of such meter as it may from time
to time determine. The charge shall be paid to
the bank by the owner of the land on or before
the fifteenth day of September in each year.

25 (2) The owner of the land shall pay to
the Commission on demand all costs, charges
and expenses incurred by the Commission in re-
pairing or replacing any such meter which has
become damaged or destroyed from any cause
30 whatsoever and upon default in payment the
amount of such costs, charges and expenses may
be recovered by the Commission from such
owner in any court of competent jurisdiction as
a debt due and owing to the Commission.

- 35 (e) (i) by inserting in subsection three of section Sec. 139.
(Assessment
of rates and
charges.)
one hundred and thirty-nine after the word
“rates” the words “or charges for water”;

(ii)

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- (ii) by inserting in the same subsection after the word "rate" wherever occurring the words "or charge";
- 5 (iii) by inserting in subsection four of the same section after the word "rate" the words "or charge for water";
- (iv) by inserting in subsection five of the same section after the word "rate" the words "or charge for water";
- 10 (v) by inserting in subsection six of the same section after the word "rate" where firstly occurring the words "or charge for water";
- 15 (vi) by inserting in the same subsection after the word "miscalculation" the words "or for any other reason whatsoever";
- (vii) by inserting in the same subsection after the word "rate" where secondly occurring the words "or charge";
- 20 (f) (i) by omitting subsections nine and (9A) of section one hundred and forty-seven and by inserting in lieu thereof the following subsection:—

(9) (a) Upon the Commission becoming aware that an owner has subdivided his holding and has disposed of any part or parts or all the parts thereof the Governor shall on the recommendation of the Commission declare that, as from a specified date not being earlier than the date the Commission became aware of such subdivision and disposal, the holding shall for the purposes of this Part cease to be a holding and that new holdings shall be deemed to be constituted in respect of each part disposed of and the part, if any, retained by the owner

(b)

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(b) Thereupon if water rights were attached to the former holding the Governor on the recommendation of the Commission—

5 (i) shall apportion such water rights between the new holdings; or

 (ii) shall increase the number of such water rights and apportion such increased number of water rights between the new holdings; or

10

 (iii) may in any case where water rights are not to be attached to any new holding by virtue of the provisions of paragraph (d) of this subsection reduce the water rights which were attached to the former holding by not more than the proportion which the area of any such new holding bears to the area of the former holding and shall apportion such reduced number of water rights between the remaining new holdings.

15

20

(c) Water rights as apportioned in accordance with the provisions of paragraph (b) of this subsection shall attach to each of the new holdings on and from the date specified in accordance with the provisions of paragraph (a) of this subsection.

25

(d) Water rights shall not be attached to any new holding which, in the opinion of the Commission, does not contain land capable of being irrigated from the works of the district or provisional district, or to which, in the opinion of the Commission, it is impracticable to convey water for irrigation from such works.

30

35

(e)

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(Amendment).*

5 (e) Rates and charges for water shall be assessed and payable in respect of each of the new holdings as from the date specified in accordance with the provisions of paragraph (a) of this subsection.

(f) Any necessary adjustment of rates and charges for water already assessed and levied in respect of the former holding shall be made.

10 (g) The rates and charges for water in respect of the new holdings shall be payable notwithstanding that the means of supplying and conveying water from the works of the district or provisional district
15 and of measuring such supply have not been provided in respect of all or any of such new holdings.

(ii) by omitting paragraph (f) of subsection ten
20 of the same section and by inserting in lieu thereof the following paragraph:—

(f) (i) Where the owner of a holding has not in accordance with the provisions of paragraph (a) of this subsection constructed or fully constructed the works therein
25 referred to the Commission may construct such works as have not been constructed by such owner and may recover the costs and expenses (including the cost of acquisition of any land or easement deemed
30 by the Commission to be required for such works) incurred in so doing in any court of competent jurisdiction as a debt either from such owner, or from the owner of the new holding for the purposes of which the
35 works are required to be constructed, as the Commission may determine.

(ii) Where pursuant to the provisions of subparagraph (i) of this paragraph any
part

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5 part of the cost referred to in that subparagraph is recovered from any person other than the former owner of the holding, that person may, subject to the terms of any agreement between himself and such former owner, recover that part from such former owner.

10 (iii) Any works which the Commission constructs pursuant to the provisions of subparagraph (i) of this paragraph shall be deemed to be constructed as works of the district or provisional district, as the case may be, and the provisions of section one
15 hundred and forty-eight of this Act shall apply to and in respect of the construction of such works.

(iii) by inserting at the end of subsection ten of the same section the following new paragraph:—

20 (h) If any works which are deemed by the Commission to be necessary to provide means of supplying and conveying water from the works of a district or provisional
25 district to lands within that district or provisional district, as the case may be, which have been acquired by the Crown by purchase or resumption under the provisions of the Closer Settlement (Amendment)
30 Act, 1907, as amended by subsequent Acts, or by purchase or vesting under the provisions of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, or to any part or parts
35 of any such lands, have not been otherwise constructed, the Commission shall have power and shall always be deemed to have had power to construct any such works

as

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(Amendment).*

5 as works of the district or provisional district within which any such lands are situated and the provisions of section one hundred and forty-eight of this Act shall apply and shall always be deemed to have applied to and in respect of the construction of such works.

10 (g) by inserting next after section one hundred and forty-seven the following new subheading and section:— New sec.
147A.

Amalgamation of Holdings.

15 147A. (1) On application by the owner of two or more holdings the total area of which does not in the opinion of the Commission substantially exceed a home maintenance area the Commission may, if it thinks fit, recommend to the Governor that such holdings be amalgamated into one holding and thereupon the Governor may declare such holdings, as from 20 the first day of July next following such declaration, to be one holding for the purposes of this Part and may fix the number of water rights which shall attach thereto. Amalgama-
tion of
holdings.

25 (2) Where any declaration has been made in accordance with subsection one of this section the Commission shall determine which of the existing works of water supply are sufficient to serve adequately the holding into which holdings have been amalgamated as afore- 30 said and may at any time after the first day of July next following such declaration cease to supply water to such holding through any other work of water supply.

35 (3) All overdue rates and charges for water assessed in respect of any of the holdings declared to be one holding shall on the date on which the declaration referred to in subsection

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(Amendment).*

subsection one of this section takes effect be
overdue rates and charges in respect of the
holding into which such holdings have been
amalgamated.

- 5 (4) For the purposes of this sec-
tion "home maintenance area" means an area
which, when used for the purpose for which the
Commission considers it is reasonably fitted,
10 would in the opinion of the Commission be suffi-
cient for the maintenance in average seasons
and circumstances of an average family.

14. The Water Act, 1912-1952, is further amended by
inserting next after section one hundred and fifty-four
the following new section:—

Further
amendment
of Act No.
44, 1912.
New sec.
154A.

- 15 154A. At any time after the notification of the com-
pletion of the works of a provisional district or the
proclamation of the constitution of a district the
Commission may for the purposes of such provisional
district or district construct or acquire any
20 additional works and thereupon such additional
works shall become works of the provisional district
or district, as the case may be.

Additional
works.

15. The Water Act, 1912-1952, is further amended—

Further
Amendment
of Act No.
44, 1912.

- 25 (a) by inserting in the definition of "Work" in sec-
tion one hundred and sixty-five after the word
"pipe" the words "sewer, bridge, culvert,
fence";
- (b) (i) by omitting from subsection three of section
one hundred and seventy-two the words
30 "and shall be at an equal rate per acre";
- (ii) by inserting at the end of subsection five
of the same section the following words:—
35 "For the purposes of Division 1 of Part
XXIII of the Conveyancing Act, 1919-1954,
the expression 'rate or tax' in paragraph

Sec. 165.
(Defini-
tions.)

Sec. 172.
(Contribu-
tions.)

(b)

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(Amendment).*

(b) of section one hundred and eighty-seven of the said Act shall be deemed to include every contribution referred to in this subsection."

- 5 (c) by inserting next after section one hundred and seventy-five the following new section:—

New sec.
175A.

10 175A. Notwithstanding anything in this Part contained different amounts of contributions and different amounts of rates may be fixed for different holdings and for different parts of holdings in the same district or provisional district and in fixing such different amounts regard may be had to—

Benefit to be
taken into
account.

- 15 (a) the degree of benefit conferred upon the lands by the works of the district or provisional district;
- (b) the value of the protection afforded to the lands by the works of the district or provisional district having regard to the purpose for which the lands are used; and
- 20 (c) the quantity of water normally used for the classes of crops or plantings on the lands.

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PART V.

AMENDMENT OF THE RIVERS AND FORESHORES IMPROVEMENT
ACT, 1948.

16. The Rivers and Foreshores Improvement Act, Amendment
5 1948, is amended by omitting from section seven the word of Act No.
"Commission" wherever occurring and by inserting in 20, 1948.
lieu thereof the words "Constructing Authority". Sec. 7.
(Work bene-
fitting land,
road or work
of a council.)

17. The Rivers and Foreshores Improvement Act, Further
1948, is further amended by inserting next after section amendment
10 twenty-three the following new section:— of Act. No.
20, 1948.
New sec.
23A.

23A. (1) No owner or occupier of land or other Removal of
person whomsoever shall, except with the permis- soil from
sion of the Constructing Authority— or in
proximity
to banks
of rivers.

15 (a) make or cause or allow to be made any
excavation on, in or under the bank of a
river or on, in or under any land situate
within a distance of two chains measured
horizontally from the top of the bank of a
river; or

20 (b) remove or cause or allow to be removed any
soil from the bank of a river or from any
land situate within a distance of two chains
measured horizontally from the top of the
bank of a river.

25 (2) (a) Application for a permit under this
section shall be made in writing to the Constructing
Authority and shall specify the land in respect of
which the permit is desired and supply full particu-
lars of the work proposed to be undertaken.

30 (b) The Constructing Authority may,
after such investigation as the Constructing Auth-
ority may deem necessary, refuse any permit applied
for under this section or may grant the same subject
to such limitations and conditions (including a condi-
35 tion limiting the time the permit shall remain in
force) as the Constructing Authority may think fit.

(c)

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(c) The Constructing Authority may at any time revoke or vary any permit issued under the provisions of this section.

5 (3) Any owner or occupier of land or other person whomsoever who, in respect of any land—

(a) makes or causes or allows to be made any excavation or removes or causes or allows to be removed any soil contrary to the provisions of this section; or

10 (b) fails to comply with any of the limitations or conditions for the time being attached to any permit granted under the provisions of this section,

15 shall be guilty of an offence and shall be liable, for the first offence, to a penalty not exceeding fifty pounds and for a subsequent offence to a penalty not exceeding one hundred pounds.

(4) Where—

20 (a) any excavation has been or is being made or any soil has been or is being removed contrary to the provisions of this section after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955; or

25 (b) the Constructing Authority is of the opinion that any excavation on, in or under any land or the removal of soil from any land, although not contrary to the provisions of this section and whether made or effected before or after the commencement of the
30 Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955—

35 (i) is damaging or detrimentally affecting or is likely to damage or detrimentally affect the bank of a river; or

40 (ii) is likely to cause, whether directly or indirectly, a river to change its course,

the

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5 the Constructing Authority may by notice in writing
direct the owner or occupier of the land on which
such excavation has been or is being made or from
which soil has been or is being removed to take such
measures and in such manner and within such time
as may be specified in such notice as the Construct-
ing Authority deems necessary to ensure that the
bank of the river will not be damaged or detrimen-
tally affected or that the river will not be caused,
10 whether directly or indirectly, to change its course,
as the case may be, by reason of such excavation
or removal of soil.

15 (5) If any owner or occupier fails to comply
with the terms of any notice given to him pursuant
to subsection four of this section, the Constructing
Authority may authorise any person to enter upon
the land in respect of which such notice has been
given and there to carry out the measures specified
in such notice and may recover the cost incurred in
so doing from such owner or occupier in any court
20 of competent jurisdiction as a debt due and owing
by him to the Constructing Authority and until re-
payment such cost shall be a charge on the land.

25 (6) The provisions of subsections one, two,
three, four and five of this section shall not apply to
or in respect of the exercise of any rights lawfully
exercisable—

30 (a) under any license, permit or authority for
a joint water supply scheme issued under
any of the provisions of the Water Act,
1912, as amended by subsequent Acts;

35 (b) under any lease, license, permit or other
right issued under the provisions of the
Acts relating to mining or under the pro-
visions of the Crown Lands Consolidation
Act, 1913, as amended by subsequent Acts,
or of any other Act; or

(c) by any statutory body or by any council.
40 (7) Where the Constructing Authority is of
the opinion that the making of any excavation on,
in or under the bank of a river, or on, in or under
any

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5 any land, or the removal of soil from the bank of
a river, or from any land, in the exercise of any of
the rights referred to in subsection six of this section
whether before or after the commencement of the
Irrigation, Water and Rivers and Foreshores Im-
provement (Amendment) Act, 1955—

(a) is damaging or detrimentally affecting or
is likely to damage or detrimentally affect
the bank of a river; or

10 (b) is likely to cause, whether directly or in-
directly, a river to change its course,

the Constructing Authority may by notice in writing
direct the person, statutory body or council by
whom or on whose behalf any such excavation has
15 been or is being made or any such soil has been
or is being removed to take such measures and in
such manner and within such time as may be speci-
fied in such notice as the Constructing Authority
deems necessary to ensure that the bank of the river
20 will not be damaged or detrimentally affected or that
the river will not be caused, whether directly or
indirectly, to change its course, as the case may be,
by reason of such excavation or removal of soil and
such person, statutory body or council shall comply
25 with the terms of such notice accordingly.

(8) If any person or council fails to comply
with the terms of any notice given pursuant to sub-
section seven of this section the Constructing Autho-
rity may authorise any person to enter upon the land
30 in respect of which such notice has been given and
there to carry out the measures specified in such
notice and may recover the cost incurred in so doing
from such firstmentioned person or from such coun-
cil, as the case may be, in any court of competent
35 jurisdiction as a debt due and owing by him or by
it to the Constructing Authority.

(9) For the purposes of this section the Con-
structing Authority, or any person authorised by it,
may enter upon and inspect any land.

(10)

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(10) In this section—

5 “Constructing Authority” means the Minister
for Public Works or the Commission, re-
spectively, according as to whether the
waters of the river immediately adjacent to
the land on which an excavation has been
or is being made or from which soil has
been or is being removed are tidal waters
or are not tidal waters, as the case may be.

10 “Soil” means the surface of any land and all
matter or material whatsoever lying be-
neath that surface.

PART VI.

AMENDMENT OF THE WESTERN LANDS ACT OF 1901.

15 18. The Western Lands Act of 1901, as amended by
subsequent Acts, is amended—

Amendment of
Act No. 70,
1901.

(a) by omitting from subsection five of section
thirty-one the word “shallow” wherever occur-
ring;

Sec. 31.
(Determina-
tion of value
of improve-
ments.)

20 (b) by omitting from the same subsection the words
“one hundred” and by inserting in lieu thereof
the words “two hundred”.

PART VII.

AMENDMENT OF THE MURRUMBIDGEE IRRIGATION AREAS
OCCUPIERS RELIEF ACT, 1934.

25

19. The Murrumbidgee Irrigation Areas Occupiers
Relief Act, 1934, as amended by subsequent Acts, is
amended by omitting sections twelve and fourteen.

Amendment
of Act No.
52, 1934.
Secs. 12
and 14.
(Determina-
tion of
water rights
attached to
holdings and
the prices
thereof;
numbers and
prices not to
be altered,
etc.)

PART

*Irrigation, Water and Rivers and Foreshores Improvement
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PART VIII.

MISCELLANEOUS.

20. (1) Except as hereinafter provided this section shall apply to—

Reduction
of rentals
of certain
leases.

5 (a) any lease from the Crown—

(i) within an irrigation area constituted under the Irrigation Act, 1912, as amended by subsequent Acts;

10 (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;

15 (iii) made under or by operation of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, before the first day of January, one thousand nine hundred and thirty-three; and

20 (iv) being in respect of land notified in the Gazette as available for disposal for the purpose of residence, or described in the Gazette as suitable for residential purposes, or comprising an irrigation farm lease of an area not exceeding five acres;

25 (b) any lease from the Water Conservation and Irrigation Commission—

(i) within the irrigation area constituted under the provisions of the Wentworth Irrigation Act;

30 (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;

(iii) made under or by operation of the Wentworth Irrigation Act;

35 (iv) being in respect of land which in the opinion of the Water Conservation and Irrigation Commission is mainly suitable for residential purposes; and

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5 (v) being in respect of land which has throughout the whole of the period from the thirty-first day of December, one thousand nine hundred and thirty-two, to the first day of January, one thousand nine hundred and forty-eight,—

10 (a) been leased land under the Wentworth Irrigation Act by way of lease subsisting at the said thirty-first day of December and of any new lease granted from time to time during such period; and

(b) been held by—
15 (i) the lessee under the lease subsisting at the said thirty-first day of December, or
20 (ii) that lessee and any lessee who became lessee by transfer or assignment from or devolution under the will or intestacy of any immediately prior lessee.

25 (2) This section shall not apply to any lease referred to in paragraph (a) of subsection one of this section—

30 (a) being in respect of land notified in the Gazette as available for disposal for the purpose of residence and in respect of which the Water Conservation and Irrigation Commission has, before the commencement of this section, pursuant to the provisions of subsection ten of section 142D of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to the land comprised in such lease being used for
35 any of the purposes specified in the said subsection ten; or

(b).

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(b) in respect of which the annual rental has before the commencement of this section been determined consequent upon the addition of land thereto.

5 (3) Subject to this section the annual rental of any lease to which this section applies shall as on and from the first day of January, one thousand nine hundred and forty-eight, be the annual rental of such lease as at the thirty-first day of December, one thousand nine
10 hundred and thirty-two, reduced by twenty-two and one-half per centum:

Provided that where in pursuance of the provisions of section one hundred and forty-three of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts,
15 the annual rental for the second or any succeeding period of any lease referred to in paragraph (a) of subsection one of this section has been determined as in the said section one hundred and forty-three provided—

20 (a) before the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the first day of January, one thousand nine hundred and forty-eight, and for the unexpired portion of the current period of such
25 lease be the annual rental as so determined reduced by twenty-two and one-half per centum;

30 (b) after the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the commencement of such second or succeeding period and for such period be the annual rental as so determined reduced by twenty-two and one-half per centum.

(4) Where by reason of any reduction made in
35 pursuance of any enactment other than this section the annual rental under any lease to which this section applies has been decreased, the reduction prescribed by subsection three of this section shall not be in addition
to

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to the amount of such decrease, but such decrease shall be taken into account in determining the annual rental to be paid consequent upon the reduction so prescribed.

(5) Where after the commencement of this
5 section—

- (a) the Water Conservation and Irrigation Commission has, pursuant to the provisions of subsection ten of section 142D of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to any land comprised in a lease referred to in paragraph (a) of subsection one of this section and notified in the Gazette as available for disposal for the purpose of residence being used for any of the purposes specified in the said subsection ten; or
 - (b) the annual rental of any lease referred to in paragraph (a) of subsection one of this section has been determined consequent upon the addition of land thereto; or
 - (c) the Water Conservation and Irrigation Commission decides that the land comprised in any lease to which this section applies is used mainly or substantially for any business purpose,
- the provisions of this section shall cease to apply to the
25 lease referred to in paragraph (a), (b) or (c) of this subsection as from the date of such consent, determination or decision, as the case may require.

(6) This section shall be deemed to have commenced upon the first day of January, one thousand nine
30 hundred and forty-eight.

No. , 1954.

A BILL

To limit the right of future acquisition of freehold tenures within irrigation areas; to make further provision with respect to the licensing of bores; to regulate the removal of soil from or adjacent to the banks of rivers; to make further provision for the reduction of rentals payable in respect of certain classes of tenures within irrigation areas; for these and other purposes to amend the Irrigation Act, 1912-1954, the Crown Lands Consolidation Act, 1913, the Water Act, 1912-1952, the Rivers and Foreshores Improvement Act, 1948, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. ENTICKNAP;—21 September, 1954.]

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

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Irrigation, Short title,
division
into Parts
and
citation.
Water and Rivers and Foreshores Improvement (Amend-
10 ment) Act, 1954."

(2) This Act is divided into Parts as follows :—

PART I.—PRELIMINARY.

PART II.—AMENDMENT OF THE IRRIGATION ACT,
1912-1954.

15 PART III.—AMENDMENT OF THE CROWN LANDS
CONSOLIDATION ACT, 1913.

PART IV.—AMENDMENT OF THE WATER ACT, 1912-
1952.

20 PART V.—AMENDMENT OF THE RIVERS AND FORE-
SHORES IMPROVEMENT ACT, 1948.

PART VI.—AMENDMENT OF THE WESTERN LANDS
ACT OF 1901.

PART VII.—AMENDMENT OF THE MURRUMBIDGEE
IRRIGATION AREAS OCCUPIERS RELIEF ACT, 1934.

25 PART VIII.—MISCELLANEOUS.

(3) The Irrigation Act, 1912, as amended by sub-
sequent Acts and by this Act, may be cited as the
Irrigation Acts, 1912-1954.

(4) The Water Act, 1912, as amended by sub-
30 sequent Acts and by this Act, may be cited as the Water
Act, 1912-1954.

(5) The Rivers and Foreshores Improvement Act,
1948, as amended by this Act, may be cited as the Rivers
and Foreshores Improvement Act, 1948-1954.

PART

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

PART II.

AMENDMENT OF THE IRRIGATION ACT, 1912-1954.

2. The Irrigation Act, 1912-1954, is amended—

Amendment
of Act No.
73, 1912.

- 5 (a) by omitting from section five the words “five hundred” wherever occurring and by inserting in lieu thereof the words “two thousand”;

Sec. 5.
(Appoint-
ment of
officers.)

- (b) by inserting next after section 5E the following new section:—

New sec.
5F.

- 10 5F. Any person who at the date of commence-
ment of the Irrigation, Water and Rivers and
Foreshores Improvement (Amendment) Act,
1954, is in the service of the Commission and
whose yearly salary at such date does not exceed
15 two thousand pounds shall, for the purpose of
section five, section 5A and section 5B of this Act,
be deemed to have been appointed by the Com-
mission.

Certain
persons
deemed
to have
been
appointed
by
Commission.

3. The Irrigation Act, 1912-1954, is further amended—

Further
amendment
of Act No.
73, 1912.

- 20 (a) by inserting next after section 8B the following new section:—

New sec.
8c.

8c. (1) (a) It shall be a function of the Com-
mission to make provision for—

Further
functions
and powers
of
Commission.

- 25 (i) the systematic gauging and recording of
the volume and flow of rivers and
streams, and of the volume of lakes
and lagoons within the State and the
effect of climatic conditions upon such
volume; and

- 30 (ii) the gathering and recording of such
data concerning the ground water
resources of the State as the Com-
mission may deem practicable.

(b)

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(b) The Commission may publish and make available any information so ascertained or gathered.

5 (2) The Commission may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable to enable it effectively to carry out all or any of its powers, authorities, duties and functions under this or any other Act and without limiting the generality of the foregoing may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable—

15 (a) to ascertain potential sites for works of water storage or water supply and the practicability and cost of constructing any such works;

20 (b) to ascertain the nature and extent of lands capable of being supplied with water from any existing or proposed works of water storage or water supply and the means whereby such lands may be so supplied;

25 (c) to ascertain the necessity of and potential sites for works for flood mitigation or flood control and the practicability and cost of constructing any such works;

30 (d) to ascertain the nature and extent of lands capable of being protected or partially protected from flooding or inundation by any works of flood mitigation or flood control;

35 (e) to ascertain the existence and location of subterranean waters and the character and quality thereof.

(3) The Commission, in the exercise of its powers, authorities, duties and functions under this or any other Act, may by its officers, servants,

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servants, workmen or agents enter upon any lands and do all such things as may be requisite for the purpose of—

5 (a) making and carrying out such inspections, tests, investigations, surveys, experiments and boring, drilling and other explorations as the Commission may deem necessary for the full and effective exercise of any of its powers, 10 authorities, duties and functions under this or any other Act; or

(b) constructing, maintaining, operating, or altering any works, 15 or for any other purpose connected with or related to or incidental to the exercise of any of its powers, authorities, duties and functions under this or any other Act, notwithstanding an easement or right so to enter or use such lands may not have been granted or acquired.

20 The powers conferred by this subsection shall be additional to and not in substitution for any other powers elsewhere conferred on the Commission.

25 (4) In the exercise of any of the powers conferred by subsection three of this section the Commission shall inflict as little damage as may be and shall make full compensation to all parties interested for all damage sustained by them in consequence of the exercise of such powers. 30

(b) by omitting subsection four of section nine.

4. The Irrigation Act, 1912-1954, is further amended—

35 (a) by inserting in section 11A after the word “shall” the words “except as hereinafter provided”;

Sec. 9.
(Commis-
sion to
construct
works, etc.)

Further
amendment
of Act
No. 73, 1912.

Sec. 11A.
(Application
of ss.
11B-11F.)

(b)

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- (b) by inserting next after subsection one of section 11c the following new subsections:—

Sec. 11c.
(Conversion
of lease-
holds.)

5 (1A) The lessee of an irrigated lot within the
irrigation area constituted under the provisions
of the Wentworth Irrigation Act shall not be
entitled to purchase such lot unless the land
comprising such lot has, throughout the whole
of the period from the commencement of the
10 Irrigation, Water and Rivers and Foreshores
Improvement (Amendment) Act, 1954, to the
date of notification of his intention to pur-
chase,—

15 (a) been leased land by way of lease
subsisting at such commencement and
of any new lease granted from time to
time during such period; and

(b) been held by—
(i) the lessee under the lease subsist-
ing at such commencement, or
20 (ii) that lessee and any lessee who
became lessee by transfer or
assignment from or devolution
under the will or intestacy of
any immediately prior lessee.

25 (1B) The lessee of an irrigated lot within the
irrigation area constituted under the provisions
of the Hay Irrigation Act, 1902, shall not be
entitled to purchase such lot unless he has
prior to the commencement of the Irrigation,
30 Water and Rivers and Foreshores Improvement
(Amendment) Act, 1954, notified the Commis-
sion on the form and in the manner prescribed
of his intention to purchase such lot.

5. The Irrigation Act, 1912-1954, is further amended—

Further
amendment
of Act. No.
73, 1912.

35 (a) by omitting subsection four of section twelve;

Sec. 12.

(b) (Water
rights.)

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- (b) by inserting in subsection one of section thirteen after the words "such additional water rights" the following new paragraph:—

Sec. 13.
(Additional
water
rights.)

5 After the full quantity of water to which an occupier is entitled pursuant to the water rights attached to his land and to any additional water rights which may have been allotted to him has been supplied, the Commission may, on application by the occupier, supply him with additional water at such charges as the Commission may determine.

- (c) by inserting next after section thirteen the following new section:—

New sec.
13A.

15 13A. (1) Where the Commission is prepared to make available and makes available to any land a supply of water solely during the hours of daylight, it may impose such special charge per acre foot for all water so supplied as it may from time to time determine. Notification of any such determination shall be published in the Gazette.

Supply of
water during
hours of
daylight.

25 (2) The special charge shall be in addition to the charges for any water rights which are attached to the land and for any additional water rights and for any water supplied to the land additional to the water supplied pursuant to such water rights and additional water rights.

30 (3) The special charge shall be determined by the Commission having regard to the additional cost per acre foot which the Commission estimates will be incurred by it in supplying water solely during the hours of daylight.

35 (4) The special charge shall be paid by the occupier of the land on or before the thirtieth day of June in each year in respect of water supplied during the year ending on the said thirtieth day of June.

(5)

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(5) In this section "acre foot" means such a quantity of water twelve inches deep as would cover an area of one acre.

5 (d) (i) by inserting in subsection one of section Sec. 15.
fifteen after the word "Act" where thirdly (Payment of
occurring the words "or for maintenance charges.)
charges arising in relation to the supply of
water";

10 (ii) by omitting from the same subsection the
words "as and when directed by the bank";

(iii) by inserting at the end of the same subsection the following new paragraph:—

15 The charges in respect of water rights
which are attached to the land, the charges
in respect of additional water rights, and
the charges in respect of the water supplied
to the land additional to water supplied pur-
suant to such water rights and additional
20 water rights shall be paid at the times and
in the manner prescribed, and all other rates
or charges for water and maintenance
charges shall, except where otherwise ex-
pressly provided, be paid at the times and
25 in the manner determined by the Commis-
sion and when no such determination has
been made then at such times and in such
manner as may have been agreed between
the Commission and the occupier.

6. The Irrigation Act, 1912-1954, is further amended—

30 (a) by inserting next after section 17A the following
new section:—

35 17AA. Any person who destroys, damages or
interferes in any way with any work, structure
or other thing whatsoever vested in or made,
constructed or provided by or otherwise under
the control or management of the Commission
shall where no other provision is expressly made
by any other section of this Act be liable upon
summary

Further
amendment
of Act No.
73, 1912.
New sec.
17AA.

Damage
to or
interference
with works.

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- summary conviction to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding three months: Provided that nothing in this section shall in any way affect any liability to which any person who commits a breach of this section may be subject under any other Act or at common law but such person shall not be liable to be punished twice for the same offence.
- 5
- 10 (b) by inserting in subsection three of section eighteen after the word "Area" where thirdly occurring the words "and any other irrigation area constituted or which may be constituted under the provisions of this Act";
- 15 (c) by omitting from the same subsection the words and figures "and Part VII" and by inserting in lieu thereof the words and figures "Part VII and Part VIII".
- Sec. 18. (Collection of rents, etc.)

PART III.

20 AMENDMENT OF THE CROWN LANDS CONSOLIDATION ACT, 1913.

7. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is amended—

- 25 (a) by inserting at the end of subsection two of section one hundred and forty the following proviso:—
- Sec. 140. (Applications for holdings.)

30 Provided that in the case of lands set apart for disposal in accordance with the provisions of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, the survey fee shall not be required to accompany an application but shall be paid by the successful applicant at a time and in a manner to be specified in the notification under paragraph (d) of subsection two of section one hundred and thirty-nine of this Act that the

35 lands are available for disposal.

(b)

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- (b) (i) by omitting from subsection five of section one hundred and forty-two the word "six" and by inserting in lieu thereof the word "three";
- 5 (ii) by inserting in paragraph (a) of subsection six of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954";
- 10 (iii) by omitting from paragraph (c) of the same subsection the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954";
- 15 (iv) by omitting paragraph (d) of the same subsection and by inserting in lieu thereof the following paragraph:—
- 20 (d) A condition to the effect that the land or any specified part of the land shall not be used to plant—
- 25 (i) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or
- 30 (ii) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or areas specified in the condition,
- 35 may be attached to any irrigation farm purchase after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954,

Sec. 142.
(Conditions
etc., of
irrigation
farm
purchases.)

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1954, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such irrigation farm purchase.

- 5 (c) (i) by omitting from subsection four of section 142b the word "six" and by inserting in lieu thereof the word "three";
- (ii) by inserting in subsection seven of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954";
- 10 (iii) by omitting from subsection eight of the same section the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954";
- 15 (iv) by omitting subsection nine of the same section and by inserting in lieu thereof the following subsections:—
- (9) A condition to the effect that the land or any specified part of the land shall not be used to plant—
- 25 (a) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or
- 30 (b) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or areas specified in the condition,
- 35 may be attached to any lease after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment)

Sec. 142b.
(Conditions,
&c., of
leases
within
irrigation
areas.)

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(Amendment) Act, 1954, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such lease.

5

(9A) (a) The Minister may, at any time, with the consent of the holder of the lease, by instrument under his hand in the prescribed form, cancel or vary any condition mentioned in subsection seven, subsection eight or subsection nine of this section on such terms and conditions as he thinks fit and the condition as so varied shall, whether or not the perpetual lease grant has issued, be the condition attaching to the land.

10

15

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

20

(d) (i) by inserting at the end of subsection one of section one hundred and forty-five the words (Conversion of I.F.L. to I.F.P., &c.)

25

“or to an irrigation farm lease or a non-irrigable lease described in any notification in the Gazette under the provisions of section one hundred and thirty-nine of this Act as suitable for farming purposes, granted after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954”;

30

(ii) by inserting in subsection three of the same section after the word “determined” the words “as at the date of receipt by the Commission of the notification referred to in subsection two of this section”;

35

(iii) by inserting at the end of paragraph (d) of subsection five of the same section the following new paragraphs:—

(e) Where any lease converted under this section is subject to a transfer by way of mortgage

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mortgage registered in the books of the
Commission such transfer shall be—

5

(i) deemed to extend and always to
have extended to the purchase into
which the lease has been converted
in the same manner as it applies
to the lease; and

10

(ii) recorded in the books of the Com-
mission as a transfer of the
purchase.

15

(f) Where immediately preceding the
conversion of any lease under this section
an easement is appurtenant to or a burden
upon any land comprised in such lease such
easement shall after such conversion con-
tinue to be appurtenant to or a burden upon
such land.

20

(g) Where a perpetual lease grant has
issued in respect of any lease converted
under this section and the Commission
lodges with the Registrar-General with the
surrender referred to in subsection two of
this section a notification that the lease has
been converted into a purchase, the
Registrar-General shall register such sur-
render without requiring that any easement
to which the land is subject shall be released
or that any mortgage or other security to
which the land is subject shall be discharged.

25

30

(h) Paragraphs (e), (f) and (g) of this
subsection shall apply to conversions whe-
ther effected before or after the commence-
ment of the Irrigation, Water and Rivers
and Foreshores Improvement (Amend-
ment) Act, 1954.

35

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8. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended—

Further
amendment
of Act No.
7, 1913.

5 (a) (i) by inserting in subsection one of section 147D after the words "irrigation farm lease" the words "or a non-irrigable lease";

Sec. 147D.
(Applica-
tion to
Minister
to acquire
private
lands.)

(ii) by inserting next after subsection four of the same section the following new subsections:—

10 (4A) The application whether made before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954, may with the consent of the owner or
15 owners of the private lands proposed to be included or excluded or the price of which is proposed to be increased or decreased and the approval of the Minister be varied by including therein additional private lands
20 or excluding therefrom part of the lands included therein or by increasing or decreasing the price specified in the application.

25 (4B) The consent of the owner or owners under subsection one of this section whether given before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954, and the consent of the owner or
30 owners under subsection (4A) of this section shall not be withdrawn before the expiration of sixty days after such owner or owners has or have given to the Minister notice in writing of his or their intention so to with-
35 draw: Provided that in no case shall such consent be withdrawn after the Minister has approved of the purchase.

(b)

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- (b) by omitting from section 147E the words "such lands" where firstly occurring and by inserting in lieu thereof the words "the lands the subject of such application". Sec. 147E.
(Valuation.)
- 5 (c) (i) by inserting in section 147G after the word "made" where firstly occurring the words "or varied"; Sec. 147G.
(Purchase of land.)
- 10 (ii) by inserting in paragraph (c) of the same section after the words "irrigation farm lease" the words "or a non-irrigable lease";
- 15 (iii) by inserting at the end of the same section the words "or he may at his discretion refuse the application: Provided that the Minister shall not so approve where in his opinion the amount of capital (including shares in any company or any interest in any land) held by any applicant or by his or her spouse or by his or her parent or parents is such as to warrant refusal of the application";
- 20 (d) by omitting from subsection one of section 147H the words "Where, under section 147D of this Act, an application has been made to the Minister to acquire any lands and the Minister has approved of the purchase of such lands" and by inserting in lieu thereof the words "Where the Minister has approved of the purchase of lands"; Sec. 147H.
(Vesting of land in the Crown.)
- 25 (e) (i) by inserting at the end of paragraph (a) of subsection one of section 147J the following words "or non-irrigable leases"; Sec. 147J.
(Vesting of land in applicant.)
- 30 (ii) by inserting next after the same paragraph the following new paragraphs:—
- 35 (a1) Any lands deemed by the Minister to be necessary for roads, or any purpose which he considers to be a community

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community purpose or a public purpose, or any lands which the Minister considers should be excluded for any reason may be excluded from the holdings and any adjacent Crown lands may be included in such holdings.

5

(a2) The subdivision may be made into holdings before the holdings are measured, and in such case the holdings may be notified under paragraph (c) of this subsection according to the design thereof.

10

(iii) by inserting in subparagraph (vi) of paragraph (c) of the same subsection after the words "irrigation farm lease" the words "or a non-irrigable lease";

15

(iv) by inserting in subsection four of the same section after the words "irrigation farm lease" where firstly occurring the words "or a non-irrigable lease";

20

(v) by inserting in the same subsection after the words "irrigation farm lease" where secondly and thirdly occurring the words "or non-irrigable lease";

25

(vi) by inserting next after the same subsection the following new subsections:—

(4A) Where a holding has been measured after publication in the Gazette of a notification under paragraph (c) of subsection one of this section any necessary adjustment shall thereafter be made as to the area and annual rental of the holding and of the nature and value of any improvements which are the property of the Crown and which are to be paid for by the incoming tenants,

30

35

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tenants, and of the terms and conditions upon which payment for the improvements shall be made.

- 5 (4B) Any lands excluded from the holdings under paragraph (a1) of subsection one of this section may be retained by the Crown either permanently or for a limited period and the Commission may expend moneys necessary to maintain adequately such lands and the improvements thereon, and, if necessary, to replace improvements on such lands during such time as they are retained by the Crown. Such lands may be used for such purposes or leased by the Commission for such terms and upon such conditions as the Minister may approve, or may be otherwise disposed of under the provisions of this Act.
- 10
- 15
- 20 (vii) by inserting in subsection five of the same section after the words "irrigation farm lease" the words "or a non-irrigable lease";
- 25 (viii) by inserting in the same subsection after the words "irrigation farm purchase" the words "or a non-irrigable purchase";
- (ix) by inserting in subsection six of the same section after the words "irrigation farm leases" the words "or non-irrigable leases";
- 30 (f) by inserting in subsection two of section 147K Sec. 147K. after the words "irrigation farm lease" the (Penalties.) words "or a non-irrigable lease".

9. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended—

Further
amendment
of Act
No. 7,
1913.

- 35 (a) by inserting in subsection one of section one hundred and ninety-seven after the word "settlement" where firstly occurring the words (Exchanges and purchases for public purposes.)

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“or for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown”;

5 (b) by omitting from the same subsection the words
“The local land board” where firstly occurring
and by inserting in lieu thereof the words
“Except as hereinafter provided the local land
board”;

10 (c) by inserting at the end of the same section the
following new subsections:—

15 (5) In the application of the provisions of this
section to any exchange or purchase or resump-
tion of land for constitution as an irrigation
area or for the alteration of an irrigation area
by including additional lands of the Crown, the
following provisions shall have effect—

20 (a) the provisions of subsection one of this
section relating to inquiry into and
report by the local land board upon any
application or proposal for the
exchange or purchase or resumption of
any land and determination of the
values of any land to be acquired or
25 granted in pursuance thereof and the
price to be paid for the land resumed
shall not apply;

30 (b) subsection one of this section shall be
read and construed as if for the words
“the Minister” where thirdly occurring
there were substituted the words “the
Commission”;

35 (c) the compensation to be paid in respect
of any resumption to which this sub-
section applies shall be the value of the
land as determined by an advisory
board or the Land and Valuation Court
on appeal;

(d)

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- (d) subsection two of this section shall be read and construed as if for the words “a local land board” there were substituted the words “an advisory board”;
- 5 (e) in determining the value of the land as referred to in paragraph (c) of this subsection—
- (i) the provisions of paragraph (b) of subsection four of section
- 10 four of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall be taken into account; and
- (ii) there shall be excluded any added
- 15 value which would accrue or has accrued to the land from the construction or utilisation of the works of any district or provisional district constituted under the provisions of Part VI of the
- 20 Water Act, 1912, as amended by subsequent Acts;
- (f) the provisions of sections nine and ten of the Closer Settlement (Amendment)
- 25 Act, 1907, as amended by subsequent Acts, shall mutatis mutandis apply to and in respect of any resumption to which this subsection applies;
- (g) the provisions of subsection one of this section as amended by this subsection
- 30 shall extend to the resumption of any public road;
- (h) in this subsection the expression “advisory board” means a Closer Settlement Advisory Board constituted
- 35 under section two of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts.

(6)

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- (6) Where any public road is resumed under the authority of this section in connection with the resumption of lands for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown the following provisions shall notwithstanding anything contained in this section have effect:—
- 5
- (a) the municipal or shire council within whose area the public road so resumed is situated shall be entitled to claim compensation therefor;
- 10
- (b) subject to paragraphs (c) to (j) inclusive of this subsection the compensation shall be an amount not exceeding the capital sum spent by the council upon the construction of the road together with the sum, if any, paid by the council for purchase or resumption of the land therefor;
- 15
- 20
- (c) in any case where the council decides that it is necessary to purchase or resume and construct a new road to replace that resumed it shall notify the Commission of its decision;
- 25
- (d) any notification referred to in paragraph (c) of this subsection shall be accompanied by a plan of the location of the proposed new road, together with an estimate of the cost of the purchase or resumption and construction of the proposed new road;
- 30
- (e) where, having regard to the requirements of the public as at the date upon which the public road is resumed, the Commission is of opinion—
- 35
- (i) that it is not necessary to replace the road resumed; or
- (ii)

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- (ii) that the location of the proposed new road is not satisfactory; or
- (iii) that the cost of the purchase or resumption and construction of the proposed new road is excessive; or
- (iv) that, for any reason whatsoever, the decision of the council should not be carried out either wholly or in part—
- the Commission shall notify the council accordingly;
- (f) the notification referred to in paragraph (e) of this subsection shall be accompanied by—
- (i) a statement setting out the grounds upon which the opinion of the Commission is based;
- (ii) details of any alternative proposal which in the opinion of the the Commission should be adopted, together with such plans and estimates of costs (if any) as may be necessary to provide the council with full information in relation to the carrying out of such alternative proposal;
- (g) any matter in dispute between the council and the Commission under paragraphs (e) and (f) of this subsection may be referred by either the council or the Commission to the Land and Valuation Court in accordance with rules of court;
- (h) the Land and Valuation Court shall have jurisdiction to hear and determine any matter referred to it pursuant to the

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- the provisions of paragraph (g) of this subsection and that court may in its discretion award such costs as it thinks fit in relation to any matter so referred;
- 5 (i) the determination of the Land and Valuation Court in relation to any matter referred to it under the provisions of paragraph (g) of this subsection shall be final and shall be carried
- 10 into effect by the council and the Commission;
- (j) where the Land and Valuation Court by its determination decides that it is necessary to replace any public road to which the provisions of this subsection
- 15 apply the amount of compensation shall be such sum, not exceeding the cost of purchase or resumption and construction of the new road, as the said court may determine and in making such
- 20 determination the said court shall have regard to the actual condition of such public road as at the date of resumption and to the extent to which the same was
- 25 used by the public before that date and also to any damage to the road caused by the Commission before that date;
- (k) any amount paid to the council by way of compensation pursuant to the provisions of paragraphs (c) to (j) inclusive
- 30 of this subsection shall be placed by the council in a trust fund until expended on such new road.

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PART IV.

AMENDMENT OF THE WATER ACT, 1912-1952.

10. The Water Act, 1912-1952, is amended—

Amendment
of Act No.
44, 1912.

- 5 (a) by inserting at the end of the definition of
“River” in subsection three of section 4A the
words “and includes those waters of a tidal
river which are at any time capable of being
used for irrigation or for watering stock”;
- 10 (b) (i) by omitting from the definition of “Joint
water supply scheme” in section five the
words “but not all”;
- 15 (ii) by inserting at the end of the same definition
the words “and includes any work to which
this Part extends which is used or proposed
to be used for the purpose of supplying
water for irrigation by any occupier or
occupiers other than the occupier or
occupiers of the site of the work”;
- 20 (iii) by inserting at the end of the definition of
“River” in the same section the words “and
includes those waters of a tidal river which
are at any time capable of being used for
irrigation or for watering stock”;
- 25 (c) by inserting in subsection one of section 17c next
after the word “servants” the words “or
agents”;
- (d) by inserting next after subsection three of sec-
tion 18B the following new subsection:—
- 30 (3A) Notwithstanding the provisions of sub-
sections two and three of this section—
- 35 (a) where any such license is held by a
member of the forces, discharged
member of the forces, discharged
soldier, other eligible person, member
of the Korea and Malaya Operations
Forces or discharged member of the
Korea

Sec. 4A.
(Right to
flow of
water.)

Sec. 5.
(Interpreta-
tion.)

Sec. 17c.
(Power to
enter and
remove
works.)

Sec. 18B.
(Classifica-
tion of
existing
licenses and
authorities.)

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5 Korea and Malaya Operations Forces
as defined in the War Service Land
Settlement Act, 1941, as amended by
subsequent Acts, (hereinafter in this
Division referred to as a war service
settler) in respect of any work to which
this Part extends which is used in
connection with a holding set apart for
disposal in accordance with the provi-
10 sions of section three of the War
Service Land Settlement Act, 1941, as
amended by subsequent Acts, or
acquired under the provisions of Part
IVA of the Closer Settlement Amend-
15 ment (Conversion) Act, 1943, as
amended by subsequent Acts (herein-
after in this Division referred to as a
war service holding) such license shall
be classified as Class A; and

20 (b) in the case of any such authority, where
the whole of the lands within the joint
water supply scheme the subject of the
authority are war service holdings,
such authority shall be classified as
25 Class A.

(e) by omitting section 18c and by inserting in lieu Subst.
thereof the following section:— sec. 18c.

30 18c. Any license or authority to appropriate
water for the purpose of irrigation from a river
or lake or section of a river in respect of which
a proclamation has been made under the provi-
sions of section 18A of this Act, which is granted
after the date of such proclamation, shall—

35 (a) if any such license is granted to a war
service settler in respect of any work
to which this Part extends which is used
in connection with a war service
holding, be classified by the Commis-
sion as a Class A license;

(b)

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5 (b) if, in respect of any such authority the whole of the lands within the joint water supply scheme the subject of the authority are war service holdings, be classified by the Commission as a Class A authority; and

(c) in every other case, be classified by the Commission as a Class C license or authority.

10 (f) (i) by inserting next after subsection seven of section 18b the following new subsection:—

Sec. 18D.
(Reclassification of
licenses and
authorities.)

15 (7A) If at any time a war service settler becomes the holder of a license which has been classified or reclassified by the Commission as a Class B or a Class C license and the licensed work is used in connection with a war service holding, such licence shall be reclassified by the Commission as a Class A license.

20 (ii) by inserting at the end of the same section the following new subsection:—

25 (9) (a) Notwithstanding the provisions of subsection eight of this section, a license which is held by a war service settler in respect of any work to which this Part extends which is used in connection with a war service holding shall not, except as provided in subsection (7A) of this section, be subject to reclassification by the Commission for a period of five years from the date upon which the license commenced to be held by the war service settler.

30 (b) Notwithstanding the provisions of subsection eight of this section, where the whole of the lands within a joint water supply scheme the subject of an authority are war service holdings, the authority shall not

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not be subject to reclassification by the Commission for a period of five years from the date of the granting of the authority.

11. The Water Act, 1912-1952, is further amended by
5 inserting next after section thirty-eight the following
new section:—

Further
amendment of
Act No. 44,
1912.

New sec.
38A.

Transfer of
Crown bores
to trusts.

38A. (1) Where a trust has been constituted on
terms that the trust shall pay a charge for water to
be supplied by the Crown from works which include
10 a bore and the Commission is of the opinion that such
works should be taken over, administered and
managed by the trust, the Commission may notify
in the Gazette and in some newspaper circulating in
the trust district a proposal that the works by
15 means of which water is supplied to the trust shall
be transferred to the trust to be so taken over,
administered and managed and that the trust shall
be required to repay the value of the works.

- (2) Any such proposal shall embody—
- 20 (a) a description of the works;
(b) a statement of the value of the works;
(c) a statement of the terms upon which the
trust shall repay the value of the works and
interest thereon specifying—
- 25 (i) that such repayment be made by
the provision of a sinking fund;
(ii) the rate of interest which shall be
paid by the trust on the value of
the works;
- 30 (iii) the number of years within which
such repayment shall be made;
- (d) if it is proposed to vary the maximum rate
which may be assessed by the trust, a
revised maximum rate which may be
35 assessed by the trust after the works have
been transferred to the trust; and
- (e) such other provisions as the Commission
may deem necessary or desirable.

(3)

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5 (3) If within eight weeks after such notification a petition is presented to the Commission, signed by at least one-third in number of the owners of land within the trust district, objecting, upon grounds stated in the petition, to—

- (a) the value of the works;
- (b) the number of years within which the repayment referred to in paragraph (c) of subsection two of this section is to be made;
- 10 (c) the revised maximum rate (if any) which may be assessed by the trust,

the Commission shall refer the matter or matters regarding which objection has been so made to the Board for inquiry and report.

15 (4) If within the said period no such petition is received, or upon receipt of the report of the Board in respect of any reference to it pursuant to the provisions of subsection three of this section, as the case may be, the Governor by proclamation in
20 the Gazette may—

(a) transfer to the trust the works described in the proposal referred to in subsection one of this section upon the terms set out in such proposal with such amendments, if
25 any,—

- (i) where no reference has been made to the Board, as the Commission may think fit; or
- (ii) in any other case, as the Board may
30 recommend; and

(b) appoint a date, hereinafter called the
35 “transfer day”, not being earlier than the date of publication of the proclamation, on and from which the transfer of the works to the trust shall be and become effective.

(5)

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(5) Upon the transfer day the following provisions shall take effect:—

- 5 (a) the trust shall take over and shall thereafter administer and manage the works so transferred and in respect thereof may exercise all the powers and shall discharge all the duties conferred and imposed by this Part in respect of works taken over by or in charge of a trust, except such powers as are conferred solely on the Commission;
- 10 (b) the trust shall become liable to repay the value of the works and interest and the charge for interest and payments to the sinking fund shall commence to run;
- 15 (c) the liability of the trust to pay the charge for water to be supplied by the Crown shall cease and determine: Provided that—
- 20 (i) nothing in this paragraph shall be deemed to discharge or to modify or affect in any way the liability of the trust to pay for water supplied by the Crown at any time prior to the transfer day;
- 25 (ii) the charge for water to be supplied by the Crown in respect of the period then current shall be deemed to accrue from day to day and be apportioned accordingly;
- 30 (iii) if the trust has paid the charge for water to be supplied by the Crown in respect of the period then current, the proportion thereof which relates to that part of such period as has not elapsed on the transfer day shall be credited towards the liability of the trust
- 35 in respect of charges for interest and

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and payments to the sinking fund pursuant to the provisions of this section;

5 (iv) if the charge for water to be supplied by the Crown in respect of the period then current has not become due and payable, the trust shall, unless such charge has been paid by the trust, be liable to pay and shall pay the proportion
10 thereof which relates to that part of the said period which has elapsed on the transfer day on the date which but for this section would have been the due date for
15 payment of such charge next ensuing after the transfer day;

(d) the revised maximum rate (if any) specified in the proposal referred to in subsection one of this section or any amendment thereof made by the proclamation referred to in subsection four of this section shall be and become the maximum rate which may be assessed by the trust thereafter and the
20 trustees may assess rates up to such revised maximum notwithstanding that a rate may already have been fixed and levied in respect of the rating year then current;

(e) the trust shall from such transfer day observe and perform all of the terms and conditions upon which the works have been transferred.
30

(6) Notwithstanding anything contained in this section the trust may, subject to the approval of the Commission, have the option of repaying the value of the works by a lump sum or in a less number of years than the period determined under the foregoing provisions of this section for such repayment.
35

(7)

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5 (7) (a) In this section the expression “the value of the works” means the value, as determined by the Commission or where varied under the foregoing provisions of this section as so varied, of the works by means of which water is supplied to a trust by the Crown.

(b) In determining such value the Commission shall—

10 (i) determine the value as at the date of the notification in the Gazette of the proposal referred to in subsection one of this section;

15 (ii) if the charge for water to be supplied by the Crown to be paid by a trust to which this section applies has been fixed to include the payment of the cost of the works, take into consideration the amount which has been paid by the trust towards the cost of the works; and

20 (iii) have regard to any certificate issued under the provisions of section 73D of this Act.

12. The Water Act, 1912-1952, is further amended— Further amendment of Act No. 44, 1912.

25 (a) by omitting from section one hundred and five the definition “Bore” and “Well” and by inserting in lieu thereof the following definition:— Sec. 105. (Definition.)

30 “Bore” means any bore or well or any excavation or other work connected or proposed to be connected with sources of sub-surface water and used or proposed to be used or capable of being used to obtain supplies of such water whether the water

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- 5 water flows naturally at all times or has
to be raised either wholly or at times
by pumping or other artificial means,
but does not include a work to which Part
II of this Act extends.
- (b) by omitting section 111A; Sec. 111A.
(Boun-
daries.)
- (c) by omitting from subsection one of section one hundred and twelve the words "to increase the flow of water therefrom"; Sec. 112.
(Wells to be
licensed.)
- 10 (d) by inserting in subsection two of section one hundred and thirteen after the word "bore" where secondly occurring the words "or the circumstances so warrant"; Sec. 113.
(Applica-
tion for
license.)
- 15 (e) by omitting from subsection one of section one hundred and fourteen the words "in the case of an application with respect to an artesian bore"; Sec. 114.
(Inquiry.)
- 20 (f) by omitting section one hundred and fifteen and by inserting in lieu thereof the following sections:— Subst.
sec. 115
and new sec.
115A.
- 25 115. (1) In any case where an application has not been advertised pursuant to subsection two of section one hundred and thirteen of this Act the Commission shall, as soon as practicable after it has investigated and considered the application, issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper. Issue of
license.
- 30 (2) In any other case the Commission shall—
- (a) where an inquiry has been held pursuant to section one hundred and fourteen of this Act and the board reports in favour of the issuing of a license; or
- (b)

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(Amendment).*

- (b) where no inquiry has been held pursuant to section one hundred and fourteen of this Act and the Commission decides to grant the application,
- 5 on payment of the prescribed fee issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.
- 10 115A. (1) Every owner of land upon which at the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954, there exists a bore or a partially constructed bore for the sinking of which a license under the provisions of this Part
- 15 has not been issued shall within a period of twelve months after such commencement notify the Commission in writing of the existence of each such bore and shall make application for a license for and in respect of each such bore.
- 20 (2) The provisions of subsection one of section one hundred and thirteen shall, mutatis mutandis, apply to and in respect of an application under this section.
- 25 (3) The Commission shall, as soon as practicable after receipt of an application under this section, issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.
- 30 (4) Any person who contravenes the provisions of this section shall, upon conviction, be liable to a penalty not exceeding one hundred pounds and a further penalty not exceeding five pounds for each day during which the contra-
- 35 vention continues after such conviction.
- (g) by omitting from section one hundred and seventeen the word "well" and by inserting in lieu thereof the word "bore";

Licensing
of existing
bores or
wells.

Sec. 117.
(Benefit of
license.)

(h)

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(Amendment).*

(h) by omitting from section one hundred and eighteen the word "well" wherever occurring and by inserting in lieu thereof the word "bore";

Sec. 118.
(Penalty for alterations of licensed well or contravention of license.)

5 (i) by inserting next after section one hundred and eighteen the following new section:—

New sec. 118A.

10 118A. (1) No person shall, after the expiration of three months from the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954, act as a driller on or in connection with the construction of a bore unless he is the holder of a driller's license issued by the Commission.

Drillers to be licensed.

15 (2) Any person who contravenes the provisions of subsection one of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction.

20 (3) A driller's licence may be issued by the Commission to any competent and capable person upon application being made therefor in writing and upon the Commission having been furnished with such information as to the competency and capability of the applicant as it may require.

25 (4) A driller who acts as such on or in connection with the construction of a bore shall, upon demand being made by the Commission and within such time as the Commission may specify, furnish to the Commission or to such person as the Commission may direct and in such form as the Commission may require, such information relating to—

30 (a) the nature and thickness of the various strata met with during the drilling performed by him in connection with the bore;

5 —C (ii)

(b)

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- (b) the location, quantities and quality of all supplies of water met with during such drilling;
- 5 (c) the height each such supply of water stands relative to the natural surface of the ground at the site of the bore; and
- 10 (d) the depth, diameter and other particulars of the bore and the casing inserted in the bore,

as the Commission may require.

- (5) Any driller who contravenes the provisions of subsection four of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and to a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction and, in addition to the imposition of the said penalty, the Commission may
- 15
- 20 cancel his driller's license.

- (6) The Commission may at any time cancel any license issued pursuant to subsection three of this section if in its opinion the holder of the license is or has become incompetent or incapable or is not a fit and proper person to continue to be licensed as a driller or for such other good and sufficient cause as to the Commission seems proper.
- 25

- (7) No person shall be entitled to claim or be paid any compensation whatsoever arising out of or by reason of the exercise by the Commission of the powers conferred by subsection six of this section.
- 30

- (j) (i) by inserting in subsection one of section one hundred and twenty-three after the word "well" where firstly occurring the words "or bore";
- 35

Sec. 123.
(Waste of water.)

(ii)

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(Amendment).*

- (ii) by omitting from the same subsection the words "partial closing" and by inserting in lieu thereof the words "closing or partial closing";
- 5 (iii) by omitting from the same subsection the words "such well" and by inserting in lieu thereof the words "such artesian well or bore";
- 10 (iv) by omitting from subsection two of the same section the words "such well" and by inserting in lieu thereof the words "such artesian well or bore";
- 15 (k) (i) by omitting from subsection one of section one hundred and twenty-four the words "artesian wells" and by inserting in lieu thereof the words "artesian well or bore";
- 20 (ii) by omitting from the same subsection the words "such wells" and by inserting in lieu thereof the words "any artesian well or bore".
- 13.** The Water Act, 1912-1952, is further amended—
- (a) by inserting in the definition of "Work" in section one hundred and thirty after the word "sewer" the words "bridge, culvert, fence,";
- 25 (b) by omitting subsection two of section 133A and by inserting in lieu thereof the following subsection:—
- 30 (2) Where by virtue of any such further proclamation lands previously described as comprising two or more holdings become one holding or lands previously described as comprising one holding become two or more holdings such further proclamation may attach to the new holding or each of the new holdings such
- 35 number of water rights as the Governor may consider proper.

Further
amendment
of Act No.
44, 1912.

Sec. 130.
(Defini-
tions.)

Sec. 133A.
(Correction of
errors in con-
stitution of
districts and
provisional
districts.)

(c)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

- (c) by inserting next after section 133A the following new subheading and section:— New sec.
133B.

Additional Works.

5 133B. At any time after the notification of the completion of the works of a provisional district or the proclamation of the constitution of a district the Commission may, for the purposes of such provisional district or district, construct or acquire any additional works and thereupon such additional works shall become works of the provisional district or district, as the case may be. Additional
works.

- (d) by inserting next after section one hundred and thirty-seven the following new section:— New sec.
137A.

15 137A. (1) In any provisional district or district in which water is supplied through pipes under pressure and any meter is installed by the Commission for the purpose of measuring the quantity of water so supplied to a holding, the Commission may impose such annual charge for the use of such meter as it may from time to time determine. The charge shall be paid to the bank by the owner of the land on or before the fifteenth day of September in each year. Meter
charges.

25 (2) The owner of the land shall pay to the Commission on demand all costs, charges and expenses incurred by the Commission in repairing or replacing any such meter which has become damaged or destroyed from any cause whatsoever and upon default in payment the amount of such costs, charges and expenses may be recovered by the Commission from such owner in any court of competent jurisdiction as a debt due and owing to the Commission.

- 35 (e) (i) by inserting in subsection three of section one hundred and thirty-nine after the word "rates" the words "or charges for water"; Sec. 139.
(Assessment
of rates and
charges.)

(ii)

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(Amendment).*

- (ii) by inserting in the same subsection after the word "rate" wherever occurring the words "or charge";
- 5 (iii) by inserting in subsection four of the same section after the word "rate" the words "or charge for water";
- (iv) by inserting in subsection five of the same section after the word "rate" the words "or charge for water";
- 10 (v) by inserting in subsection six of the same section after the word "rate" where firstly occurring the words "or charge for water";
- (vi) by inserting in the same subsection after the word "miscalculation" the words "or for any other reason whatsoever";
- 15 (vii) by inserting in the same subsection after the word "rate" where secondly occurring the words "or charge";
- 20 (f) (i) by omitting subsections nine and (9A) of section one hundred and forty-seven and by inserting in lieu thereof the following subsection:—
- (9) (a) Upon the Commission becoming aware that an owner has subdivided his holding and has disposed of any part or parts or all the parts thereof the Governor shall on the recommendation of the Commission declare that, as from a specified date not being earlier than the date the Commission became aware of such subdivision and disposal, the holding shall for the purposes of this Part cease to be a holding and that new holdings shall be deemed to be constituted in respect of each part disposed of and the part, if any, retained by the owner.

(b)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

(b) Thereupon if water rights were attached to the former holding the Governor on the recommendation of the Commission—

5

(i) shall apportion such water rights between the new holdings; or

10

(ii) shall increase the number of such water rights and apportion such increased number of water rights between the new holdings; or

15

(iii) may in any case where water rights are not to be attached to any new holding by virtue of the provisions of paragraph (d) of this subsection reduce the water rights which were attached to the former holding by not more than the proportion which the area of any such new holding bears to the area of the former holding and shall apportion such reduced number of water rights between the remaining new holdings.

20

25

(c) Water rights as apportioned in accordance with the provisions of paragraph (b) of this subsection shall attach to each of the new holdings on and from the date specified in accordance with the provisions of paragraph (a) of this subsection.

30

(d) Water rights shall not be attached to any new holding which, in the opinion of the Commission, does not contain land capable of being irrigated from the works of the district or provisional district, or to which, in the opinion of the Commission, it is impracticable to convey water for irrigation from such works.

35

(e)

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(Amendment).*

5 (e) Rates and charges for water shall be assessed and payable in respect of each of the new holdings as from the date specified in accordance with the provisions of paragraph (a) of this subsection.

(f) Any necessary adjustment of rates and charges for water already assessed and levied in respect of the former holding shall be made.

10 (g) The rates and charges for water in respect of the new holdings shall be payable notwithstanding that the means of supplying and conveying water from the works of the district or provisional district
15 and of measuring such supply have not been provided in respect of all or any of such new holdings.

(ii) by omitting paragraph (f) of subsection ten
20 of the same section and by inserting in lieu thereof the following paragraph:—

(f) (i) Where the owner of a holding has not in accordance with the provisions of paragraph (a) of this subsection constructed or fully constructed the works therein
25 referred to the Commission may construct such works as have not been constructed by such owner and may recover the costs and expenses (including the cost of acquisition of any land or easement deemed
30 by the Commission to be required for such works) incurred in so doing in any court of competent jurisdiction as a debt either from such owner, or from the owner of the new holding for the purposes of which the
35 works are required to be constructed, as the Commission may determine.

(ii) Where pursuant to the provisions of subparagraph (i) of this paragraph any
part

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5 part of the cost referred to in that subparagraph is recovered from any person other than the former owner of the holding, that person may, subject to the terms of any agreement between himself and such former owner, recover that part from such former owner.

10 (iii) Any works which the Commission constructs pursuant to the provisions of subparagraph (i) of this paragraph shall be deemed to be constructed as works of the district or provisional district, as the case may be, and the provisions of section one
15 hundred and forty-eight of this Act shall apply to and in respect of the construction of such works.

(iii) by inserting at the end of subsection ten of the same section the following new paragraph:—

20 (h) If any works which are deemed by the Commission to be necessary to provide means of supplying and conveying water from the works of a district or provisional district to lands within that district or
25 provisional district, as the case may be, which have been acquired by the Crown by purchase or resumption under the provisions of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts,
30 or by purchase or vesting under the provisions of the Closer Settlement Amendment (Conversion) Act, 1943, as amended by subsequent Acts, or to any part or parts of any such lands, have not been otherwise
35 constructed, the Commission shall have power and shall always be deemed to have had power to construct any such works

as

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(Amendment).*

5 as works of the district or provisional district within which any such lands are situated and the provisions of section one hundred and forty-eight of this Act shall apply and shall always be deemed to have applied to and in respect of the construction of such works.

10 (g) by inserting next after section one hundred and forty-seven the following new subheading and section:—

Amalgamation of Holdings.

15 147A. (1) On application by the owner of two or more holdings the total area of which does not in the opinion of the Commission substantially exceed a home maintenance area the Commission may, if it thinks fit, recommend to the Governor that such holdings be amalgamated into one holding and thereupon the Governor may declare such holdings, as from 20 the first day of July next following such declaration, to be one holding for the purposes of this Part and may fix the number of water rights which shall attach thereto.

25 (2) Where any declaration has been made in accordance with subsection one of this section the Commission shall determine which of the existing works of water supply are sufficient to serve adequately the holding into which holdings have been amalgamated as aforesaid and may at any time after the first day of 30 July next following such declaration cease to supply water to such holding through any other work of water supply.

35 (3) All overdue rates and charges for water assessed in respect of any of the holdings declared to be one holding shall on the date on which the declaration referred to in subsection

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(Amendment).*

subsection one of this section takes effect be
overdue rates and charges in respect of the
holding into which such holdings have been
amalgamated.

- 5 (4) For the purposes of this sec-
tion "home maintenance area" means an area
which, when used for the purpose for which the
Commission considers it is reasonably fitted,
would in the opinion of the Commission be suffi-
10 cient for the maintenance in average seasons
and circumstances of an average family.

14. The Water Act, 1912-1952, is further amended by
inserting next after section one hundred and fifty-four
the following new section:—

Further
amendment
of Act No.
44, 1912.
New sec.
154A.

- 15 154A. At any time after the notification of the com-
pletion of the works of a provisional district or the
proclamation of the constitution of a district the
Commission may for the purposes of such provisional
district or district construct or acquire any
20 additional works and thereupon such additional
works shall become works of the provisional district
or district, as the case may be.

Additional
works.

15. The Water Act, 1912-1952, is further amended—

Further
amendment
of Act No.
44, 1912.

- 25 (a) by inserting in the definition of "Work" in sec-
tion one hundred and sixty-five after the word
"pipe" the words "sewer, bridge, culvert,
fence";
- (b) (i) by omitting from subsection three of section
one hundred and seventy-two the words
30 "and shall be at an equal rate per acre";
- (ii) by inserting at the end of subsection five
of the same section the following words:—
35 "For the purposes of Division 1 of Part
XXIII of the Conveyancing Act, 1919-1953,
the expression 'rate or tax' in paragraph
(b)

Sec. 165.
(Defini-
tions.)

Sec. 172.
(Contribu-
tions.)

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(Amendment).*

(b) of section one hundred and eighty-seven of the said Act shall be deemed to include every contribution referred to in this subsection."

- 5 (c) by inserting next after section one hundred and seventy-five the following new section:— New sec.
175A.

10 175A. Notwithstanding anything in this Part contained different amounts of contributions and different amounts of rates may be fixed for different holdings and for different parts of holdings in the same district or provisional district and in fixing such different amounts regard may be had to— Benefit to be
taken into
account.

15 (a) the degree of benefit conferred upon the lands by the works of the district or provisional district;

20 (b) the value of the protection afforded to the lands by the works of the district or provisional district having regard to the purpose for which the lands are used; and

(c) the quantity of water normally used for the classes of crops or plantings on the lands.

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(Amendment).*

PART V.

AMENDMENT OF THE RIVERS AND FORESHORES IMPROVEMENT
ACT, 1948.

16. The Rivers and Foreshores Improvement Act, 1948, is amended by omitting from section seven the word "Commission" wherever occurring and by inserting in lieu thereof the words "Constructing Authority".

Amendment
of Act No.
20, 1948.

Sec. 7.

(Work bene-
fitting land,
road or work
of a council.)

17. The Rivers and Foreshores Improvement Act, 1948, is further amended by inserting next after section twenty-three the following new section:—

Further
amendment
of Act No.
20, 1948.

New sec.
23A.

23A. (1) No owner or occupier of land or other person whomsoever shall, except with the permission of the Constructing Authority—

Removal of
soil from
or in
proximity
to banks
of rivers.

(a) make or cause or allow to be made any excavation on, in or under the bank of a river or on, in or under any land situate within a distance of two chains measured horizontally from the top of the bank of a river; or

(b) remove or cause or allow to be removed any soil from the bank of a river or from any land situate within a distance of two chains measured horizontally from the top of the bank of a river.

(2) (a) Application for a permit under this section shall be made in writing to the Constructing Authority and shall specify the land in respect of which the permit is desired and supply full particulars of the work proposed to be undertaken.

(b) The Constructing Authority may, after such investigation as the Constructing Authority may deem necessary, refuse any permit applied for under this section or may grant the same subject to such limitations and conditions (including a condition limiting the time the permit shall remain in force) as the Constructing Authority may think fit.

(c)

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(Amendment).*

(c) The Constructing Authority may at any time revoke or vary any permit issued under the provisions of this section.

5 (3) Any owner or occupier of land or other person whomsoever who, in respect of any land—

(a) makes or causes or allows to be made any excavation or removes or causes or allows to be removed any soil contrary to the provisions of this section; or

10 (b) fails to comply with any of the limitations or conditions for the time being attached to any permit granted under the provisions of this section,

15 shall be guilty of an offence and shall be liable, for the first offence, to a penalty not exceeding fifty pounds and for a subsequent offence to a penalty not exceeding one hundred pounds.

(4) Where—

20 (a) any excavation has been or is being made or any soil has been or is being removed contrary to the provisions of this section; or

25 (b) the Constructing Authority is of the opinion that any excavation on, in or under any land or the removal of soil from any land, although not contrary to the provisions of this section and whether made or effected before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954—

30 (i) is damaging or detrimentally affecting or is likely to damage or detrimentally affect the bank of a river; or

35 (ii) is likely to cause, whether directly or indirectly, a river to change its course,

the Constructing Authority may by notice in writing direct the owner or occupier of the land on which such

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(Amendment).*

5 such excavation has been or is being made or from
which soil has been or is being removed to take such
measures and in such manner and within such time
as may be specified in such notice as the Construct-
ing Authority deems necessary to ensure that the
bank of the river will not be damaged or detrimen-
tally affected or that the river will not be caused,
whether directly or indirectly, to change its course,
as the case may be, by reason of such excavation
10 or removal of soil.

(5) If any owner or occupier fails to comply
with the terms of any notice given to him pursuant
to subsection four of this section, the Constructing
Authority may authorise any person to enter upon
15 the land in respect of which such notice has been
given and there to carry out the measures specified
in such notice and may recover the cost incurred in
so doing from such owner or occupier in any court
of competent jurisdiction as a debt due and owing
20 by him to the Constructing Authority and until re-
payment such cost shall be a charge on the land.

(6) The provisions of subsections one, two,
three, four and five of this section shall not apply to
or in respect of the exercise of any rights lawfully
25 exercisable—

- (a) under any license, permit or authority for
a joint water supply scheme issued under
any of the provisions of the Water Act,
1912, as amended by subsequent Acts;
- 30 (b) under any lease, license, permit or other
right issued under the provisions of the
Acts relating to mining or under the pro-
visions of the Crown Lands Consolidation
Act, 1913, as amended by subsequent Acts,
or of any other Act; or
- 35 (c) by any statutory body or by any council.

(7) Where the Constructing Authority is of
the opinion that the making of any excavation on,
in or under the bank of a river, or on, in or under
any

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(Amendment).*

5 any land, or the removal of soil from the bank of
a river, or from any land, in the exercise of any of
the rights referred to in subsection six of this section
whether before or after the commencement of the
Irrigation, Water and Rivers and Foreshores Im-
provement (Amendment) Act, 1954—

(a) is damaging or detrimentally affecting or
is likely to damage or detrimentally affect
the bank of a river; or

10 (b) is likely to cause, whether directly or in-
directly, a river to change its course,

the Constructing Authority may by notice in writing
direct the person, statutory body or council by
whom or on whose behalf any such excavation has
15 been or is being made or any such soil has been
or is being removed to take such measures and in
such manner and within such time as may be speci-
fied in such notice as the Constructing Authority
deems necessary to ensure that the bank of the river
20 will not be damaged or detrimentally affected or that
the river will not be caused, whether directly or
indirectly, to change its course, as the case may be,
by reason of such excavation or removal of soil and
such person, statutory body or council shall comply
25 with the terms of such notice accordingly.

(8) If any person or council fails to comply
with the terms of any notice given pursuant to sub-
section seven of this section the Construction Autho-
rity may authorise any person to enter upon the land
30 in respect of which such notice has been given and
there to carry out the measures specified in such
notice and may recover the cost incurred in so doing
from such firstmentioned person or from such coun-
cil, as the case may be, in any court of competent
35 jurisdiction as a debt due and owing by him or by
it to the Constructing Authority.

(9) For the purposes of this section the Con-
structing Authority, or any person authorised by it,
may enter upon and inspect any land.

(10)

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(Amendment).*

(10) In this section—

- 5 “Constructing Authority” means the Minister
for Public Works or the Commission, re-
spectively, according as to whether the
waters of the river immediately adjacent to
the land on which an excavation has been
or is being made or from which soil has
been or is being removed are tidal waters
or are not tidal waters, as the case may be.
- 10 “Soil” means the surface of any land and all
matter or material whatsoever lying be-
neath that surface.

PART VI.

AMENDMENT OF THE WESTERN LANDS ACT OF 1901.

- 15 18. The Western Lands Act of 1901, as amended by
subsequent Acts, is amended—
- (a) by omitting from subsection five of section
thirty-one the word “shallow” wherever occur-
ring;
- 20 (b) by omitting from the same subsection the words
“one hundred” and by inserting in lieu thereof
the words “two hundred”.

Amendment of
Act No. 70,
1901.

Sec. 31.
(Determina-
tion of value
of improve-
ments.)

PART VII.

AMENDMENT OF THE MURRUMBIDGEE IRRIGATION AREAS
OCCUPIERS RELIEF ACT, 1934.

- 25 19. The Murrumbidgee Irrigation Areas Occupiers
Relief Act, 1934, as amended by subsequent Acts, is
amended by omitting sections twelve and fourteen.

Amendment
of Act No.
52, 1934.

Secs. 12
and 14.
(Determina-
tion of
water rights
attached to
holdings and
the prices
thereof;
numbers and
prices not to
be altered,
etc.)

PART

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

PART VIII.

MISCELLANEOUS.

20. (1) Except as hereinafter provided this section shall apply to—

Reduction
of rentals
of certain
leases.

5 (a) any lease from the Crown—

- (i) within an irrigation area constituted under the Irrigation Act, 1912, as amended by subsequent Acts;
- 10 (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;
- (iii) made under or by operation of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, before the
15 first day of January, one thousand nine hundred and thirty-three; and
- (iv) being in respect of land notified in the Gazette as available for disposal for the purpose of residence, or described in the
20 Gazette as suitable for residential purposes, or comprising an irrigation farm lease of an area not exceeding five acres;

25 (b) any lease from the Water Conservation and Irrigation Commission—

- (i) within the irrigation area constituted under the provisions of the Wentworth Irrigation Act;
- 30 (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;
- (iii) made under or by operation of the Wentworth Irrigation Act;
- 35 (iv) being in respect of land which in the opinion of the Water Conservation and Irrigation Commission is mainly suitable for residential purposes; and

5—D

(v)

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(Amendment).*

5 (v) being in respect of land which has throughout the whole of the period from the thirty-first day of December, one thousand nine hundred and thirty-two, to the first day of January, one thousand nine hundred and forty-eight,—

10 (a) been leased land under the Wentworth Irrigation Act by way of lease subsisting at the said thirty-first day of December and of any new lease granted from time to time during such period; and

(b) been held by—
15 (i) the lessee under the lease subsisting at the said thirty-first day of December, or
20 (ii) that lessee and any lessee who became lessee by transfer or assignment from or devolution under the will or intestacy of any immediately prior lessee.

(2) This section shall not apply to any lease referred to in paragraph (a) of subsection one of this
25 section—

30 (a) being in respect of land notified in the Gazette as available for disposal for the purpose of residence and in respect of which the Water Conservation and Irrigation Commission has, before the commencement of this section, pursuant to the provisions of subsection ten of section 142b of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to the land comprised in such lease being used for
35 any of the purposes specified in the said subsection ten; or

(b)

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(Amendment).*

(b) in respect of which the annual rental has before the commencement of this section been determined consequent upon the addition of land thereto.

5 (3) Subject to this section the annual rental of any lease to which this section applies shall as on and from the first day of January, one thousand nine hundred and forty-eight, be the annual rental of such lease as at the thirty-first day of December, one thousand nine
10 hundred and thirty-two, reduced by twenty-two and one-half per centum:

Provided that where in pursuance of the provisions of section one hundred and forty-three of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts,
15 the annual rental for the second or any succeeding period of any lease referred to in paragraph (a) of subsection one of this section has been determined as in the said section one hundred and forty-three provided—

20 (a) before the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the first day of January, one thousand nine hundred and forty-eight, and for the unexpired portion of the current period of such
25 lease be the annual rental as so determined reduced by twenty-two and one-half per centum;

30 (b) after the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the commencement of such second or succeeding period and for such period be the annual rental as so determined reduced by twenty-two and one-half per centum.

(4) Where by reason of any reduction made in
35 pursuance of any enactment other than this section the annual rental under any lease to which this section applies has been decreased, the reduction prescribed by subsection three of this section shall not be in addition to

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to the amount of such decrease, but such decrease shall be taken into account in determining the annual rental to be paid consequent upon the reduction so prescribed.

(5) Where after the commencement of this
5 section—

(a) the Water Conservation and Irrigation Commission has, pursuant to the provisions of subsection ten of section 142b of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to any land comprised
10 in a lease referred to in paragraph (a) of subsection one of this section and notified in the Gazette as available for disposal for the purpose of residence being used for any of the purposes specified in the said subsection ten; or

(b) the annual rental of any lease referred to in paragraph (a) of subsection one of this section has been determined consequent upon the addition of land thereto; or

(c) the Water Conservation and Irrigation Commission decides that the land comprised in any lease to which this section applies is used mainly or substantially for any business purpose,

the provisions of this section shall cease to apply to the
25 lease referred to in paragraph (a), (b) or (c) of this subsection as from the date of such consent, determination or decision, as the case may require.

(6) This section shall be deemed to have commenced upon the first day of January, one thousand nine
30 hundred and forty-eight.

IRRIGATION, WATER AND RIVERS AND FORESHORES IMPROVEMENT
(AMENDMENT) BILL.

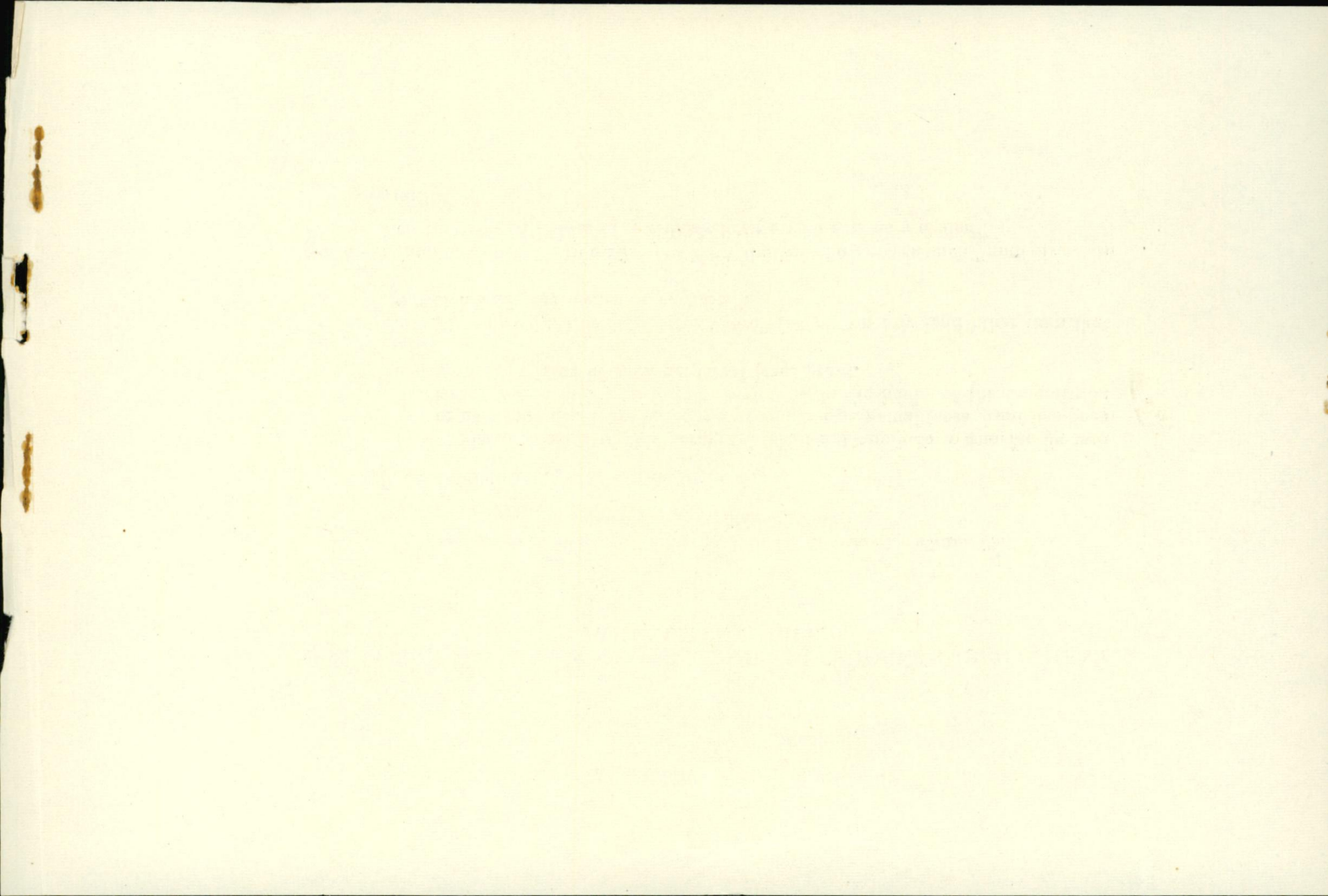
*Schedule of Amendments referred to in Legislative Council's
Message of 24th March, 1955.*

No. 1.—Page 13, clause 7. *After* line 10 *insert*—

The provisions of this paragraph shall not apply to a transfer by way of mortgage of a lease in respect of which a perpetual lease grant has been issued where such transfer was registered in the books of the Commission before the issue of such perpetual lease grant.

No. 2.—Page 33, clause 12, line 12. *After* “bore” *insert* **“on any land other than that of which he is the owner or occupier”**.

No. 3.—Page 33, clause 12, line 29. *Omit* “A driller who acts as such” and *insert* in lieu thereof **“A holder of a driller’s license who acts as a driller”**.



IRRIGATION, WATER AND RIVERS AND FORESHORES IMPROVEMENT (AMENDMENT) BILL.

EXPLANATORY NOTE.

THIS Bill contains a number of amendments of the Irrigation Act, 1912-1954, the Crown Lands Consolidation Act, 1913, the Water Act, 1912-1952, the Rivers and Foreshores Improvement Act, 1948, the Western Lands Act of 1901, and the Murrumbidgee Irrigation Areas Occupiers Relief Act, 1934. The more important of the amendments—

- (1) remove the right of conversion to purchases in fee-simple in respect of certain leases in perpetuity of irrigation farms and non-irrigable holdings used for farming purposes within irrigation areas and leases (other than renewals or continuance of existing leases) within the Curlwaa Irrigation Area granted in future and in respect of all leases within the Hay Irrigation Area;
- (2) make provision relating to the measurement of stream flows by the Water Conservation and Irrigation Commission and widen in certain respects the Commission's powers in regard to the construction of works and the entry on land for investigations in connection with proposed works;
- (3) provide for the payment of a special charge where water is supplied to irrigation farms solely during the hours of daylight;
- (4) provide for the appointment by the Water Conservation and Irrigation Commission of officers where the annual salary does not exceed £2,000;
- (5) enable the Minister, when notifying farms within irrigation areas as available for disposal, to attach conditions relating to the planting of any specified type or types of fruit trees, vines or plantings;
- (6) make provision for the resumption of lands for constitution as irrigation areas or for addition to irrigation areas;
- (7) bring the law relating to war service land settlement within irrigation areas into line with existing provisions which apply to war service land settlement outside irrigation areas;
- (8) make provision for licenses held by war service settlers to be given the highest classification for determining priority of right to the appropriation of water during periods of shortage;
- (9) make provision enabling Crown bores to be handed over to and to become works of trusts;
- (10) apply the provisions relating to the licensing of bores sunk to obtain a supply of water to the whole of the State; require that a license be obtained in respect of all existing bores and provide for the licensing of drillers and the furnishing of information relative to the construction of bores, all to facilitate the collection of data relating to the ground water resources of the State;
- (11) enable the reduction of water rights in certain subdivisions of lands within irrigation districts;
- (12) enable the amalgamation of holdings in irrigation districts in certain circumstances;
- (13) enable works to serve closer settlement and war service land settlement subdivisions within irrigation districts to be constructed;
- (14) regulate the excavation and removal of soil from or within the prescribed distance from banks of rivers.

Other amendments are largely of a machinery nature.

The Bill also provides for the reduction in annual rentals of twenty-two and one-half per centum enacted by the Crown Lands (Amendment) Act, 1932, to continue to apply in respect of certain lands in irrigation areas as from 1st January, 1948.

No. , 1954.

A BILL

To limit the right of future acquisition of freehold tenures within irrigation areas; to make further provision with respect to the licensing of bores; to regulate the removal of soil from or adjacent to the banks of rivers; to make further provision for the reduction of rentals payable in respect of certain classes of tenures within irrigation areas; for these and other purposes to amend the Irrigation Act, 1912-1954, the Crown Lands Consolidation Act, 1913, the Water Act, 1912-1952, the Rivers and Foreshores Improvement Act, 1948, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. ENTICKNAP;—21 September, 1954.]

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

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

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Irrigation, Water and Rivers and Foreshores Improvement (Amend-
10 ment) Act, 1954." Short title,
division
into Parts
and
citation.

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—AMENDMENT OF THE IRRIGATION ACT,
1912-1954.

15 PART III.—AMENDMENT OF THE CROWN LANDS
CONSOLIDATION ACT, 1913.

PART IV.—AMENDMENT OF THE WATER ACT, 1912-
1952.

20 PART V.—AMENDMENT OF THE RIVERS AND FORE-
SHORES IMPROVEMENT ACT, 1948.

PART VI.—AMENDMENT OF THE WESTERN LANDS
ACT OF 1901.

PART VII.—AMENDMENT OF THE MURRUMBIDGEE
IRRIGATION AREAS OCCUPIERS RELIEF ACT, 1934.

25 PART VIII.—MISCELLANEOUS.

(3) The Irrigation Act, 1912, as amended by sub-
sequent Acts and by this Act, may be cited as the
Irrigation Acts, 1912-1954.

30 (4) The Water Act, 1912, as amended by sub-
sequent Acts and by this Act, may be cited as the Water
Act, 1912-1954.

(5) The Rivers and Foreshores Improvement Act,
1948, as amended by this Act, may be cited as the Rivers
and Foreshores Improvement Act, 1948-1954.

PART

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

PART II.

AMENDMENT OF THE IRRIGATION ACT, 1912-1954.

2. The Irrigation Act, 1912-1954, is amended—

Amendment
of Act No.
73, 1912.

- 5 (a) by omitting from section five the words “five hundred” wherever occurring and by inserting in lieu thereof the words “two thousand”; (Appoint-
ment of
officers.)
- (b) by inserting next after section 5E the following New sec.
5F.
new section:—

10 5F. Any person who at the date of commence- Certain
ment of the Irrigation, Water and Rivers and persons
Foreshores Improvement (Amendment) Act, deemed
1954, is in the service of the Commission and to have
whose yearly salary at such date does not exceed been
15 two thousand pounds shall, for the purpose of appointed
section five, section 5A and section 5B of this Act, by
be deemed to have been appointed by the Com- Commission.
mission.

3. The Irrigation Act, 1912-1954, is further amended—

Further
amendment
of Act No.
73, 1912.

- 20 (a) by inserting next after section 8B the following New sec.
new section:— 8c.

8c. (1) (a) It shall be a function of the Com- Further
mission to make provision for— functions
and powers
of

- 25 (i) the systematic gauging and recording of
the volume and flow of rivers and
streams, and of the volume of lakes
and lagoons within the State and the
effect of climatic conditions upon such
volume; and

- 30 (ii) the gathering and recording of such
data concerning the ground water
resources of the State as the Com-
mission may deem practicable.

(b)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

(b) The Commission may publish and make available any information so ascertained or gathered.

(2) The Commission may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable to enable it effectively to carry out all or any of its powers, authorities, duties and functions under this or any other Act and without limiting the generality of the foregoing may carry out such surveys and investigations and boring, drilling and other explorations as it may deem necessary or desirable—

(a) to ascertain potential sites for works of water storage or water supply and the practicability and cost of constructing any such works;

(b) to ascertain the nature and extent of lands capable of being supplied with water from any existing or proposed works of water storage or water supply and the means whereby such lands may be so supplied;

(c) to ascertain the necessity of and potential sites for works for flood mitigation or flood control and the practicability and cost of constructing any such works;

(d) to ascertain the nature and extent of lands capable of being protected or partially protected from flooding or inundation by any works of flood mitigation or flood control;

(e) to ascertain the existence and location of subterranean waters and the character and quality thereof.

(3) The Commission, in the exercise of its powers, authorities, duties and functions under this or any other Act, may by its officers, servants,

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

servants, workmen or agents enter upon any lands and do all such things as may be requisite for the purpose of—

5

(a) making and carrying out such inspections, tests, investigations, surveys, experiments and boring, drilling and other explorations as the Commission may deem necessary for the full and effective exercise of any of its powers, authorities, duties and functions under this or any other Act; or

10

(b) constructing, maintaining, operating, or altering any works,

15

or for any other purpose connected with or related to or incidental to the exercise of any of its powers, authorities, duties and functions under this or any other Act, notwithstanding an easement or right so to enter or use such lands may not have been granted or acquired.

20

The powers conferred by this subsection shall be additional to and not in substitution for any other powers elsewhere conferred on the Commission.

25

(4) In the exercise of any of the powers conferred by subsection three of this section the Commission shall inflict as little damage as may be and shall make full compensation to all parties interested for all damage sustained by them in consequence of the exercise of such powers.

30

(b) by omitting subsection four of section nine.

Sec. 9.
(Commission to construct works, etc.)

4. The Irrigation Act, 1912-1954, is further amended—

Further amendment of Act No. 73, 1912.

(a) by inserting in section 11A after the word “shall” the words “except as hereinafter provided”;

Sec. 11A.
(Application of ss. 11B-11F.)

35

(b)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

(b) by inserting next after subsection one of section 11c the following new subsections:— Sec. 11c.
(Conversion
of lease-
holds.)

5 (1A) The lessee of an irrigated lot within the
irrigation area constituted under the provisions
of the Wentworth Irrigation Act shall not be
entitled to purchase such lot unless the land
comprising such lot has, throughout the whole
of the period from the commencement of the
10 Irrigation, Water and Rivers and Foreshores
Improvement (Amendment) Act, 1954, to the
date of notification of his intention to pur-
chase,—

15 (a) been leased land by way of lease
subsisting at such commencement and
of any new lease granted from time to
time during such period; and

(b) been held by—
(i) the lessee under the lease subsist-
ing at such commencement, or
20 (ii) that lessee and any lessee who
became lessee by transfer or
assignment from or devolution
under the will or intestacy of
any immediately prior lessee.

25 (1B) The lessee of an irrigated lot within the
irrigation area constituted under the provisions
of the Hay Irrigation Act, 1902, shall not be
entitled to purchase such lot unless he has
prior to the commencement of the Irrigation,
30 Water and Rivers and Foreshores Improvement
(Amendment) Act, 1954, notified the Commis-
sion on the form and in the manner prescribed
of his intention to purchase such lot.

5. The Irrigation Act, 1912-1954, is further amended— Further
amendment
of Act. No.
73, 1912.
Sec. 12.

35 (a) by omitting subsection four of section twelve; (b) (Water
rights.)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

- (b) by inserting in subsection one of section thirteen after the words "such additional water rights" the following new paragraph:—

Sec. 13.
(Additional
water
rights.)

5 After the full quantity of water to which an occupier is entitled pursuant to the water rights attached to his land and to any additional water rights which may have been allotted to him has been supplied, the Commission may, on application by the occupier, supply him with additional water at such charges as the Commission may determine.

10

- (c) by inserting next after section thirteen the following new section:—

New sec.
13A.

15 13A. (1) Where the Commission is prepared to make available and makes available to any land a supply of water solely during the hours of daylight, it may impose such special charge per acre foot for all water so supplied as it may from time to time determine. Notification of any such determination shall be published in the Gazette.

20

25 (2) The special charge shall be in addition to the charges for any water rights which are attached to the land and for any additional water rights and for any water supplied to the land additional to the water supplied pursuant to such water rights and additional water rights.

30 (3) The special charge shall be determined by the Commission having regard to the additional cost per acre foot which the Commission estimates will be incurred by it in supplying water solely during the hours of daylight.

35 (4) The special charge shall be paid by the occupier of the land on or before the thirtieth day of June in each year in respect of water supplied during the year ending on the said thirtieth day of June.

(5)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

(5) In this section "acre foot" means such a quantity of water twelve inches deep as would cover an area of one acre.

- 5 (d) (i) by inserting in subsection one of section Sec. 15.
fifteen after the word "Act" where thirdly (Payment of
occurring the words "or for maintenance charges.)
charges arising in relation to the supply of
water";
- 10 (ii) by omitting from the same subsection the
words "as and when directed by the bank";
- (iii) by inserting at the end of the same subsection the following new paragraph:—
- 15 The charges in respect of water rights
which are attached to the land, the charges
in respect of additional water rights, and
the charges in respect of the water supplied
to the land additional to water supplied pur-
suant to such water rights and additional
20 water rights shall be paid at the times and
in the manner prescribed, and all other rates
or charges for water and maintenance
charges shall, except where otherwise ex-
pressly provided, be paid at the times and
in the manner determined by the Commis-
25 sion and when no such determination has
been made then at such times and in such
manner as may have been agreed between
the Commission and the occupier.

6. The Irrigation Act, 1912-1954, is further amended—

- 30 (a) by inserting next after section 17A the following
new section:—
- 35 17AA. Any person who destroys, damages or
interferes in any way with any work, structure
or other thing whatsoever vested in or made,
constructed or provided by or otherwise under
the control or management of the Commission
shall where no other provision is expressly made
by any other section of this Act be liable upon
summary

Further
amendment
of Act No.
73, 1912:
New sec.
17AA.

Damage
to or
interference
with works.

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

- summary conviction to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding three months: Provided that nothing in this section shall in any way affect any liability to which any person who commits a breach of this section may be subject under any other Act or at common law but such person shall not be liable to be punished twice for the same offence.
- 5
- 10 (b) by inserting in subsection three of section eighteen after the word "Area" where thirdly occurring the words "and any other irrigation area constituted or which may be constituted under the provisions of this Act";
- 15 (c) by omitting from the same subsection the words and figures "and Part VII" and by inserting in lieu thereof the words and figures "Part VII and Part VIII".

PART III.

20 AMENDMENT OF THE CROWN LANDS CONSOLIDATION ACT, 1913.

7. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is amended—

- (a) by inserting at the end of subsection two of section one hundred and forty the following proviso:—
- 25
- 30 Provided that in the case of lands set apart for disposal in accordance with the provisions of section three of the War Service Land Settlement Act, 1941, as amended by subsequent Acts, the survey fee shall not be required to accompany an application but shall be paid by the successful applicant at a time and in a manner to be specified in the notification under paragraph (d) of subsection two of section one hundred and thirty-nine of this Act that the lands are available for disposal.
- 35

(b)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

- (b) (i) by omitting from subsection five of section one hundred and forty-two the word "six" and by inserting in lieu thereof the word "three";
- 5 (ii) by inserting in paragraph (a) of subsection six of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954";
- 10 (iii) by omitting from paragraph (c) of the same subsection the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words
- 15 "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954";
- (iv) by omitting paragraph (d) of the same subsection and by inserting in lieu thereof the following paragraph:—
- 20 (d) A condition to the effect that the land or any specified part of the land shall not be used to plant—
- (i) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or
- 25 (ii) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or areas specified in the condition,
- 30 may be attached to any irrigation farm purchase after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act,
- 35 1954,

Sec. 142.
(Conditions
etc., of
irrigation
farm
purchases.)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

1954, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such irrigation farm purchase.

- 5 (c) (i) by omitting from subsection four of section 142b the word "six" and by inserting in lieu thereof the word "three"; Sec. 142b. (Conditions, &c., of leases within irrigation areas.)
- 10 (ii) by inserting in subsection seven of the same section after the words "this Act" the words "before the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954";
- 15 (iii) by omitting from subsection eight of the same section the words "Irrigation and Water (Amendment) Act, 1943" and by inserting in lieu thereof the words "Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954";
- 20 (iv) by omitting subsection nine of the same section and by inserting in lieu thereof the following subsections:—
- 25 (9) A condition to the effect that the land or any specified part of the land shall not be used to plant—
- (a) any fruit trees, vines or plantings or any specified type or types or class or classes of fruit trees, vines or plantings; or
- 30 (b) any area or areas of fruit trees, vines or plantings or of any specified type or types or class or classes of fruit trees, vines or plantings in excess of the area or
- 35 areas specified in the condition, may be attached to any lease after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

(Amendment) Act, 1954, by the Minister when notifying such land as available for disposal or by the Commission when notifying the addition of land to such lease.

5

(9A) (a) The Minister may, at any time, with the consent of the holder of the lease, by instrument under his hand in the prescribed form, cancel or vary any condition mentioned in subsection seven, subsection eight or subsection nine of this section on such terms and conditions as he thinks fit and the condition as so varied shall, whether or not the perpetual lease grant has issued, be the condition attaching to the land.

10

15

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

20

(d) (i) by inserting at the end of subsection one of section one hundred and forty-five the words (Conversion of I.F.L. to I.F.P., &c.)
“or to an irrigation farm lease or a non-irrigable lease described in any notification in the Gazette under the provisions of section one hundred and thirty-nine of this Act as suitable for farming purposes, granted after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954”;

25

30

(ii) by inserting in subsection three of the same section after the word “determined” the words “as at the date of receipt by the Commission of the notification referred to in subsection two of this section”;

35

(iii) by inserting at the end of paragraph (d) of subsection five of the same section the following new paragraphs:—

(e) Where any lease converted under this section is subject to a transfer by way of mortgage

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

mortgage registered in the books of the Commission such transfer shall be—

- 5 (i) deemed to extend and always to have extended to the purchase into which the lease has been converted in the same manner as it applies to the lease; and
- 10 (ii) recorded in the books of the Commission as a transfer of the purchase.
- 15 (f) Where immediately preceding the conversion of any lease under this section an easement is appurtenant to or a burden upon any land comprised in such lease such easement shall after such conversion continue to be appurtenant to or a burden upon such land.
- 20 (g) Where a perpetual lease grant has issued in respect of any lease converted under this section and the Commission lodges with the Registrar-General with the surrender referred to in subsection two of this section a notification that the lease has been converted into a purchase, the
- 25 Registrar-General shall register such surrender without requiring that any easement to which the land is subject shall be released or that any mortgage or other security to which the land is subject shall be discharged.
- 30 (h) Paragraphs (e), (f) and (g) of this subsection shall apply to conversions whether effected before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954.
- 35

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

8. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended—

Further amendment of Act No. 7, 1913.

- (a) (i) by inserting in subsection one of section 147D after the words "irrigation farm lease" the words "or a non-irrigable lease";
- (ii) by inserting next after subsection four of the same section the following new subsections:—

Sec. 147D.
(Application to Minister to acquire private lands.)

(4A) The application whether made before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954, may with the consent of the owner or owners of the private lands proposed to be included or excluded or the price of which is proposed to be increased or decreased and the approval of the Minister be varied by including therein additional private lands or excluding therefrom part of the lands included therein or by increasing or decreasing the price specified in the application.

(4B) The consent of the owner or owners under subsection one of this section whether given before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954, and the consent of the owner or owners under subsection (4A) of this section shall not be withdrawn before the expiration of sixty days after such owner or owners has or have given to the Minister notice in writing of his or their intention so to withdraw: Provided that in no case shall such consent be withdrawn after the Minister has approved of the purchase.

(b)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

- (b) by omitting from section 147E the words "such lands" where firstly occurring and by inserting in lieu thereof the words "the lands the subject of such application". Sec. 147E.
(Valuation.)
- 5 (c) (i) by inserting in section 147G after the word "made" where firstly occurring the words "or varied"; Sec. 147G.
(Purchase of land.)
- 10 (ii) by inserting in paragraph (c) of the same section after the words "irrigation farm lease" the words "or a non-irrigable lease";
- 15 (iii) by inserting at the end of the same section the words "or he may at his discretion refuse the application: Provided that the Minister shall not so approve where in his opinion the amount of capital (including shares in any company or any interest in any land) held by any applicant or by his or her spouse or by his or her parent or parents is such as to warrant refusal of the application";
- 20 (d) by omitting from subsection one of section 147H the words "Where, under section 147D of this Act, an application has been made to the Minister to acquire any lands and the Minister has approved of the purchase of such lands" and by inserting in lieu thereof the words "Where the Minister has approved of the purchase of lands"; Sec. 147H.
(Vesting of land in the Crown.)
- 25 (e) (i) by inserting at the end of paragraph (a) of subsection one of section 147J the following words "or non-irrigable leases"; Sec. 147J.
(Vesting of land in applicant.)
- 30 (ii) by inserting next after the same paragraph the following new paragraphs:—
- 35 (a1) Any lands deemed by the Minister to be necessary for roads, or any purpose which he considers to be a community

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

5 community purpose or a public purpose, or any lands which the Minister considers should be excluded for any reason may be excluded from the holdings and any adjacent Crown lands may be included in such holdings.

10 (a2) The subdivision may be made into holdings before the holdings are measured, and in such case the holdings may be notified under paragraph (c) of this subsection according to the design thereof.

15 (iii) by inserting in subparagraph (vi) of paragraph (c) of the same subsection after the words "irrigation farm lease" the words "or a non-irrigable lease";

20 (iv) by inserting in subsection four of the same section after the words "irrigation farm lease" where firstly occurring the words "or a non-irrigable lease";

25 (v) by inserting in the same subsection after the words "irrigation farm lease" where secondly and thirdly occurring the words "or non-irrigable lease";

(vi) by inserting next after the same subsection the following new subsections:—

30 (4A) Where a holding has been measured after publication in the Gazette of a notification under paragraph (c) of subsection one of this section any necessary adjustment shall thereafter be made as to the area and annual rental of the holding and of the nature and value of any improvements
35 which are the property of the Crown and which are to be paid for by the incoming tenants,

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

tenants, and of the terms and conditions upon which payment for the improvements shall be made.

- 5 (4B) Any lands excluded from the holdings under paragraph (a1) of subsection one of this section may be retained by the Crown either permanently or for a limited period and the Commission may expend moneys necessary to maintain adequately such lands and the improvements thereon, and, if necessary, to replace improvements on such lands during such time as they are retained by the Crown. Such lands may be used for such purposes or leased by the Commission for such terms and upon such conditions as the Minister may approve, or may be otherwise disposed of under the provisions of this Act.
- 10
- 15
- 20 (vii) by inserting in subsection five of the same section after the words "irrigation farm lease" the words "or a non-irrigable lease";
- 25 (viii) by inserting in the same subsection after the words "irrigation farm purchase" the words "or a non-irrigable purchase";
- (ix) by inserting in subsection six of the same section after the words "irrigation farm leases" the words "or non-irrigable leases";
- 30 (f) by inserting in subsection two of section 147K Sec. 147K. after the words "irrigation farm lease" the (Penalties.) words "or a non-irrigable lease".

9. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended—

Further
amendment
of Act
No. 7,
1913.

- 35 (a) by inserting in subsection one of section one hundred and ninety-seven after the word "settlement" where firstly occurring the words (Exchanges and purchases for public purposes.)

*Irrigation, Water and Rivers and Foreshores Improvement
(Amendment).*

“or for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown”;

5 (b) by omitting from the same subsection the words
“The local land board” where firstly occurring
and by inserting in lieu thereof the words
“Except as hereinafter provided the local land
board”;

10 (c) by inserting at the end of the same section the
following new subsections:—

15 (5) In the application of the provisions of this
section to any exchange or purchase or resump-
tion of land for constitution as an irrigation
area or for the alteration of an irrigation area
by including additional lands of the Crown, the
following provisions shall have effect—

20 (a) the provisions of subsection one of this
section relating to inquiry into and
report by the local land board upon any
application or proposal for the
exchange or purchase or resumption of
any land and determination of the
values of any land to be acquired or
25 granted in pursuance thereof and the
price to be paid for the land resumed
shall not apply;

30 (b) subsection one of this section shall be
read and construed as if for the words
“the Minister” where thirdly occurring
there were substituted the words “the
Commission”;

35 (c) the compensation to be paid in respect
of any resumption to which this sub-
section applies shall be the value of the
land as determined by an advisory
board or the Land and Valuation Court
on appeal;

(d)

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- (d) subsection two of this section shall be read and construed as if for the words "a local land board" there were substituted the words "an advisory board";
- 5 (e) in determining the value of the land as referred to in paragraph (c) of this subsection—
 - 10 (i) the provisions of paragraph (b) of subsection four of section four of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall be taken into account; and
 - 15 (ii) there shall be excluded any added value which would accrue or has accrued to the land from the construction or utilisation of the works of any district or provisional district constituted under the provisions of Part VI of the
 - 20 Water Act, 1912, as amended by subsequent Acts;
- (f) the provisions of sections nine and ten of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, shall mutatis mutandis apply to and in respect of any resumption to which this subsection applies;
- 25 (g) the provisions of subsection one of this section as amended by this subsection shall extend to the resumption of any public road;
- 30 (h) in this subsection the expression "advisory board" means a Closer Settlement Advisory Board constituted under section two of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts.
- 35

(6)

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- (6) Where any public road is resumed under the authority of this section in connection with the resumption of lands for constitution as an irrigation area or for the alteration of an irrigation area by including additional lands of the Crown the following provisions shall notwithstanding anything contained in this section have effect:—
- 5
- (a) the municipal or shire council within whose area the public road so resumed is situated shall be entitled to claim compensation therefor;
- 10
- (b) subject to paragraphs (c) to (j) inclusive of this subsection the compensation shall be an amount not exceeding the capital sum spent by the council upon the construction of the road together with the sum, if any, paid by the council for purchase or resumption of the land therefor;
- 15
- 20
- (c) in any case where the council decides that it is necessary to purchase or resume and construct a new road to replace that resumed it shall notify the Commission of its decision;
- 25
- (d) any notification referred to in paragraph (c) of this subsection shall be accompanied by a plan of the location of the proposed new road, together with an estimate of the cost of the purchase or resumption and construction of the proposed new road;
- 30
- (e) where, having regard to the requirements of the public as at the date upon which the public road is resumed, the Commission is of opinion—
- 35
- (i) that it is not necessary to replace the road resumed; or
- (ii)

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- (ii) that the location of the proposed new road is not satisfactory; or
- (iii) that the cost of the purchase or resumption and construction of the proposed new road is excessive; or
- (iv) that, for any reason whatsoever, the decision of the council should not be carried out either wholly or in part—
- the Commission shall notify the council accordingly;
- (f) the notification referred to in paragraph (e) of this subsection shall be accompanied by—
- (i) a statement setting out the grounds upon which the opinion of the Commission is based;
- (ii) details of any alternative proposal which in the opinion of the the Commission should be adopted, together with such plans and estimates of costs (if any) as may be necessary to provide the council with full information in relation to the carrying out of such alternative proposal;
- (g) any matter in dispute between the council and the Commission under paragraphs (e) and (f) of this subsection may be referred by either the council or the Commission to the Land and Valuation Court in accordance with rules of court;
- (h) the Land and Valuation Court shall have jurisdiction to hear and determine any matter referred to it pursuant to the

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the provisions of paragraph (g) of this subsection and that court may in its discretion award such costs as it thinks fit in relation to any matter so referred;

- 5 (i) the determination of the Land and Valuation Court in relation to any matter referred to it under the provisions of paragraph (g) of this subsection shall be final and shall be carried
10 into effect by the council and the Commission;
- (j) where the Land and Valuation Court by its determination decides that it is necessary to replace any public road to
15 which the provisions of this subsection apply the amount of compensation shall be such sum, not exceeding the cost of purchase or resumption and construction of the new road, as the said court
20 may determine and in making such determination the said court shall have regard to the actual condition of such public road as at the date of resumption and to the extent to which the same was
25 used by the public before that date and also to any damage to the road caused by the Commission before that date;
- (k) any amount paid to the council by way of compensation pursuant to the provisions of paragraphs (c) to (j) inclusive
30 of this subsection shall be placed by the council in a trust fund until expended on such new road.

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(Amendment).*

PART IV.

AMENDMENT OF THE WATER ACT, 1912-1952.

10. The Water Act, 1912-1952, is amended—

Amendment
of Act No.
44, 1912.

- 5 (a) by inserting at the end of the definition of
"River" in subsection three of section 4A the
words "and includes those waters of a tidal
river which are at any time capable of being
used for irrigation or for watering stock";
- 10 (b) (i) by omitting from the definition of "Joint
water supply scheme" in section five the
words "but not all";
- 15 (ii) by inserting at the end of the same definition
the words "and includes any work to which
this Part extends which is used or proposed
to be used for the purpose of supplying
water for irrigation by any occupier or
occupiers other than the occupier or
occupiers of the site of the work";
- 20 (iii) by inserting at the end of the definition of
"River" in the same section the words "and
includes those waters of a tidal river which
are at any time capable of being used for
irrigation or for watering stock";
- 25 (c) by inserting in subsection one of section 17c next
after the word "servants" the words "or
agents";
- (d) by inserting next after subsection three of sec-
tion 18B the following new subsection:—
- 30 (3A) Notwithstanding the provisions of sub-
sections two and three of this section—
- 35 (a) where any such license is held by a
member of the forces, discharged
member of the forces, discharged
soldier, other eligible person, member
of the Korea and Malaya Operations
Forces or discharged member of the
Korea

Sec. 4A.
(Right to
flow of
water.)

Sec. 5.
(Interpreta-
tion.)

Sec. 17c.
(Power to
enter and
remove
works.)

Sec. 18B.
(Classifica-
tion of
existing
licenses and
authorities.)

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5 Korea and Malaya Operations Forces
as defined in the War Service Land
Settlement Act, 1941, as amended by
subsequent Acts, (hereinafter in this
Division referred to as a war service
settler) in respect of any work to which
this Part extends which is used in
connection with a holding set apart for
disposal in accordance with the provi-
10 sions of section three of the War
Service Land Settlement Act, 1941, as
amended by subsequent Acts, or
acquired under the provisions of Part
IVA of the Closer Settlement Amend-
15 ment (Conversion) Act, 1943, as
amended by subsequent Acts (herein-
after in this Division referred to as a
war service holding) such license shall
be classified as Class A; and

20 (b) in the case of any such authority, where
the whole of the lands within the joint
water supply scheme the subject of the
authority are war service holdings,
such authority shall be classified as
25 Class A.

(e) by omitting section 18c and by inserting in lieu Subst.
thereof the following section:— sec. 18c.

30 18c. Any license or authority to appropriate
water for the purpose of irrigation from a river
or lake or section of a river in respect of which
a proclamation has been made under the provi-
sions of section 18A of this Act, which is granted
after the date of such proclamation, shall—

35 (a) if any such license is granted to a war
service settler in respect of any work
to which this Part extends which is used
in connection with a war service
holding, be classified by the Commis-
sion as a Class A license;

(b)

Classifica-
tion of
new licenses
and
authorities.

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- 5 (b) if, in respect of any such authority the whole of the lands within the joint water supply scheme the subject of the authority are war service holdings, be classified by the Commission as a Class A authority; and
- (c) in every other case, be classified by the Commission as a Class C license or authority.
- 10 (f) (i) by inserting next after subsection seven of section 18D the following new subsection:— Sec. 18D.
(Reclassification of
licenses and
authorities.)
- 15 (7A) If at any time a war service settler becomes the holder of a license which has been classified or reclassified by the Commission as a Class B or a Class C license and the licensed work is used in connection with a war service holding, such licence shall be reclassified by the Commission as a Class A license.
- 20 (ii) by inserting at the end of the same section the following new subsection:—
- 25 (9) (a) Notwithstanding the provisions of subsection eight of this section, a license which is held by a war service settler in respect of any work to which this Part extends which is used in connection with a war service holding shall not, except as provided in subsection (7A) of this section, be subject to reclassification by the Commission for a period of five years from the date upon which the license commenced to be held by the war service settler.
- 30 (b) Notwithstanding the provisions of subsection eight of this section, where the whole of the lands within a joint water supply scheme the subject of an authority are war service holdings, the authority shall
- 35 not

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not be subject to reclassification by the Commission for a period of five years from the date of the granting of the authority.

11. The Water Act, 1912-1952, is further amended by inserting next after section thirty-eight the following new section:—

Further amendment of Act No. 44, 1912.
New sec. 38A.

38A. (1) Where a trust has been constituted on terms that the trust shall pay a charge for water to be supplied by the Crown from works which include a bore and the Commission is of the opinion that such works should be taken over, administered and managed by the trust, the Commission may notify in the Gazette and in some newspaper circulating in the trust district a proposal that the works by means of which water is supplied to the trust shall be transferred to the trust to be so taken over, administered and managed and that the trust shall be required to repay the value of the works.

- (2) Any such proposal shall embody—
- (a) a description of the works;
 - (b) a statement of the value of the works;
 - (c) a statement of the terms upon which the trust shall repay the value of the works and interest thereon specifying—
 - (i) that such repayment be made by the provision of a sinking fund;
 - (ii) the rate of interest which shall be paid by the trust on the value of the works;
 - (iii) the number of years within which such repayment shall be made;
 - (d) if it is proposed to vary the maximum rate which may be assessed by the trust, a revised maximum rate which may be assessed by the trust after the works have been transferred to the trust; and
 - (e) such other provisions as the Commission may deem necessary or desirable.

(3)

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5 (3) If within eight weeks after such notification a petition is presented to the Commission, signed by at least one-third in number of the owners of land within the trust district, objecting, upon grounds stated in the petition, to—

- (a) the value of the works;
- (b) the number of years within which the repayment referred to in paragraph (c) of subsection two of this section is to be made;
- 10 (c) the revised maximum rate (if any) which may be assessed by the trust,

the Commission shall refer the matter or matters regarding which objection has been so made to the Board for inquiry and report.

15 (4) If within the said period no such petition is received, or upon receipt of the report of the Board in respect of any reference to it pursuant to the provisions of subsection three of this section, as the case may be, the Governor by proclamation in
20 the Gazette may—

(a) transfer to the trust the works described in the proposal referred to in subsection one of this section upon the terms set out in such proposal with such amendments, if
25 any,—

- (i) where no reference has been made to the Board, as the Commission may think fit; or
- (ii) in any other case, as the Board may
30 recommend; and

(b) appoint a date, hereinafter called the “transfer day”, not being earlier than the date of publication of the proclamation, on and from which the transfer of the works
35 to the trust shall be and become effective.

(5)

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(Amendment).*

(5) Upon the transfer day the following provisions shall take effect:—

- 5 (a) the trust shall take over and shall there-
after administer and manage the works so
transferred and in respect thereof may
exercise all the powers and shall discharge
all the duties conferred and imposed by this
Part in respect of works taken over by or
10 in charge of a trust, except such powers as
are conferred solely on the Commission;
- (b) the trust shall become liable to repay the
value of the works and interest and the
charge for interest and payments to the
sinking fund shall commence to run;
- 15 (c) the liability of the trust to pay the charge
for water to be supplied by the Crown shall
cease and determine: Provided that—
- (i) nothing in this paragraph shall be
deemed to discharge or to modify
20 or affect in any way the liability
of the trust to pay for water
supplied by the Crown at any time
prior to the transfer day;
- (ii) the charge for water to be supplied
25 by the Crown in respect of the
period then current shall be deemed
to accrue from day to day and be
apportioned accordingly;
- (iii) if the trust has paid the charge for
30 water to be supplied by the Crown
in respect of the period then
current, the proportion thereof
which relates to that part of such
period as has not elapsed on the
35 transfer day shall be credited
towards the liability of the trust
in respect of charges for interest
and

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- and payments to the sinking fund pursuant to the provisions of this section;
- 5 (iv) if the charge for water to be supplied by the Crown in respect of the period then current has not become due and payable, the trust shall, unless such charge has been paid by the trust, be liable to pay
- 10 and shall pay the proportion thereof which relates to that part of the said period which has elapsed on the transfer day on the date which but for this section would have been the due date for
- 15 payment of such charge next ensuing after the transfer day;
- (d) the revised maximum rate (if any) specified in the proposal referred to in subsection one of this section or any amendment thereof made by the proclamation referred to in subsection four of this section shall be and become the maximum rate which may be assessed by the trust thereafter and the
- 20 trustees may assess rates up to such revised maximum notwithstanding that a rate may already have been fixed and levied in respect of the rating year then current;
- 25 (e) the trust shall from such transfer day observe and perform all of the terms and conditions upon which the works have been transferred.
- 30 (6) Notwithstanding anything contained in this section the trust may, subject to the approval of the Commission, have the option of repaying the value of the works by a lump sum or in a less number of years than the period determined under the foregoing provisions of this section for such repayment.
- 35

(7)

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(Amendment).*

5 (7) (a) In this section the expression "the value of the works" means the value, as determined by the Commission or where varied under the foregoing provisions of this section as so varied, of the works by means of which water is supplied to a trust by the Crown.

(b) In determining such value the Commission shall—

10 (i) determine the value as at the date of the notification in the Gazette of the proposal referred to in subsection one of this section;

15 (ii) if the charge for water to be supplied by the Crown to be paid by a trust to which this section applies has been fixed to include the payment of the cost of the works, take into consideration the amount which has been paid by the trust towards the cost of the works; and

20 (iii) have regard to any certificate issued under the provisions of section 73D of this Act.

12. The Water Act, 1912-1952, is further amended— Further amendment of Act No. 44, 1912.

25 (a) by omitting from section one hundred and five the definition "Bore" and "Well" and by inserting in lieu thereof the following definition:— Sec. 105. (Definition.)

30 "Bore" means any bore or well or any excavation or other work connected or proposed to be connected with sources of sub-surface water and used or proposed to be used or capable of being used to obtain supplies of such water whether the water

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(Amendment).*

- 5 water flows naturally at all times or has
to be raised either wholly or at times
by pumping or other artificial means,
but does not include a work to which Part
II of this Act extends.
- (b) by omitting section 111A; Sec. 111A.
(Boun-
daries.)
- (c) by omitting from subsection one of section one hundred and twelve the words "to increase the flow of water therefrom"; Sec. 112.
(Wells to be
licensed.)
- 10 (d) by inserting in subsection two of section one hundred and thirteen after the word "bore" where secondly occurring the words "or the circumstances so warrant"; Sec. 113.
(Applica-
tion for
license.)
- 15 (e) by omitting from subsection one of section one hundred and fourteen the words "in the case of an application with respect to an artesian bore"; Sec. 114.
(Inquiry.)
- 20 (f) by omitting section one hundred and fifteen and by inserting in lieu thereof the following sections:— Subst.
sec. 115
and new sec.
115A.
- 25 115. (1) In any case where an application has not been advertised pursuant to subsection two of section one hundred and thirteen of this Act the Commission shall, as soon as practicable after it has investigated and considered the application, issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper. Issue of
license.
- 30 (2) In any other case the Commission shall—
- (a) where an inquiry has been held pursuant to section one hundred and fourteen of this Act and the board reports in favour of the issuing of a license; or
- (b)

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- (b) where no inquiry has been held pursuant to section one hundred and fourteen of this Act and the Commission decides to grant the application,
- 5 on payment of the prescribed fee issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.
- 10 115A. (1) Every owner of land upon which at the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954, there exists a bore or a partially constructed bore for the sinking of which a license under the provisions of this Part has not been issued shall within a period of twelve months after such commencement notify the Commission in writing of the existence of each such bore and shall make application for a license for and in respect of each such bore. Licensing of existing bores or wells.
- 15
- 20 (2) The provisions of subsection one of section one hundred and thirteen shall, mutatis mutandis, apply to and in respect of an application under this section.
- 25 (3) The Commission shall, as soon as practicable after receipt of an application under this section, issue a license to the applicant in the prescribed form, subject to such terms, limitations and conditions as it may deem fit and proper.
- 30 (4) Any person who contravenes the provisions of this section shall, upon conviction, be liable to a penalty not exceeding one hundred pounds and a further penalty not exceeding five pounds for each day during which the contravention continues after such conviction.
- 35 (g) by omitting from section one hundred and seventeen the word "well" and by inserting in lieu thereof the word "bore"; Sec. 117. (Benefit of license.)

(h)

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- (h) by omitting from section one hundred and eighteen the word "well" wherever occurring and by inserting in lieu thereof the word "bore";
- 5 (i) by inserting next after section one hundred and eighteen the following new section:—
- 118A. (1) No person shall, after the expiration of three months from the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954, act as a driller on or in connection with the construction of a bore unless he is the holder of a driller's license issued by the Commission.
- 10
- (2) Any person who contravenes the provisions of subsection one of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction.
- 15
- (3) A driller's licence may be issued by the Commission to any competent and capable person upon application being made therefor in writing and upon the Commission having been furnished with such information as to the competency and capability of the applicant as it may require.
- 20
- (4) A driller who acts as such on or in connection with the construction of a bore shall, upon demand being made by the Commission and within such time as the Commission may specify, furnish to the Commission or to such person as the Commission may direct and in such form as the Commission may require, such information relating to—
- 25
- (a) the nature and thickness of the various strata met with during the drilling performed by him in connection with the bore;
- 30
- (b)
- 35

Sec. 118.
(Penalty for alterations of licensed well or contravention of license.)

New sec.
118A.

Drillers to
be licensed.

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- (b) the location, quantities and quality of all supplies of water met with during such drilling;
- 5 (c) the height each such supply of water stands relative to the natural surface of the ground at the site of the bore; and
- 10 (d) the depth, diameter and other particulars of the bore and the casing inserted in the bore,

as the Commission may require.

(5) Any driller who contravenes the provisions of subsection four of this section shall, upon conviction, be liable to a penalty not exceeding twenty pounds and to a further penalty not exceeding two pounds for each day during which the contravention continues after such conviction and, in addition to the imposition of the said penalty, the Commission may cancel his driller's license.

15

20

(6) The Commission may at any time cancel any license issued pursuant to subsection three of this section if in its opinion the holder of the license is or has become incompetent or incapable or is not a fit and proper person to continue to be licensed as a driller or for such other good and sufficient cause as to the Commission seems proper.

25

(7) No person shall be entitled to claim or be paid any compensation whatsoever arising out of or by reason of the exercise by the Commission of the powers conferred by subsection six of this section.

30

(j) (i) by inserting in subsection one of section one hundred and twenty-three after the word "well" where firstly occurring the words "or bore";

35

Sec. 123.
(Waste of water.)

(ii)

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- (ii) by omitting from the same subsection the words "partial closing" and by inserting in lieu thereof the words "closing or partial closing";
- 5 (iii) by omitting from the same subsection the words "such well" and by inserting in lieu thereof the words "such artesian well or bore";
- 10 (iv) by omitting from subsection two of the same section the words "such well" and by inserting in lieu thereof the words "such artesian well or bore";
- 15 (k) (i) by omitting from subsection one of section one hundred and twenty-four the words "artesian wells" and by inserting in lieu thereof the words "artesian well or bore";
- 20 (ii) by omitting from the same subsection the words "such wells" and by inserting in lieu thereof the words "any artesian well or bore".

13. The Water Act, 1912-1952, is further amended—

- (a) by inserting in the definition of "Work" in section one hundred and thirty after the word "sewer" the words "bridge, culvert, fence,";
- 25 (b) by omitting subsection two of section 133A and by inserting in lieu thereof the following subsection:—
- (2) Where by virtue of any such further proclamation lands previously described as comprising two or more holdings become one holding or lands previously described as comprising one holding become two or more holdings such further proclamation may attach to the new holding or each of the new holdings such number of water rights as the Governor may consider proper.

Further amendment of Act No. 44, 1912.

Sec. 130. (Definitions.)

Sec. 133A. (Correction of errors in constitution of districts and provisional districts.)

(c)

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- (c) by inserting next after section 133A the following new subheading and section:— New sec.
133B.

Additional Works.

5 133B. At any time after the notification of the completion of the works of a provisional district or the proclamation of the constitution of a district the Commission may, for the purposes of such provisional district or district, construct or acquire any additional works and thereupon such additional works shall become works of the provisional district or district, as the case may be. Additional
works.

10

- (d) by inserting next after section one hundred and thirty-seven the following new section:— New sec.
137A.

15 137A. (1) In any provisional district or district in which water is supplied through pipes under pressure and any meter is installed by the Commission for the purpose of measuring the quantity of water so supplied to a holding, the Commission may impose such annual charge for the use of such meter as it may from time to time determine. The charge shall be paid to the bank by the owner of the land on or before the fifteenth day of September in each year. Meter
charges.

20

25 (2) The owner of the land shall pay to the Commission on demand all costs, charges and expenses incurred by the Commission in repairing or replacing any such meter which has become damaged or destroyed from any cause whatsoever and upon default in payment the amount of such costs, charges and expenses may be recovered by the Commission from such owner in any court of competent jurisdiction as a debt due and owing to the Commission.

30

- 35 (e) (i) by inserting in subsection three of section one hundred and thirty-nine after the word "rates" the words "or charges for water"; Sec. 139.
(Assessment
of rates and
charges.)

(ii)

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- (ii) by inserting in the same subsection after the word "rate" wherever occurring the words "or charge";
- 5 (iii) by inserting in subsection four of the same section after the word "rate" the words "or charge for water";
- (iv) by inserting in subsection five of the same section after the word "rate" the words "or charge for water";
- 10 (v) by inserting in subsection six of the same section after the word "rate" where firstly occurring the words "or charge for water";
- (vi) by inserting in the same subsection after the word "miscalculation" the words "or for any other reason whatsoever";
- 15 (vii) by inserting in the same subsection after the word "rate" where secondly occurring the words "or charge";
- 20 (f) (i) by omitting subsections nine and (9A) of section one hundred and forty-seven and by inserting in lieu thereof the following subsection:—
- (9) (a) Upon the Commission becoming aware that an owner has subdivided his holding and has disposed of any part or parts or all the parts thereof the Governor shall on the recommendation of the Commission declare that, as from a specified date not being earlier than the date the Commission became aware of such subdivision and disposal, the holding shall for the purposes of this Part cease to be a holding and that new holdings shall be deemed to be constituted in respect of each part disposed of and the part, if any, retained by the owner.

(b)

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(b) Thereupon if water rights were attached to the former holding the Governor on the recommendation of the Commission—

5 (i) shall apportion such water rights between the new holdings; or

(ii) shall increase the number of such water rights and apportion such increased number of water rights
10 between the new holdings; or

(iii) may in any case where water rights are not to be attached to any new holding by virtue of the provisions of paragraph (d) of this subsection reduce the water rights which were attached to the former holding by not more than the proportion which the area of any such new holding bears to the area of the former holding and shall apportion such reduced number of water rights between the remaining new holdings.
15
20

(c) Water rights as apportioned in accordance with the provisions of paragraph (b) of this subsection shall attach to each of the new holdings on and from the date specified in accordance with the provisions of paragraph (a) of this subsection.
25

(d) Water rights shall not be attached to any new holding which, in the opinion of the Commission, does not contain land capable of being irrigated from the works of the district or provisional district, or to which, in the opinion of the Commission, it is impracticable to convey water for irrigation from such works.
30
35

(e)

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5 (e) Rates and charges for water shall be assessed and payable in respect of each of the new holdings as from the date specified in accordance with the provisions of paragraph (a) of this subsection.

(f) Any necessary adjustment of rates and charges for water already assessed and levied in respect of the former holding shall be made.

10 (g) The rates and charges for water in respect of the new holdings shall be payable notwithstanding that the means of supplying and conveying water from the works of the district or provisional district
15 and of measuring such supply have not been provided in respect of all or any of such new holdings.

(ii) by omitting paragraph (f) of subsection ten
20 of the same section and by inserting in lieu thereof the following paragraph:—

(f) (i) Where the owner of a holding has not in accordance with the provisions of paragraph (a) of this subsection constructed or fully constructed the works therein
25 referred to the Commission may construct such works as have not been constructed by such owner and may recover the costs and expenses (including the cost of acquisition of any land or easement deemed
30 by the Commission to be required for such works) incurred in so doing in any court of competent jurisdiction as a debt either from such owner, or from the owner of the new holding for the purposes of which the
35 works are required to be constructed, as the Commission may determine.

(ii) Where pursuant to the provisions of subparagraph (i) of this paragraph any
part

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5 part of the cost referred to in that subparagraph is recovered from any person other than the former owner of the holding, that person may, subject to the terms of any agreement between himself and such former owner, recover that part from such former owner.

10 (iii) Any works which the Commission constructs pursuant to the provisions of subparagraph (i) of this paragraph shall be deemed to be constructed as works of the district or provisional district, as the case may be, and the provisions of section one hundred and forty-eight of this Act shall
15 apply to and in respect of the construction of such works.

(iii) by inserting at the end of subsection ten of the same section the following new paragraph:—

20 (h) If any works which are deemed by the Commission to be necessary to provide means of supplying and conveying water from the works of a district or provisional district to lands within that district or provisional district, as the case may be, which
25 have been acquired by the Crown by purchase or resumption under the provisions of the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, or by purchase or vesting under the provisions of the Closer Settlement Amendment
30 (Conversion) Act, 1943, as amended by subsequent Acts, or to any part or parts of any such lands, have not been otherwise constructed, the Commission shall have power and shall always be deemed to have had power to construct any such works

as

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as works of the district or provisional district within which any such lands are situated and the provisions of section one hundred and forty-eight of this Act shall apply and shall always be deemed to have applied to and in respect of the construction of such works.

- (g) by inserting next after section one hundred and forty-seven the following new subheading and section:—

Amalgamation of Holdings.

147A. (1) On application by the owner of two or more holdings the total area of which does not in the opinion of the Commission substantially exceed a home maintenance area the Commission may, if it thinks fit, recommend to the Governor that such holdings be amalgamated into one holding and thereupon the Governor may declare such holdings, as from the first day of July next following such declaration, to be one holding for the purposes of this Part and may fix the number of water rights which shall attach thereto.

(2) Where any declaration has been made in accordance with subsection one of this section the Commission shall determine which of the existing works of water supply are sufficient to serve adequately the holding into which holdings have been amalgamated as aforesaid and may at any time after the first day of July next following such declaration cease to supply water to such holding through any other work of water supply.

(3) All overdue rates and charges for water assessed in respect of any of the holdings declared to be one holding shall on the date on which the declaration referred to in subsection

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subsection one of this section takes effect be
overdue rates and charges in respect of the
holding into which such holdings have been
amalgamated.

- 5 (4) For the purposes of this sec-
tion "home maintenance area" means an area
which, when used for the purpose for which the
Commission considers it is reasonably fitted,
10 would in the opinion of the Commission be suffi-
cient for the maintenance in average seasons
and circumstances of an average family.

14. The Water Act, 1912-1952, is further amended by
inserting next after section one hundred and fifty-four
the following new section:—

Further
amendment
of Act No.
44, 1912.
New sec.
154A.

- 15 154A. At any time after the notification of the com-
pletion of the works of a provisional district or the
proclamation of the constitution of a district the
Commission may for the purposes of such provisional
district or district construct or acquire any
20 additional works and thereupon such additional
works shall become works of the provisional district
or district, as the case may be.

Additional
works.

15. The Water Act, 1912-1952, is further amended—

Further
amendment
of Act No.
44, 1912.

- 25 (a) by inserting in the definition of "Work" in sec-
tion one hundred and sixty-five after the word
"pipe" the words "sewer, bridge, culvert,
fence";
- (b) (i) by omitting from subsection three of section
one hundred and seventy-two the words
30 "and shall be at an equal rate per acre";
- (ii) by inserting at the end of subsection five
of the same section the following words:—
35 "For the purposes of Division 1 of Part
XXIII of the Conveyancing Act, 1919-1953,
the expression 'rate or tax' in paragraph

Sec. 165.
(Defini-
tions.)

Sec. 172.
(Contribu-
tions.)

(b)

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(b) of section one hundred and eighty-seven of the said Act shall be deemed to include every contribution referred to in this subsection."

- 5 (c) by inserting next after section one hundred and seventy-five the following new section:— New sec.
175A.

10 175A. Notwithstanding anything in this Part contained different amounts of contributions and different amounts of rates may be fixed for different holdings and for different parts of holdings in the same district or provisional district and in fixing such different amounts regard may be had to— Benefit to be
taken into
account.

15 (a) the degree of benefit conferred upon the lands by the works of the district or provisional district;

20 (b) the value of the protection afforded to the lands by the works of the district or provisional district having regard to the purpose for which the lands are used; and

(c) the quantity of water normally used for the classes of crops or plantings on the lands.

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PART V.

AMENDMENT OF THE RIVERS AND FORESHORES IMPROVEMENT
Act, 1948.

16. The Rivers and Foreshores Improvement Act, Amendment
5 1948, is amended by omitting from section seven the word of Act No.
"Commission" wherever occurring and by inserting in 20, 1948.
lieu thereof the words "Constructing Authority".

Sec. 7.
(Work bene-
fitting land,
road or work
of a council.)

17. The Rivers and Foreshores Improvement Act,
1948, is further amended by inserting next after section
10 twenty-three the following new section:—

Further
amendment
of Act. No.
20, 1948.
New sec.
23A.

23A. (1) No owner or occupier of land or other
person whomsoever shall, except with the permis-
sion of the Constructing Authority—

Removal of
soil from
or in
proximity
to banks
of rivers.

15 (a) make or cause or allow to be made any
excavation on, in or under the bank of a
river or on, in or under any land situate
within a distance of two chains measured
horizontally from the top of the bank of a
river; or

20 (b) remove or cause or allow to be removed any
soil from the bank of a river or from any
land situate within a distance of two chains
measured horizontally from the top of the
bank of a river.

25 (2) (a) Application for a permit under this
section shall be made in writing to the Constructing
Authority and shall specify the land in respect of
which the permit is desired and supply full particu-
lars of the work proposed to be undertaken.

30 (b) The Constructing Authority may,
after such investigation as the Constructing Auth-
ority may deem necessary, refuse any permit applied
for under this section or may grant the same subject
to such limitations and conditions (including a condi-
35 tion limiting the time the permit shall remain in
force) as the Constructing Authority may think fit.

(c)

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(c) The Constructing Authority may at any time revoke or vary any permit issued under the provisions of this section.

5 (3) Any owner or occupier of land or other person whomsoever who, in respect of any land—

(a) makes or causes or allows to be made any excavation or removes or causes or allows to be removed any soil contrary to the provisions of this section; or

10 (b) fails to comply with any of the limitations or conditions for the time being attached to any permit granted under the provisions of this section,

15 shall be guilty of an offence and shall be liable, for the first offence, to a penalty not exceeding fifty pounds and for a subsequent offence to a penalty not exceeding one hundred pounds.

(4) Where—

20 (a) any excavation has been or is being made or any soil has been or is being removed contrary to the provisions of this section; or

25 (b) the Constructing Authority is of the opinion that any excavation on, in or under any land or the removal of soil from any land, although not contrary to the provisions of this section and whether made or effected before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954—

30 (i) is damaging or detrimentally affecting or is likely to damage or detrimentally affect the bank of a river; or

35 (ii) is likely to cause, whether directly or indirectly, a river to change its course,

the Constructing Authority may by notice in writing direct the owner or occupier of the land on which
such

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5 such excavation has been or is being made or from
which soil has been or is being removed to take such
measures and in such manner and within such time
as may be specified in such notice as the Construct-
ing Authority deems necessary to ensure that the
bank of the river will not be damaged or detrimen-
tally affected or that the river will not be caused,
whether directly or indirectly, to change its course,
as the case may be, by reason of such excavation
10 or removal of soil.

(5) If any owner or occupier fails to comply
with the terms of any notice given to him pursuant
to subsection four of this section, the Constructing
Authority may authorise any person to enter upon
15 the land in respect of which such notice has been
given and there to carry out the measures specified
in such notice and may recover the cost incurred in
so doing from such owner or occupier in any court
of competent jurisdiction as a debt due and owing
20 by him to the Constructing Authority and until re-
payment such cost shall be a charge on the land.

(6) The provisions of subsections one, two,
three, four and five of this section shall not apply to
or in respect of the exercise of any rights lawfully
25 exercisable—

- (a) under any license, permit or authority for
a joint water supply scheme issued under
any of the provisions of the Water Act,
1912, as amended by subsequent Acts;
- 30 (b) under any lease, license, permit or other
right issued under the provisions of the
Acts relating to mining or under the pro-
visions of the Crown Lands Consolidation
Act, 1913, as amended by subsequent Acts,
or of any other Act; or
- 35 (c) by any statutory body or by any council.

(7) Where the Constructing Authority is of
the opinion that the making of any excavation on,
in or under the bank of a river, or on, in or under
any

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5 any land, or the removal of soil from the bank of a river, or from any land, in the exercise of any of the rights referred to in subsection six of this section whether before or after the commencement of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1954—

- (a) is damaging or detrimentally affecting or is likely to damage or detrimentally affect the bank of a river; or
- 10 (b) is likely to cause, whether directly or indirectly, a river to change its course,

the Constructing Authority may by notice in writing direct the person, statutory body or council by whom or on whose behalf any such excavation has been or is being made or any such soil has been or is being removed to take such measures and in such manner and within such time as may be specified in such notice as the Constructing Authority deems necessary to ensure that the bank of the river will not be damaged or detrimentally affected or that the river will not be caused, whether directly or indirectly, to change its course, as the case may be, by reason of such excavation or removal of soil and such person, statutory body or council shall comply with the terms of such notice accordingly.

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(8) If any person or council fails to comply with the terms of any notice given pursuant to subsection seven of this section the Construction Authority may authorise any person to enter upon the land in respect of which such notice has been given and there to carry out the measures specified in such notice and may recover the cost incurred in so doing from such firstmentioned person or from such council, as the case may be, in any court of competent jurisdiction as a debt due and owing by him or by it to the Constructing Authority.

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(9) For the purposes of this section the Constructing Authority, or any person authorised by it, may enter upon and inspect any land.

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(10) In this section—

- 5 “Constructing Authority” means the Minister
for Public Works or the Commission, re-
spectively, according as to whether the
waters of the river immediately adjacent to
the land on which an excavation has been
or is being made or from which soil has
been or is being removed are tidal waters
or are not tidal waters, as the case may be.
- 10 “Soil” means the surface of any land and all
matter or material whatsoever lying be-
neath that surface.

PART VI.

AMENDMENT OF THE WESTERN LANDS ACT OF 1901.

- 15 **18.** The Western Lands Act of 1901, as amended by subsequent Acts, is amended— Amendment of
Act No. 70,
1901.
- (a) by omitting from subsection five of section Sec. 31.
thirty-one the word “shallow” wherever occur- (Determina-
tion of value
of improve-
ments.)
ring;
- 20 (b) by omitting from the same subsection the words
“one hundred” and by inserting in lieu thereof
the words “two hundred”.

PART VII.

AMENDMENT OF THE MURRUMBIDGEE IRRIGATION AREAS
OCCUPIERS RELIEF ACT, 1934.

- 25 **19.** The Murrumbidgee Irrigation Areas Occupiers
Relief Act, 1934, as amended by subsequent Acts, is
amended by omitting sections twelve and fourteen. Amendment
of Act No.
52, 1934.
Secs. 12
and 14.
(Determina-
tion of
water rights
attached to
holdings and
the prices
thereof;
numbers and
prices not to
be altered,
etc.)

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PART VIII.

MISCELLANEOUS.

20. (1) Except as hereinafter provided this section shall apply to—

Reduction
of rentals
of certain
leases.

5 (a) any lease from the Crown—

- (i) within an irrigation area constituted under the Irrigation Act, 1912, as amended by subsequent Acts;
- 10 (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;
- (iii) made under or by operation of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, before the first day of January, one thousand nine hundred and thirty-three; and
- 15 (iv) being in respect of land notified in the Gazette as available for disposal for the purpose of residence, or described in the Gazette as suitable for residential purposes, or comprising an irrigation farm lease of an area not exceeding five acres;
- 20

25 (b) any lease from the Water Conservation and Irrigation Commission—

- (i) within the irrigation area constituted under the provisions of the Wentworth Irrigation Act;
- 30 (ii) subsisting at the first day of January, one thousand nine hundred and forty-eight;
- (iii) made under or by operation of the Wentworth Irrigation Act;
- 35 (iv) being in respect of land which in the opinion of the Water Conservation and Irrigation Commission is mainly suitable for residential purposes; and

5—D

(v)

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5 (v) being in respect of land which has throughout the whole of the period from the thirty-first day of December, one thousand nine hundred and thirty-two, to the first day of January, one thousand nine hundred and forty-eight,—

10 (a) been leased land under the Wentworth Irrigation Act by way of lease subsisting at the said thirty-first day of December and of any new lease granted from time to time during such period; and

(b) been held by—

15 (i) the lessee under the lease subsisting at the said thirty-first day of December, or

20 (ii) that lessee and any lessee who became lessee by transfer or assignment from or devolution under the will or intestacy of any immediately prior lessee.

25 (2) This section shall not apply to any lease referred to in paragraph (a) of subsection one of this section—

30 (a) being in respect of land notified in the Gazette as available for disposal for the purpose of residence and in respect of which the Water Conservation and Irrigation Commission has, before the commencement of this section, pursuant to the provisions of subsection ten of section 142D of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to the land comprised in such lease being used for
35 any of the purposes specified in the said subsection ten; or

(b)

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(b) in respect of which the annual rental has before the commencement of this section been determined consequent upon the addition of land thereto.

5 (3) Subject to this section the annual rental of any lease to which this section applies shall as on and from the first day of January, one thousand nine hundred and forty-eight, be the annual rental of such lease as at the thirty-first day of December, one thousand nine
10 hundred and thirty-two, reduced by twenty-two and one-half per centum:

Provided that where in pursuance of the provisions of section one hundred and forty-three of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts,
15 the annual rental for the second or any succeeding period of any lease referred to in paragraph (a) of subsection one of this section has been determined as in the said section one hundred and forty-three provided—

20 (a) before the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the first day of January, one thousand nine hundred and forty-eight, and for the unexpired portion of the current period of such
25 lease be the annual rental as so determined reduced by twenty-two and one-half per centum;

30 (b) after the first day of January, one thousand nine hundred and forty-eight, the annual rental for such lease shall, subject to this section, as from the commencement of such second or succeeding period and for such period be the annual rental as so determined reduced by twenty-two and one-half per centum.

(4) Where by reason of any reduction made in
35 pursuance of any enactment other than this section the annual rental under any lease to which this section applies has been decreased, the reduction prescribed by subsection three of this section shall not be in addition
to

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to the amount of such decrease, but such decrease shall be taken into account in determining the annual rental to be paid consequent upon the reduction so prescribed.

(5) Where after the commencement of this
5 section—

(a) the Water Conservation and Irrigation Commission has, pursuant to the provisions of subsection ten of section 142D of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, consented to any land comprised
10 in a lease referred to in paragraph (a) of subsection one of this section and notified in the Gazette as available for disposal for the purpose of residence being used for any of the purposes specified in the said subsection ten; or

15 (b) the annual rental of any lease referred to in paragraph (a) of subsection one of this section has been determined consequent upon the addition of land thereto; or

20 (c) the Water Conservation and Irrigation Commission decides that the land comprised in any lease to which this section applies is used mainly or substantially for any business purpose,

the provisions of this section shall cease to apply to the
25 lease referred to in paragraph (a), (b) or (c) of this subsection as from the date of such consent, determination or decision, as the case may require.

(6) This section shall be deemed to have commenced upon the first day of January, one thousand nine
30 hundred and forty-eight.