

FIRST PRINT

**FARM WATER SUPPLIES (TRANSFER OF FUNCTIONS)
AMENDMENT BILL 1986**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Soil Conservation (Amendment) Bill 1986 is cognate with this Bill.

The object of this Bill is to amend the Farm Water Supplies Act 1946—

- (a) to transfer to the State Bank certain functions currently exercised by the Water Resources Commission ("the Commission") in relation to applications for advances to carry out farm water supply works;
- (b) to transfer to the Director-General of the Department of Agriculture certain functions currently exercised by the Commission in relation to the investigation, supervision and the carrying out of farm water supply works pertaining to irrigation and not concerned with bores;
- (c) to remove from the operation of the Principal Act provisions relating to farm water supply work for domestic or stock purposes (proposed to be dealt with under the Soil Conservation Act 1938) except to the extent that the work involves the construction or improvement of a bore;
- (d) to increase penalties for offences; and
- (e) to make amendments by way of statute law revision.

The Bill also makes provision for the transfer to the Public Service of certain officers and employees of the Commission engaged in the carrying out of functions being transferred from the Commission.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on 1 July 1986.

Clause 3 defines the Principal Act.

Clause 4 is a formal provision that gives effect to the Schedules of amendments to the Principal Act.

Clause 5 is a formal provision that gives effect to the Schedule of savings and transitional provisions.

Schedule 1 (1) (a) defines "bore" as meaning a bore or well for connection with a sub-surface water source.

Schedule 1 (1) (b) omits a definition which will now be unnecessary.

Schedule 1 (1) (c) updates the definition of "farming lands" for the purposes of the Principal Act by including lands declared by the Governor under the definition as currently in force to be farming lands. Provision is also made for the definition to be expanded by regulation rather than, as at present, by proclamation by the Governor.

Schedule 1 (1) (d) alters the definition of "works" for the purposes of the Principal Act so that the definition will no longer include works for domestic or stock purposes except to the extent that the works involve the construction or improvement of a bore. Parallel provisions to the Principal Act exist in the Soil Conservation Act 1938 and those provisions will apply to domestic and stock water supply works not involving bores as a consequence of amendments made by the proposed Soil Conservation (Amendment) Act 1986.

Schedule 1 (2) inserts proposed section 2A into the Principal Act which provides that the "appropriate Authority" for the purposes of the farm water supply works to which the Principal Act applies is—

- (a) the Director-General of the Department of Agriculture to the extent to which the works do not involve the construction or improvement of a bore; or
- (b) the Commission to the extent to which the works involve the construction or improvement of a bore.

Schedule 1 (3) requires an application for an advance of money for the carrying out of works to be made to the State Bank rather than to the Commission and empowers the State Bank to specify the form of the application and the amount of the deposit to accompany it as security for the cost of an investigation of the application.

Schedule 1 (4) (a)–(c) transfer from the Commission to the State Bank the function of granting or refusing an application for an advance.

Schedule 1 (4) (d) is consequential on the functions of the Commission in relation to the carrying out of works on behalf of farm owners being reallocated.

Schedule 1 (5) (a) is consequential on Schedule 1 (4) (a)–(c).

Schedule 1 (5) (b) enables the State Bank to vary, during the term of an advance, the rate of interest payable on money advanced for the carrying out of works.

Schedule 1 (5) (c) and (17) (c) transfer from the Irrigation Agency of the State Bank to the Rural Industries Agency of that Bank the exercise of the functions conferred on the State Bank under the Principal Act.

Schedule 1 (6) requires the State Bank, rather than the Commission, to be satisfied as to certain matters before making an advance.

Schedule 1 (7) requires the State Bank, rather than the Commission, to determine the amount of an advance on satisfactory completion of the works. The State Bank is empowered to rely on a certificate of the appropriate Authority that works have been completed and as to the actual cost of the works.

Schedule 1 (8) transfers from the Commission to the State Bank the power to determine the manner in which advances will be made and confers on the appropriate Authority and the State Bank the power to enter land and inspect works, being a power currently conferred on the Commission.

Schedule 1 (9) transfers from the Commission to the appropriate Authority the power to carry out on behalf of a farm owner works in respect of which an advance is made.

Schedule 1 (10) transfers from the Commission to the appropriate Authority the power to hire out machinery, plant and equipment to be used for the carrying out of works by a farm owner.

Schedule 1 (11) requires farm owners who make a joint application for an advance to notify the State Bank rather than the Commission of the proportions of the advance to be repaid by each owner.

Schedule 1 (12) (a), (b), (d), (e) and (f) are consequential on Schedule 1 (2).

Schedule 1 (12) (c) transfers from the Commission to the Bank the power to determine the term of a loan for an advance and the responsibility for assessing the satisfactory maintenance of works.

Schedule 1 (13) transfers from the Commission to the appropriate Authority the power to carry out works for farm owners for cash payments.

Schedule 1 (14) transfers from the Commission to the appropriate Authority the power to supervise on behalf of farm owners the carrying out of works and to carry out surveys and investigations in respect of works.

Schedule 1 (15) empowers the appropriate Authority, rather than the Commission, to enter land on which the appropriate Authority is to carry out works and to use materials on the land.

Schedule 1 (16) requires any necessary license, permit, authority or approval under Part II, V or VIII of the Water Act 1912 to be obtained before works are carried out. Currently the requirement only relates to a license, permit or authority under Part II of that Act.

Schedule 1 (17) (a), (b) and (d) and (18) transfer from the Commission to the State Bank functions relating to the making of loans to Boards of Management constituted under the Private Irrigation Districts Act 1973 for the purposes of water supply and conveying works under that Act. The requirement for the Minister's approval of such a loan has been deleted and the State Bank is empowered to specify the form of the application for such a loan.

Schedule 1 (19) increases from \$250 to \$800 the maximum penalty for misuse of an advance or for disposing of anything forming part of the security on which an advance is made.

Schedule 1 (20) (a) and (c) empower the Governor, rather than the Commission, to make regulations for the purposes of the Principal Act.

Schedule 1 (20) (b) increases from \$100 to \$500 the maximum penalty which may be imposed for a breach of a regulation.

Schedule 2 makes amendments to the Principal Act by way of statute law revision.

Schedule 3 makes provisions of a savings and transitional nature including special provisions for the rights and entitlements of members of the staff of the Commission transferred as a result of the transfer of functions to be effected by the proposed Act.

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AMENDMENT BILL 1986**

NEW SOUTH WALES



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**FARM WATER SUPPLIES (TRANSFER OF FUNCTIONS)
AMENDMENT BILL 1986**

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act to amend the Farm Water Supplies Act 1946 to make provision for the transfer of certain functions under that Act from the Water Resources Commission; and for other purposes.

See also Soil Conservation (Amendment) Bill 1986.

Farm Water Supplies (Transfer of Functions) Amendment 1986

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:

5 Short title

1. This Act may be cited as the "Farm Water Supplies (Transfer of Functions) Amendment Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this
10 Act.

(2) Except as provided by subsection (1), this Act shall commence on 1 July 1986.

Principal Act

3. The Farm Water Supplies Act 1946 is referred to in this Act as the
15 Principal Act.

Amendment of Act No. 22, 1946

4. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Savings and transitional provisions

20 5. Schedule 3 has effect.

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 2 (**Interpretation**)—

5 (a) Definition of “Bore”—

After the definition of “Bank”, insert:

10 “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 sub-surface water, whether the water flows naturally at all times or has to be raised either wholly or at times by pumping or other artificial means.

(b) Definition of “Commission”—

15 Omit the definition.

(c) Definition of “Farming lands”—

Omit the definition, insert instead:

“Farming lands” means—

- 20 (a) lands used for farming, agricultural, horticultural, viticultural, vegetable-growing, market gardening, pastoral, grazing, poultry farming, silvicultural, floricultural or piscicultural purposes; and
- 25 (b) any other lands declared by the regulations made under this Act to be farming lands for the purposes of this Act.

(d) Definition of “Works”—

Omit the definition, insert instead:

“Works” means—

- 30 (a) works necessary for the provision or improvement of the water supply to farming lands for irrigation purposes, or for the preparation of farming lands for irrigation, whether or not involving the construction or improvement of a bore; or

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (b) the construction or improvement of a bore for the provision or improvement of the water supply to farming lands for domestic or stock purposes.

(2) Section 2A—

5 After section 2, insert:

Appropriate Authority for works

2A. In this Act, a reference to the appropriate Authority, in relation to any works, is a reference—

- 10 (a) to the Director-General of the Department of Agriculture to the extent to which the works do not involve the construction or improvement of a bore; or
- 15 (b) to the Water Resources Commission constituted under section 4 of the Water Resources Commission Act 1976 to the extent to which the works involve the construction or improvement of a bore.

(3) Section 3 (**Application for advance**)—

(a) Section 3—

Omit “Commission” wherever occurring, insert instead “Bank”.

(b) Section 3 (2)—

20 Omit “in or to the effect of the prescribed form and shall be accompanied by the prescribed deposit”, insert instead “in a form approved by the Bank and shall be accompanied by such deposit as the Bank may require”.

(4) Section 4 (**Bank to determine application**)—

25 (a) Section 4 (1)—

Omit “Commission”, insert instead “Bank”.

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 4 (2)—

Omit the subsection, insert instead:

5 (2) Where the Bank decides to make an advance it shall furnish to the applicant a statement setting out a description of the works which the Bank has approved be carried out and specifying—

10 (a) where the works are to be carried out by any person other than the appropriate Authority—the amount proposed to be advanced, not exceeding 90 per cent of the cost of the works as estimated by the Bank; or

(b) where the works are to be carried out by the appropriate Authority—

15 (i) the terms and conditions on which the appropriate Authority is prepared to carry out the works;

(ii) the charge which the appropriate Authority requires to be paid for the carrying out of the works by it or the manner in which that charge is to be assessed; and

20 (iii) the amount, not less than 10 per cent of that charge, to be paid to the appropriate Authority under subsection (3).

(c) Section 4 (3)—

Omit “Commission to that effect in the prescribed form”, insert instead “Bank in a form approved by the Bank”.

25 (d) Section 4 (3)—

Omit “Commission” where secondly and thirdly occurring, insert instead “appropriate Authority”.

(5) Section 5 (**Bank to make advances**)—

(a) Section 5 (1)—

30 Omit “Commission”, insert instead “Bank”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 5 (1)—

Omit “and prevailing at the time the advance is made”, insert instead “from time to time”.

(c) Section 5 (2)—

5 Omit “Irrigation Agency”, insert instead “Rural Industries Agency”.

(6) Section 6 (**Conditions precedent to advances**)—

Omit “Commission”, insert instead “Bank”.

(7) Section 7—

10 Omit the section, insert instead:

Amount of advance where works not carried out by appropriate Authority

15 7. (1) The amount of an advance to be made to an owner where the works are to be carried out by any person other than the appropriate Authority shall be finally determined by the Bank upon the completion of the works and shall not exceed 90 per cent of the actual cost incurred by the owner in respect of the carrying out of the works.

20 (2) A certificate issued by the appropriate Authority certifying—

(a) that works have been completed; and

(b) that a specified amount is the actual cost incurred by an owner in respect of the carrying out of works,

is evidence in favour of the Bank of the matters certified.

25 (8) Section 8 (**Payment of advance where works not carried out by appropriate Authority**)—

(a) Section 8 (1)—

30 Omit “or body, including the owner, other than the Commission”, insert instead “”, other than the appropriate Authority”.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 8 (1)—

Omit “Commission” where secondly occurring, insert instead “Bank”.

(c) Section 8 (1)—

5 Omit “Commission” where lastly occurring, insert instead “appropriate Authority”.

(d) Section 8 (2)—

Omit “Commission”, insert instead “appropriate Authority or the Bank”.

10 (9) Section 9 (**Appropriate Authority may carry out works where advance is made**)—

(a) Section 9 (1)–(4)—

Omit “Commission” where firstly occurring, insert instead “appropriate Authority”.

15 (b) Section 9 (5)—

Omit “Commission” where firstly, thirdly and fourthly occurring, insert instead “appropriate Authority”.

(c) Section 9 (5)—

20 Omit “under the hand of one of the Commissioners constituting the Commission”, insert instead “issued by the appropriate Authority”.

(10) Section 10 (**Appropriate authority may let machinery, etc., on hire**)—

Omit “Commission” wherever occurring, insert instead “appropriate Authority”.

25 (11) Section 11 (**Works of joint water supply**)—

Section 11 (2)—

Omit “Commission”, insert instead “Bank”.

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(12) Section 12 (**Repayment of advance secured by deed of charge**)—

(a) Section 12 (2)—

5 Omit “or body, including the owner, other than the Commission”, insert instead “, other than the appropriate Authority”.

(b) Section 12 (2)—

Omit “Commission” where secondly and thirdly occurring, insert instead “appropriate Authority”.

(c) Section 12 (2)—

10 Omit “Commission” where fourthly and fifthly occurring, insert instead “Bank”.

(d) Section 12 (3)—

Omit “Commission” where firstly occurring, insert instead “appropriate Authority”.

15 (e) Section 12 (3)—

Omit “Commission” where secondly occurring, insert instead “appropriate Authority”.

(f) Section 12 (3)—

20 Omit “or body, including the owner, other than the Commission”, insert instead “, other than the appropriate Authority”.

(13) Section 13 (**Appropriate Authority may carry out works where advance not made**)—

(a) Section 13 (1)—

25 Omit “Commission” wherever occurring, insert instead “appropriate Authority”.

(b) Section 13 (2)—

30 Omit “under the hand of one of the Commissioners constituting the Commission of”, insert instead “issued by the appropriate Authority certifying that a specified amount is”.

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(c) Section 13 (2)—

Omit “Commission” where secondly, thirdly and fourthly occurring, insert instead “appropriate Authority”.

5 (14) Section 14 (**Appropriate Authority may carry out investigations, prepare estimates, etc.**)—

Omit “Commission” wherever occurring, insert instead “appropriate Authority”.

(15) Section 15 (**Entry on land and use of materials**)—

10 Omit “Commission” wherever occurring, insert instead “appropriate Authority”.

(16) Section 16 (**Work to be licensed**)—

(a) Omit “Part II of the Water Act, 1912, as amended by subsequent Acts,”, insert instead “Part II, V or VIII of the Water Act 1912”.

15 (b) Omit “a license, permit or authority under the said Part II”, insert instead “the requisite license, permit, authority or approval under that Act”.

(17) Section 16A (**Loan to Board**)—

(a) Section 16A (2)—

20 Omit “Commission in the prescribed manner”, insert instead “Bank in a form approved by the Bank”.

(b) Section 16A (3)—

Omit “the Commission may, with the approval of the Minister,”, insert instead “the Bank may”.

(c) Section 16A (6) (a)—

25 Omit “Irrigation Agency”, insert instead “Rural Industries Agency”.

(d) Section 16A (6) (c)—

Omit “Commission”, insert instead “Bank”.

*Farm Water Supplies (Transfer of Functions) Amendment 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (18) Section 16B (**Security for loan**)—
 Omit “Bank may direct”, insert instead “Bank determines”.
- (19) Section 17 (**Offences**)—
 Omit “two hundred and fifty dollars”, insert instead “\$800”.
- 5 (20) Section 18 (**Regulations**)—
 (a) Section 18 (1)—
 Omit “Commission”, insert instead “Governor”.
- (b) Section 18 (1)—
 Omit “one hundred dollars”, insert instead “\$500”.
- 10 (c) Section 18 (2)—
 Omit the subsection.

SCHEDULE 2

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION

15

- (1) Long title—
 Omit “the Water Resources Commission”, insert instead “certain Government instrumentalities”.
- (2) Section 2, definition of “Bank”—
 20 Omit “Rural Bank”, insert instead “State Bank”.
- (3) (a) Section 5 (1)—
 Omit “subsection (3) of section 4”, insert instead “section 4 (3)”.
- (b) Section 5 (3)—
 25 Omit “Division I of Part VI_B of the Government Savings Bank Act, 1906, as amended by subsequent Acts”, insert instead “Division 1 of Part IV of the State Bank Act 1981”.

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued*

- (4) Section 9 (4)—
Omit “subsection (3) of section 4”, insert instead “section 4 (3)”.
- (5) (a) Section 11 (1)—
5 Omit “subsection (2) of section 3 and of section 4”, insert instead “sections 3 (2) and 4”.
- (b) Section 11 (2)—
Omit “subsection (3) of section 4”, insert instead “section 4 (3)”.
- (6) (a) Section 16A (1)—
10 Omit “Private Irrigation Districts and Water (Amendment) Act, 1973”, insert instead “Private Irrigation Districts Act 1973”.
- (b) Section 16A (6) (b)—
Omit “subsection (1) of section 5”, insert instead “section 5 (1)”.
- (7) Section 16B—
Omit “subsection (3) of section 16A”, insert instead “section 16A (3)”.
- 15 (8) Section 19—
Omit “court of petty sessions holden before a stipendiary magistrate”, insert instead “Local Court constituted by a Magistrate”.

SCHEDULE 3

(Sec. 5)

20 SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule—
- “Commission” means the Water Resources Commission constituted under section 4 of the Water Resources Commission Act 1976;
- 25 “Minister” means the Minister administering section 9 (appointment of officers and employees of Commission) of the Water Resources Commission Act 1976;

*Farm Water Supplies (Transfer of Functions) Amendment 1986*SCHEDULE 3—*continued*SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act;

5 “transfer date”, in relation to a transferred servant, means the date on which the transferred servant is transferred under clause 2;

“transferred servant” means a person who is transferred to a position in the Public Service under clause 2.

Transfer of officers or employees of the Commission

10 2. (1) The Governor may, on the recommendation of the Minister, by order published in the Gazette transfer an officer or employee of the Commission concerned in the administration of the Principal Act to a position in the Public Service.

(2) An officer or employee of the Commission who is the subject of such an order becomes, on the date specified in the order as the date of transfer, an officer of the Public Service in accordance with the terms of the order.

15 (3) An order for the transfer of an officer or employee of the Commission under this clause has no effect if published more than 1 year after the commencement of this Act.

(4) This clause has effect notwithstanding anything in the Public Service Act 1979 or the Water Resources Commission Act 1976 and a transferred servant shall be deemed to have been transferred in accordance with any relevant provisions of those Acts.

20 Remuneration and other rights

25 3. (1) A transferred servant shall be paid salary or wages, and allowances, at a rate not less than the rate that was payable to the transferred servant immediately before the transfer date as an officer or employee of the Commission, subject, in the case of salary or wages, to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males, or adult females, as the case may be, for the time being in force within the meaning of Part V of the Industrial Arbitration Act 1940 until the transferred servant’s salary is, or the transferred servant’s wages or allowances are, varied or altered by an award of a competent tribunal, by an industrial agreement, by or under the Public Service Act 1979 or otherwise in accordance with law.

30 (2) Except as otherwise provided by this Schedule, where any condition of employment of any transferred servant was regulated, immediately before the transfer date, by an award of a competent tribunal or by an industrial agreement applicable to the transferred servant as an officer or employee of the Commission, being a condition which does not conflict with any provision of the Public Service Act 1979 or the regulations under that Act, the condition shall continue to apply to the transferred servant until it is regulated by an award of a competent tribunal, by an industrial agreement, by or under the Public Service Act 1979 or otherwise in accordance with law.

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*Farm Water Supplies (Transfer of Functions) Amendment 1986*SCHEDULE 3—*continued*SAVINGS AND TRANSITIONAL PROVISIONS—*continued***Superannuation**

4. (1) Subject to subclause (2), where a transferred servant was, immediately before the transfer date, a contributor to a superannuation scheme, the transferred servant—
- 5 (a) shall retain any rights accrued or accruing to the transferred servant as such a contributor; and
- (b) may continue to contribute to any superannuation scheme to which the transferred servant was a contributor immediately before the transfer date,
- as if the transferred servant had continued to be an officer or employee of the Commission during the transferred servant's service with the Government of New South
- 10 Wales, and—
- (c) the transferred servant's service with the Government of New South Wales shall be deemed to be service with the Commission for the purposes of any law under which those rights accrued or were accruing or under which the transferred servant continues to contribute; and
- 15 (d) the transferred servant shall be deemed to be an officer or employee, as the case requires, of the Commission for the purposes of any superannuation scheme to which, by the operation of this subclause, the transferred servant is entitled to contribute.
- (2) A person who, but for this subclause, would be entitled under subclause (1) to
- 20 contribute to a superannuation scheme shall not be so entitled upon the person becoming a contributor to any other superannuation scheme, and the provisions of subclause (1) (d) cease to apply to or in respect of the person in any case where the person becomes a contributor to another superannuation scheme.
- (3) Subclause (2) does not prevent the payment to a transferred servant, upon the
- 25 transferred servant ceasing to be a contributor to a superannuation scheme, of such amount as would have been payable to the transferred servant if the transferred servant had ceased, by reason of resignation, to be a contributor.
- (4) Where, pursuant to subclause (1) (b), a transferred servant continues to contribute to a superannuation scheme, the Government of New South Wales shall contribute to
- 30 that superannuation scheme the same amount as would have been payable by the Commission if that person had remained an officer or employee of the Commission and been paid salary or wages at the rate paid to the transferred servant by the Government of New South Wales.
- (5) This clause applies to or in respect of the preservation of rights of those transferred
- 35 servants who, but for the operation of this clause, would not be entitled to retain those rights.

*Farm Water Supplies (Transfer of Functions) Amendment 1986*SCHEDULE 3—*continued*SAVINGS AND TRANSITIONAL PROVISIONS—*continued***Leave**

5. (1) For the purposes of sick leave, long service leave or leave in the nature of long service leave, service of a transferred servant with the Commission shall be deemed to be service with the Government of New South Wales.

5 (2) For the purpose of calculating the entitlement of a transferred servant to long service leave or leave in the nature of long service leave at any time, there shall be deducted from the amount of long service leave or leave in the nature of long service leave to which, but for this subclause, the transferred servant would be entitled—

(a) any long service leave or leave in the nature of long service leave; and

10 (b) the equivalent, in long service leave or leave in the nature of long service leave, of any benefit instead of long service leave or leave in the nature of long service leave,

taken or received by the transferred servant before that time.

15 (3) A transferred servant shall retain any right to annual leave accrued to the transferred servant in respect of the service of the transferred servant with the Commission.

(4) In this clause, a reference to service of a transferred servant with the Commission includes a reference to service of the transferred servant with The Water Conservation and Irrigation Commission.

20 (5) Clause 3 (1) (gratuity instead of extended leave) of Schedule 3 to the Water Resources Commission Act 1976 does not apply to a transferred servant.

Application for vacancies in the Commission

25 6. (1) A transferred servant who during the period of 3 years commencing on the commencement of this Act applies for appointment or employment, or is appointed or employed, as an officer or employee of the Commission shall, in relation to the application, appointment or employment, be deemed to be—

(a) an officer of the Commission where the transferred servant was an officer of the Commission immediately before the transfer date; or

30 (b) an employee of the Commission where the transferred servant was an employee of the Commission immediately before the transfer date.

(2) Subclause (1) does not apply to a person who applies for appointment or employment, or is appointed or employed, as an officer or employee of the Commission if the person has, on a previous occasion during the 3 year period referred to in subclause (1), been appointed or employed as an officer or employee of the Commission.

35 Redundancy of transferred servants

7. The employment of a transferred servant may not be terminated on the ground of redundancy arising from the operation of this Schedule.

*Farm Water Supplies (Transfer of Functions) Amendment 1986*SCHEDULE 3—*continued*SAVINGS AND TRANSITIONAL PROVISIONS—*continued***Appeals—saving**

8. Where an appeal by a transferred servant to the Government and Related Employees Appeal Tribunal is pending or may be made—

- 5 (a) immediately before the transfer date, the appeal may be continued, or made, and heard and determined as if the transferred employee had not been transferred under this Schedule; or
- 10 (b) immediately before the expiration of the period of 3 years commencing on the commencement of this Act, the appeal may be continued, or made, and heard and determined as if clause 7 continued to apply to and in respect of the transferred servant.

Effect of certain other Acts

9. (1) A transferred servant is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

15 (2) Except as provided by this Schedule, nothing in this Schedule affects the operation of the Industrial Arbitration Act 1940.

Miscellaneous savings

10. (1) Except to the extent that the Commission otherwise directs either generally or in a particular case, the Principal Act applies as if this Act had not been enacted to and in respect of—

- 20 (a) an application for an advance under the Principal Act, the making of the advance and the carrying out of any works to which the application relates, where the application is made before the commencement of this Act;
- (b) the granting of an application for a loan under section 16A of the Principal Act where the application is made before the commencement of this Act; and
- 25 (c) anything commenced to be done by the Commission under section 13 or 14 of the Principal Act before the commencement of this Act.

(2) A direction shall not be given by the Commission under subclause (1) except after consultation with the State Bank and—

- 30 (a) the appropriate Authority (within the meaning of the Principal Act) for the works to which the direction relates; or
- (b) the Commissioner of the Soil Conservation Service of New South Wales appointed under the Soil Conservation Act 1938 to the extent that the works to which the direction relates are for domestic or stock purposes not involving the construction or improvement of a bore.

35 (3) The enactment of this Act does not affect the rate of interest payable on a loan made under the Principal Act before the commencement of this Act.

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 3—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(4) A regulation made by the Commission under the Principal Act and in force immediately before the commencement of this Act shall on that commencement be deemed to have been made by the Governor.

5 (5) On the commencement of this Act, a proclamation made by the Governor under section 2 of the Principal Act declaring lands to be farming lands for the purposes of the Principal Act and in force immediately before that commencement is revoked.

Regulations

11. (1) The regulations under the Principal Act may contain other provisions of a savings or transitional nature consequent on the enactment of this Act.

10 (2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the commencement of this Act or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

15 (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or

20 (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986





FARM WATER SUPPLIES (TRANSFER OF FUNCTIONS) AMENDMENT
BILL

*Schedule of the amendments referred to in Legislative Assembly's
Message of 25 September, 1986.*

No. 1.—Page 2, clause 2, lines 8–12. Omit the clause.

No. 2.—Page 2, clause 6. After line 20, insert:

Validation

6. Anything done or purportedly done under the Principal Act between 30 June 1986 and the commencement of this Act which would, if done after that commencement, have been validly done is validated.

No. 3.—Pages 11–16, Schedule 3. Omit the Schedule, insert instead:

SCHEDULE 3

(Sec. 5)

SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule—

“Commission” means the Water Resources Commission constituted under section 4 of the Water Resources Commission Act 1976;

“Minister” means the Minister administering section 9 (appointment of officers and employees of Commission) of the Water Resources Commission Act 1976;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act;

“transferred servant” means a person who is transferred to a position in the Public Service under clause 2.

Transfer of officers or employees of the Commission

2. (1) The Governor may, on the recommendation of the Minister, by order published in the Gazette transfer an officer or employee of the Commission who immediately before 1 July 1986 was concerned in the administration of the Principal Act to a position in the Public Service.

(2) An officer or employee of the Commission who is the subject of such an order shall be deemed for all purposes to have become an officer of the Public Service, in accordance with the terms of the order, on 1 July 1986.

(3) An order for the transfer of an officer or employee of the Commission under this clause has no effect unless published before 1 July 1987.

(4) This clause has effect notwithstanding anything in the Public Service Act 1979 or the Water Resources Commission Act 1976 and a transferred servant shall be deemed to have been transferred in accordance with any relevant provisions of those Acts.

Remuneration and other rights

3. (1) A transferred servant is entitled to be paid salary or wages, and allowances, at a rate not less than the rate that was payable to the transferred servant immediately before 1 July 1986 as an officer or employee of the Commission.

(2) That entitlement is subject, in the case of salary or wages, to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males, or adult females, as the case may be, for the time being in force within the meaning of Part V of the Industrial Arbitration Act 1940 until the transferred servant's salary is, or the transferred servant's wages or allowances are, varied or altered by an award of a competent tribunal, by an industrial agreement, by or under the Public Service Act 1979 or otherwise in accordance with law.

(3) Except as otherwise provided by this Schedule, where any condition of employment of any transferred servant was regulated, immediately before 1 July 1986, by an award of a competent tribunal or by an industrial agreement applicable to the transferred servant as an officer or employee of the Commission, being a condition which does not conflict with any provision of the Public Service Act 1979 or the regulations under that Act, the condition shall continue to apply to the transferred servant until it is regulated by an award of a competent tribunal, by an industrial agreement, by or under the Public Service Act 1979 or otherwise in accordance with law.

Superannuation

4. (1) Subject to subclause (4), where a transferred servant was, immediately before 1 July 1986, a contributor to a superannuation scheme, the transferred servant--

(a) shall retain any rights accrued or accruing to the transferred servant as such a contributor; and

(b) is entitled to continue to contribute to the superannuation scheme and shall be deemed to have been so entitled on and after 1 July 1986.

as if the transferred servant had continued to be an officer or employee of the Commission during the transferred servant's service with the Government of New South Wales.

(2) The transferred servant's service with the Government of New South Wales shall be deemed to be service with the Commission for the purposes of any law under which those rights accrued or were accruing or under which the transferred servant continues to contribute.

(3) The transferred servant shall be deemed to be an officer or employe, as the case requires, of the Commission for the purposes of any superannuation scheme to which, by the operation of this clause, the transferred servant is entitled to contribute.

(4) A person who, but for this subclause, would be entitled under subclause (1) to contribute to a superannuation scheme shall not be so entitled upon the person becoming a contributor to any other superannuation scheme, and the provisions of subclause (3) cease to apply to or in respect of the person in any case where the person becomes a contributor to another superannuation scheme.

(5) Subclause (4) does not prevent the payment to a transferred servant, upon the transferred servant ceasing to be a contributor to a superannuation scheme, of such amount as would have been payable to the transferred servant if the transferred servant had ceased, by reason of resignation, to be a contributor.

(6) Where, pursuant to subclause (1) (b), a transferred servant continues to contribute to a superannuation scheme, the Government of New South Wales shall contribute to that superannuation scheme the same amount as would have been payable by the Commission if that person had remained an officer or employe of the Commission and been paid salary or wages at the rate paid to the transferred servant by the Government of New South Wales.

(7) Section 12a (deduction factors in relation to certain periods of leave of absence) of the Superannuation Act 1916 does not apply to or in respect of a transferred servant in relation to a period of leave of absence without pay between 30 June 1986 and the date on which an order of the Governor under clause 2 applicable to the transferred servant takes effect.

(8) This clause applies to and in respect of the preservation of rights of those transferred servants who, but for the operation of this clause, would not be entitled to retain those rights.

Leave

5. (1) For the purposes of sick leave, long service leave or leave in the nature of long service leave, service of a transferred servant with the Commission before 1 July 1986 shall be deemed to be service with the Government of New South Wales.

(2) For the purpose of calculating the entitlement of a transferred servant to long service leave or leave in the nature of long service leave at any time, there shall be deducted from the amount of that leave to which, but for this subclause, the transferred servant would be entitled—

- (a) any such leave taken or received by the transferred servant before that time; and

- (b) the equivalent, in that leave, of any benefit instead of that leave taken or received by the transferred servant before that time.

(3) A transferred servant shall retain any right to annual leave accrued to the transferred servant in respect of the service of the transferred servant with the Commission before 1 July 1986.

(4) In this clause, a reference to service of a transferred servant with the Commission includes a reference to service of the transferred servant with The Water Conservation and Irrigation Commission.

(5) Clause 3 (1) (gratuity instead of extended leave) of Schedule 3 to the Water Resources Commission Act 1976 does not apply to a transferred servant.

Application for vacancies in the Commission

6. (1) A transferred servant who during the period of 3 years commencing on 1 July 1986 applies for appointment or employment, or is appointed or employed, as an officer or employee of the Commission shall, in relation to the application, appointment or employment, be deemed to be—

- (a) an officer of the Commission where the transferred servant was an officer of the Commission immediately before 1 July 1986; or
- (b) an employee of the Commission where the transferred servant was an employee of the Commission immediately before 1 July 1986.

(2) Subclause (1) does not apply to a person who applies for appointment or employment, or is appointed or employed, as an officer or employee of the Commission if the person has, on a previous occasion at any time between the commencement of this Act and the end of that 3 year period, been appointed or employed as an officer or employee of the Commission.

Redundancy of transferred servants

7. The employment of a transferred servant may not be terminated on the ground of redundancy arising from the operation of this Schedule.

Appeals—saving

8. Where an appeal by a transferred servant to the Government and Related Employees Appeal Tribunal is pending or may be made—

- (a) immediately before 1 July 1986, the appeal may be continued, or made, and heard and determined as if the transferred servant had not been transferred under this Schedule; or
- (b) immediately before the expiration of the period of 3 years commencing on 1 July 1986, the appeal may be continued, or made, and heard and determined as if clause 6 continued to apply to and in respect of the transferred servant.

Effect of certain other Acts

9. (1) A transferred servant is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

(2) Except as provided by this Schedule, nothing in this Schedule affects the operation of the Industrial Arbitration Act 1940.

Miscellaneous savings

10. (1) Except to the extent that the Commission otherwise directs either generally or in a particular case, the Principal Act applies as if this Act had not been enacted to and in respect of—

- (a) an application for an advance under the Principal Act, the making of the advance and the carrying out of any works to which the application relates, where the application is made before the commencement of this Act;
- (b) the granting of an application for a loan under section 16A of the Principal Act where the application is made before the commencement of this Act; and
- (c) anything commenced to be done by the Commission under section 13 or 14 of the Principal Act before the commencement of this Act.

(2) A direction shall not be given by the Commission under subclause (1) except after consultation with the State Bank and—

- (a) the appropriate Authority (within the meaning of the Principal Act) for the works to which the direction relates; or
- (b) the Commission of the Soil Conservation Service of New South Wales appointed under the Soil Conservation Act 1938 to the extent that the works to which the direction relates are for domestic or stock purposes not involving the construction or improvement of a bore.

(3) The enactment of this Act does not affect the rate of interest payable on a loan made under the Principal Act before the commencement of this Act.

(4) A regulation made by the Commission under the Principal Act and in force immediately before the commencement of this Act shall on that commencement be deemed to have been made by the Governor.

(5) On the commencement of this Act, a proclamation made by the Governor under section 2 of the Principal Act declaring lands to be farming lands for the purposes of the Principal Act and in force immediately before that commencement is revoked.

Regulations

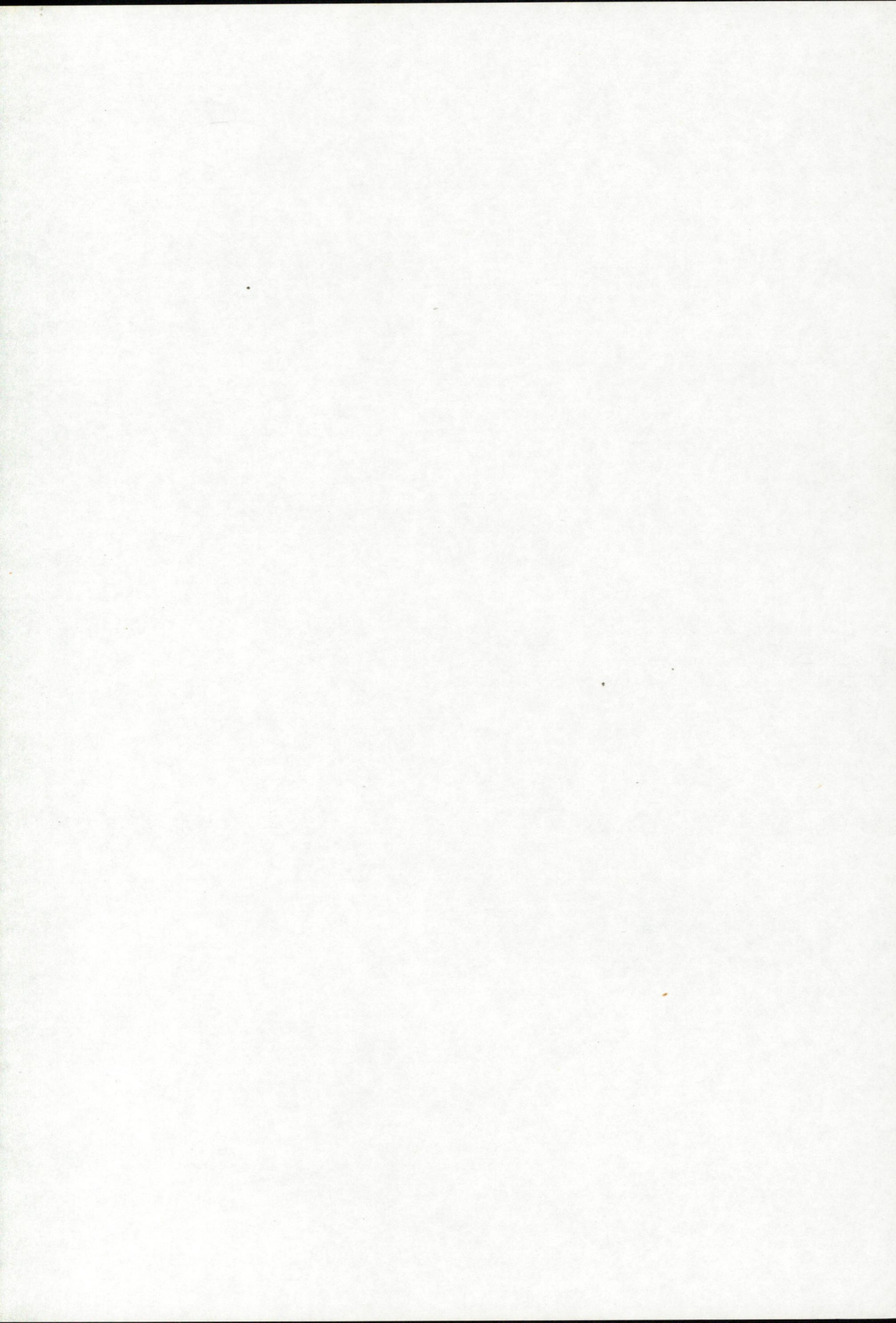
11. (1) The regulations under the Principal Act may contain other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the commencement of this Act or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.





**FARM WATER SUPPLIES (TRANSFER OF FUNCTIONS)
AMENDMENT ACT 1986 No. 104**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Principal Act
4. Amendment of Act No. 22, 1946
5. Savings and transitional provisions

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT

SCHEDULE 2—AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS



**FARM WATER SUPPLIES (TRANSFER OF FUNCTIONS)
AMENDMENT ACT 1986 No. 104**

NEW SOUTH WALES



Act No. 104, 1986

An Act to amend the Farm Water Supplies Act 1946 to make provision for the transfer of certain functions under that Act from the Water Resources Commission; and for other purposes. [Assented to 26 November 1986.]

See also Soil Conservation (Amendment) Act 1986.

Farm Water Supplies (Transfer of Functions) Amendment 1986

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:

Short title

1. This Act may be cited as the "Farm Water Supplies (Transfer of Functions) Amendment Act 1986".

Principal Act

2. The Farm Water Supplies Act 1946 is referred to in this Act as the Principal Act.

Amendment of Act No. 22, 1946

3. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Savings and transitional provisions

4. Schedule 3 has effect.

Validation

5. Anything done or purportedly done under the Principal Act between 30 June 1986 and the commencement of this Act which would, if done after that commencement, have been validly done is validated.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 2 (**Interpretation**)—

(a) Definition of "Bore"—

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

After the definition of “Bank”, insert:

“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 sub-surface water, whether the water flows naturally at all times or has to be raised either wholly or at times by pumping or other artificial means.

(b) Definition of “Commission”—

Omit the definition.

(c) Definition of “Farming lands”—

Omit the definition, insert instead:

“Farming lands” means—

- (a) lands used for farming, agricultural, horticultural, viticultural, vegetable-growing, market gardening, pastoral, grazing, poultry farming, silvicultural, floricultural or piscicultural purposes; and
- (b) any other lands declared by the regulations made under this Act to be farming lands for the purposes of this Act.

(d) Definition of “Works”—

Omit the definition, insert instead:

“Works” means—

- (a) works necessary for the provision or improvement of the water supply to farming lands for irrigation purposes, or for the preparation of farming lands for irrigation, whether or not involving the construction or improvement of a bore; or
- (b) the construction or improvement of a bore for the provision or improvement of the water supply to farming lands for domestic or stock purposes.

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(2) Section 2A—

After section 2, insert:

Appropriate Authority for works

2A. In this Act, a reference to the appropriate Authority, in relation to any works, is a reference—

- (a) to the Director-General of the Department of Agriculture to the extent to which the works do not involve the construction or improvement of a bore; or
- (b) to the Water Resources Commission constituted under section 4 of the Water Resources Commission Act 1976 to the extent to which the works involve the construction or improvement of a bore.

(3) Section 3 (**Application for advance**)—

(a) Section 3—

Omit “Commission” wherever occurring, insert instead “Bank”.

(b) Section 3 (2)—

Omit “in or to the effect of the prescribed form and shall be accompanied by the prescribed deposit”, insert instead “in a form approved by the Bank and shall be accompanied by such deposit as the Bank may require”.

(4) Section 4 (**Bank to determine application**)—

(a) Section 4 (1)—

Omit “Commission”, insert instead “Bank”.

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 4 (2)—

Omit the subsection, insert instead:

(2) Where the Bank decides to make an advance it shall furnish to the applicant a statement setting out a description of the works which the Bank has approved be carried out and specifying—

- (a) where the works are to be carried out by any person other than the appropriate Authority—the amount proposed to be advanced, not exceeding 90 per cent of the cost of the works as estimated by the Bank; or
- (b) where the works are to be carried out by the appropriate Authority—
 - (i) the terms and conditions on which the appropriate Authority is prepared to carry out the works;
 - (ii) the charge which the appropriate Authority requires to be paid for the carrying out of the works by it or the manner in which that charge is to be assessed; and
 - (iii) the amount, not less than 10 per cent of that charge, to be paid to the appropriate Authority under subsection (3).

(c) Section 4 (3)—

Omit “Commission to that effect in the prescribed form”, insert instead “Bank in a form approved by the Bank”.

(d) Section 4 (3)—

Omit “Commission” where secondly and thirdly occurring, insert instead “appropriate Authority”.

(5) Section 5 (**Bank to make advances**)—

(a) Section 5 (1)—

Omit “Commission”, insert instead “Bank”.

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (b) Section 5 (1)—
Omit “and prevailing at the time the advance is made”, insert instead “from time to time”.
- (c) Section 5 (2)—
Omit “Irrigation Agency”, insert instead “Rural Industries Agency”.
- (6) Section 6 (**Conditions precedent to advances**)—
Omit “Commission”, insert instead “Bank”.
- (7) Section 7—
Omit the section, insert instead:
Amount of advance where works not carried out by appropriate Authority
7. (1) The amount of an advance to be made to an owner where the works are to be carried out by any person other than the appropriate Authority shall be finally determined by the Bank upon the completion of the works and shall not exceed 90 per cent of the actual cost incurred by the owner in respect of the carrying out of the works.
(2) A certificate issued by the appropriate Authority certifying—
(a) that works have been completed; and
(b) that a specified amount is the actual cost incurred by an owner in respect of the carrying out of works,
is evidence in favour of the Bank of the matters certified.
- (8) Section 8 (**Payment of advance where works not carried out by appropriate Authority**)—
(a) Section 8 (1)—
Omit “or body, including the owner, other than the Commission”, insert instead “, other than the appropriate Authority”.

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (b) Section 8 (1)—
Omit “Commission” where secondly occurring, insert instead “Bank”.
- (c) Section 8 (1)—
Omit “Commission” where lastly occurring, insert instead “appropriate Authority”.
- (d) Section 8 (2)—
Omit “Commission”, insert instead “appropriate Authority or the Bank”.
- (9) Section 9 (**Appropriate Authority may carry out works where advance is made**)—
- (a) Section 9 (1)–(4)—
Omit “Commission” where firstly occurring, insert instead “appropriate Authority”.
- (b) Section 9 (5)—
Omit “Commission” where firstly, thirdly and fourthly occurring, insert instead “appropriate Authority”.
- (c) Section 9 (5)—
Omit “under the hand of one of the Commissioners constituting the Commission”, insert instead “issued by the appropriate Authority”.
- (10) Section 10 (**Appropriate authority may let machinery, etc., on hire**)—
Omit “Commission” wherever occurring, insert instead “appropriate Authority”.
- (11) Section 11 (**Works of joint water supply**)—
Section 11 (2)—
Omit “Commission”, insert instead “Bank”.

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (12) Section 12 (**Repayment of advance secured by deed of charge**)—
- (a) Section 12 (2)—
Omit “or body, including the owner, other than the Commission”, insert instead “, other than the appropriate Authority”.
 - (b) Section 12 (2)—
Omit “Commission” where secondly and thirdly occurring, insert instead “appropriate Authority”.
 - (c) Section 12 (2)—
Omit “Commission” where fourthly and fifthly occurring, insert instead “Bank”.
 - (d) Section 12 (3)—
Omit “Commission” where firstly occurring, insert instead “appropriate Authority”.
 - (e) Section 12 (3)—
Omit “Commission” where secondly occurring, insert instead “appropriate Authority”.
 - (f) Section 12 (3)—
Omit “or body, including the owner, other than the Commission”, insert instead “, other than the appropriate Authority”.
- (13) Section 13 (**Appropriate Authority may carry out works where advance not made**)—
- (a) Section 13 (1)—
Omit “Commission” wherever occurring, insert instead “appropriate Authority”.
 - (b) Section 13 (2)—
Omit “under the hand of one of the Commissioners constituting the Commission of”, insert instead “issued by the appropriate Authority certifying that a specified amount is”.

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (c) Section 13 (2)—
- Omit “Commission” where secondly, thirdly and fourthly occurring, insert instead “appropriate Authority”.
- (14) Section 14 (**Appropriate Authority may carry out investigations, prepare estimates, etc.**)—
- Omit “Commission” wherever occurring, insert instead “appropriate Authority”.
- (15) Section 15 (**Entry on land and use of materials**)—
- Omit “Commission” wherever occurring, insert instead “appropriate Authority”.
- (16) Section 16 (**Work to be licensed**)—
- (a) Omit “Part II of the Water Act, 1912, as amended by subsequent Acts.”, insert instead “Part II, V or VIII of the Water Act 1912”.
- (b) Omit “a license, permit or authority under the said Part II”, insert instead “the requisite license, permit, authority or approval under that Act”.
- (17) Section 16A (**Loan to Board**)—
- (a) Section 16A (2)—
- Omit “Commission in the prescribed manner”, insert instead “Bank in a form approved by the Bank”.
- (b) Section 16A (3)—
- Omit “the Commission may, with the approval of the Minister.”, insert instead “the Bank may”.
- (c) Section 16A (6) (a)—
- Omit “Irrigation Agency”, insert instead “Rural Industries Agency”.
- (d) Section 16A (6) (c)—
- Omit “Commission”, insert instead “Bank”.

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(18) Section 16B (**Security for loan**)—

Omit “Bank may direct”, insert instead “Bank determines”.

(19) Section 17 (**Offences**)—

Omit “two hundred and fifty dollars”, insert instead “\$800”.

(20) Section 18 (**Regulations**)—

(a) Section 18 (1)—

Omit “Commission”, insert instead “Governor”.

(b) Section 18 (1)—

Omit “one hundred dollars”, insert instead “\$500”.

(c) Section 18 (2)—

Omit the subsection.

SCHEDULE 2

(Sec. 3)

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION

(1) Long title—

Omit “the Water Resources Commission”, insert instead “certain Government instrumentalities”.

(2) Section 2, definition of “Bank”—

Omit “Rural Bank”, insert instead “State Bank”.

(3) (a) Section 5 (1)—

Omit “subsection (3) of section 4”, insert instead “section 4 (3)”.

(b) Section 5 (3)—

Omit “Division I of Part VI B of the Government Savings Bank Act, 1906, as amended by subsequent Acts,” insert instead “Division 1 of Part IV of the State Bank Act 1981”.

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued*

(4) Section 9 (4)—

Omit “subsection (3) of section 4”, insert instead “section 4 (3)”.

(5) (a) Section 11 (1)—

Omit “subsection (2) of section 3 and of section 4”, insert instead “sections 3 (2) and 4”.

(b) Section 11 (2)—

Omit “subsection (3) of section 4”, insert instead “section 4 (3)”.

(6) (a) Section 16A (1)—

Omit “Private Irrigation Districts and Water (Amendment) Act, 1973”, insert instead “Private Irrigation Districts Act 1973”.

(b) Section 16A (6) (b)—

Omit “subsection (1) of section 5”, insert instead “section 5 (1)”.

(7) Section 16B—

Omit “subsection (3) of section 16A”, insert instead “section 16A (3)”.

(8) Section 19—

Omit “court of petty sessions holden before a stipendiary magistrate”, insert instead “Local Court constituted by a Magistrate”.

SCHEDULE 3

(Sec. 4)

SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule—

“Commission” means the Water Resources Commission constituted under section 4 of the Water Resources Commission Act 1976;

“Minister” means the Minister administering section 9 (appointment of officers and employees of Commission) of the Water Resources Commission Act 1976;

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 3—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act;

“transferred servant” means a person who is transferred to a position in the Public Service under clause 2.

Transfer of officers or employees of the Commission

2. (1) The Governor may, on the recommendation of the Minister, by order published in the Gazette transfer an officer or employee of the Commission who immediately before 1 July 1986 was concerned in the administration of the Principal Act to a position in the Public Service.

(2) An officer or employee of the Commission who is the subject of such an order shall be deemed for all purposes to have become an officer of the Public Service, in accordance with the terms of the order, on 1 July 1986.

(3) An order for the transfer of an officer or employee of the Commission under this clause has no effect unless published before 1 July 1987.

(4) This clause has effect notwithstanding anything in the Public Service Act 1979 or the Water Resources Commission Act 1976 and a transferred servant shall be deemed to have been transferred in accordance with any relevant provisions of those Acts.

Remuneration and other rights

3. (1) A transferred servant is entitled to be paid salary or wages, and allowances, at a rate not less than the rate that was payable to the transferred servant immediately before 1 July 1986 as an officer or employee of the Commission.

(2) That entitlement is subject, in the case of salary or wages, to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males, or adult females, as the case may be, for the time being in force within the meaning of Part V of the Industrial Arbitration Act 1940 until the transferred servant's salary is, or the transferred servant's wages or allowances are, varied or altered by an award of a competent tribunal, by an industrial agreement, by or under the Public Service Act 1979 or otherwise in accordance with law.

*Farm Water Supplies (Transfer of Functions) Amendment 1986*SCHEDULE 3—*continued*SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(3) Except as otherwise provided by this Schedule, where any condition of employment of any transferred servant was regulated, immediately before 1 July 1986, by an award of a competent tribunal or by an industrial agreement applicable to the transferred servant as an officer or employee of the Commission, being a condition which does not conflict with any provision of the Public Service Act 1979 or the regulations under that Act, the condition shall continue to apply to the transferred servant until it is regulated by an award of a competent tribunal, by an industrial agreement, by or under the Public Service Act 1979 or otherwise in accordance with law.

Superannuation

4. (1) Subject to subclause (4), where a transferred servant was, immediately before 1 July 1986, a contributor to a superannuation scheme, the transferred servant—

- (a) shall retain any rights accrued or accruing to the transferred servant as such a contributor; and
- (b) is entitled to continue to contribute to the superannuation scheme and shall be deemed to have been so entitled on and after 1 July 1986,

as if the transferred servant had continued to be an officer or employee of the Commission during the transferred servant's service with the Government of New South Wales.

(2) The transferred servant's service with the Government of New South Wales shall be deemed to be service with the Commission for the purposes of any law under which those rights accrued or were accruing or under which the transferred servant continues to contribute.

(3) The transferred servant shall be deemed to be an officer or employee, as the case requires, of the Commission for the purposes of any superannuation scheme to which, by the operation of this clause, the transferred servant is entitled to contribute.

(4) A person who, but for this subclause, would be entitled under subclause (1) to contribute to a superannuation scheme shall not be so entitled upon the person becoming a contributor to any other superannuation scheme, and the provisions of subclause (3) cease to apply to or in respect of the person in any case where the person becomes a contributor to another superannuation scheme.

(5) Subclause (4) does not prevent the payment to a transferred servant, upon the transferred servant ceasing to be a contributor to a superannuation scheme, of such amount as would have been payable to the transferred servant if the transferred servant had ceased, by reason of resignation, to be a contributor.

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 3—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(6) Where, pursuant to subclause (1) (b), a transferred servant continues to contribute to a superannuation scheme, the Government of New South Wales shall contribute to that superannuation scheme the same amount as would have been payable by the Commission if that person had remained an officer or employee of the Commission and been paid salary or wages at the rate paid to the transferred servant by the Government of New South Wales.

(7) Section 12B (deduction factors in relation to certain periods of leave of absence) of the Superannuation Act 1916 does not apply to or in respect of a transferred servant in relation to a period of leave of absence without pay between 30 June 1986 and the date on which an order of the Governor under clause 2 applicable to the transferred servant takes effect.

(8) This clause applies to and in respect of the preservation of rights of those transferred servants who, but for the operation of this clause, would not be entitled to retain those rights.

Leave

5. (1) For the purposes of sick leave, long service leave or leave in the nature of long service leave, service of a transferred servant with the Commission before 1 July 1986 shall be deemed to be service with the Government of New South Wales.

(2) For the purpose of calculating the entitlement of a transferred servant to long service leave or leave in the nature of long service leave at any time, there shall be deducted from the amount of that leave to which, but for this subclause, the transferred servant would be entitled—

(a) any such leave taken or received by the transferred servant before that time; and

(b) the equivalent, in that leave, of any benefit instead of that leave taken or received by the transferred servant before that time.

(3) A transferred servant shall retain any right to annual leave accrued to the transferred servant in respect of the service of the transferred servant with the Commission before 1 July 1986.

(4) In this clause, a reference to service of a transferred servant with the Commission includes a reference to service of the transferred servant with The Water Conservation and Irrigation Commission.

(5) Clause 3 (1) (gratuity instead of extended leave) of Schedule 3 to the Water Resources Commission Act 1976 does not apply to a transferred servant.

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 3—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

Application for vacancies in the Commission

6. (1) A transferred servant who during the period of 3 years commencing on 1 July 1986 applies for appointment or employment, or is appointed or employed, as an officer or employee of the Commission shall, in relation to the application, appointment or employment, be deemed to be—

- (a) an officer of the Commission where the transferred servant was an officer of the Commission immediately before 1 July 1986; or
- (b) an employee of the Commission where the transferred servant was an employee of the Commission immediately before 1 July 1986.

(2) Subclause (1) does not apply to a person who applies for appointment or employment, or is appointed or employed, as an officer or employee of the Commission if the person has, on a previous occasion at any time between the commencement of this Act and the end of that 3 year period, been appointed or employed as an officer or employee of the Commission.

Redundancy of transferred servants

7. The employment of a transferred servant may not be terminated on the ground of redundancy arising from the operation of this Schedule.

Appeals—saving

8. Where an appeal by a transferred servant to the Government and Related Employees Appeal Tribunal is pending or may be made—

- (a) immediately before 1 July 1986, the appeal may be continued, or made, and heard and determined as if the transferred servant had not been transferred under this Schedule; or
- (b) immediately before the expiration of the period of 3 years commencing on 1 July 1986, the appeal may be continued, or made, and heard and determined as if clause 6 continued to apply to and in respect of the transferred servant.

Effect of certain other Acts

9. (1) A transferred servant is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

(2) Except as provided by this Schedule, nothing in this Schedule affects the operation of the Industrial Arbitration Act 1940.

Miscellaneous savings

10. (1) Except to the extent that the Commission otherwise directs either generally or in a particular case, the Principal Act applies as if this Act had not been enacted to and in respect of—

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 3—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- (a) an application for an advance under the Principal Act, the making of the advance and the carrying out of any works to which the application relates, where the application is made before the commencement of this Act;
 - (b) the granting of an application for a loan under section 16A of the Principal Act where the application is made before the commencement of this Act; and
 - (c) anything commenced to be done by the Commission under section 13 or 14 of the Principal Act before the commencement of this Act.
- (2) A direction shall not be given by the Commission under subclause (1) except after consultation with the State Bank and—
- (a) the appropriate Authority (within the meaning of the Principal Act) for the works to which the direction relates; or
 - (b) the Commission of the Soil Conservation Service of New South Wales appointed under the Soil Conservation Act 1938 to the extent that the works to which the direction relates are for domestic or stock purposes not involving the construction or improvement of a bore.
- (3) The enactment of this Act does not affect the rate of interest payable on a loan made under the Principal Act before the commencement of this Act.
- (4) A regulation made by the Commission under the Principal Act and in force immediately before the commencement of this Act shall on that commencement be deemed to have been made by the Governor.
- (5) On the commencement of this Act, a proclamation made by the Governor under section 2 of the Principal Act declaring lands to be farming lands for the purposes of the Principal Act and in force immediately before that commencement is revoked.

Regulations

11. (1) The regulations under the Principal Act may contain other provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the commencement of this Act or a later day.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or

Farm Water Supplies (Transfer of Functions) Amendment 1986

SCHEDULE 3—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.
- (4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986

