

**PRIVATE IRRIGATION DISTRICTS AND WATER
(AMENDMENT) ACT.**

New South Wales



ANNO VICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 47, 1973.

An Act to make provision for the constitution of private districts in connection with the supply of water for domestic and stock use and for irrigation; to provide for the election of a board of management for each private district; to confer and impose on each board of management powers, authorities, duties and functions with respect to the supply of water within its district; to amend the Water Act, 1912, and certain other Acts; and for purposes connected therewith. [Assented to, 8th May, 1973.]

BE

Private Irrigation Districts and Water (Amendment).

No. 47, 1973 **B**E 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. 1. This Act may be cited as the "Private Irrigation Districts and Water (Amendment) Act, 1973".

Commencement. 2. This Act shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Division of Act. 3. This Act is divided as follows:—

PART I.—PRELIMINARY—*ss.* 1–4.

PART II.—PROVISIONAL PRIVATE DISTRICTS AND PRIVATE DISTRICTS—*ss.* 5–14.

PART III.—BOARDS OF MANAGEMENT—*ss.* 15–28.

PART IV.—CONSTRUCTION AND TAKING OVER OF WORKS—*ss.* 29–38.

PART V.—COMPENSATION—*ss.* 39–47.

PART VI.—RATES AND CHARGES FOR WATER—*ss.* 48–60.

PART VII.—SUPPLY OF WATER—*ss.* 61–68.

PART VIII.—MEETINGS OF OWNERS—*ss.* 69, 70.

PART IX.—FINANCE—*ss.* 71–80.

PART X.—GENERAL—*ss.* 81–94.

PART XI.—AMENDMENTS TO WATER ACT, 1912—*s.* 95.

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4. (1) In this Act, except in so far as the context or No. 47, 1973 subject-matter otherwise indicates or requires—

Interpre-
tation.

“Board”, in relation to a provisional private district or a private irrigation district, means the Board of Management for that district elected under Part III;

“by-laws” means by-laws under this Act;

“charges” includes special charges;

“Commission” means the Water Conservation and Irrigation Commission constituted under the Irrigation Act, 1912;

“conveying works” means any works for or incidental to the conveyance of water from a supply work to lands within a private district;

“group license” means a group license under Division 4A of Part II of the Water Act, 1912;

“holding” means original holding or new holding;

“irrigated holding” means a holding in respect of which water is supplied by a Board for domestic and stock use and in respect of which a Board has, under this Act, made an allocation of water for irrigation;

“joint water supply scheme authority” means an authority or amended authority for a joint water supply scheme issued under Division 4 of Part II of the Water Act, 1912;

“lake” has the meaning ascribed thereto in Part II of the Water Act, 1912;

“local land board”, in relation to any lands within a private district, means—

- (a) except as provided by paragraph (b), the local land board for the land district or land districts constituted under the Crown Lands Consolidation Act, 1913, in which that private district is situated; or

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- (b) if the lands within that private district are situated in a land district or land districts so constituted for which there are two or more local land boards, such one of those local land boards as the Commission may nominate;

“member” means a member of a Board;

“new holding” means each part of an original holding that, after subdivision, is separately owned;

“non-irrigated holding” means a holding in respect of which water is supplied by a Board for domestic and stock use only;

“original holding” means a holding in a private district, being a holding—

(a) in existence at the date of constitution of that district; or

(b) comprising lands added to that district pursuant to section 9,

but does not include any such holding any part of which has become a new holding or any such holding the whole of which has been excised from that private district pursuant to section 12;

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

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

(b) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Consolidation Act, 1913, or any other Act relating to the alienation of lands of the Crown;

(c)

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(c) is entitled to receive, or is in receipt of, or No. 47, 1973
 if the land were let to a tenant would be
 entitled to receive, the rents and profits
 thereof whether as beneficial owner, trustee,
 mortgagee in possession, or otherwise; or

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

“private district” means a private domestic and stock
 water supply district or a private domestic and
 stock water supply and irrigation district constituted
 under section 8;

“provisional private district” means a provisional private
 domestic and stock water supply district or a
 provisional private domestic and stock water supply
 and irrigation district constituted under section 7;

“public authority” means—

(a) the council of a municipality or shire within
 the meaning of the Local Government Act,
 1919;

(b) a statutory body as defined in section 4 of
 that Act; or

(c) any body declared to be a statutory body
 representing the Crown for the purposes of
 this Act;

“ratable person”, in relation to any land, means the
 owner of that land by whom rates or, if applicable,
 charges for water are payable under this Act;

“rate” includes special rate;

“Review Board” means the Board constituted under the
 provisions of section 30 (2) of the Water Act,
 1912;

“river” has the meaning ascribed thereto in Part II of
 the Water Act, 1912;

“supply work” means a work for or incidental to the
 taking of water under a group license for the use
 of occupiers of lands within a private district;

“work”

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"work" includes—

- (a) any dam, levee, bank, lock, reservoir, weir, flume, race, artificial channel, cutting, drain, well, excavation, tunnel, pipe, bridge, culvert, fence, pumping plant, machinery, meter or appliance; and
- (b) any building used for housing any such pumping plant, machinery or other work.

(2) The Governor may, by proclamation in the Gazette, declare any body constituted by or under any Act to be a statutory body representing the Crown for the purposes of paragraph (c) of the definition of "public authority" in subsection (1).

(3) The powers, authorities, duties and functions conferred or imposed on a Board by this Act shall not be exercised or performed in relation to a provisional private district or a private district except by the Board for that provisional private district or for that private district.

PART II.

PROVISIONAL PRIVATE DISTRICTS AND PRIVATE DISTRICTS.

Petition.

5. (1) Any persons who are owners of lands which are being worked as thirty or more separate properties may lodge with the Commission a petition for the constitution of those lands—

- (a) as a private domestic and stock water supply district for purposes in connection with the supply of water for domestic and stock use; or
- (b) as a private domestic and stock water supply and irrigation district for purposes in connection with the supply of water for domestic and stock use and for irrigation.

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(2) The petition—

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- (a) shall contain the names, addresses and occupations of and be signed by all of the petitioners;
- (b) shall be accompanied by plans showing—
 - (i) the location of the lands proposed to be supplied with water in relation to the river or lake from which the water is proposed to be obtained; and
 - (ii) the lands on which the supply work to be used for the taking of water for the use of occupiers of land within the proposed private district is proposed to be constructed or is located and the site on those lands of that supply work; and
 - (iii) the lands on which the conveying works to be used for the conveyance of water from the supply work referred to in subparagraph (ii) to lands within the proposed private district are proposed to be constructed or are located and the site on those lands of those conveying works;
- (c) shall be accompanied by—
 - (i) particulars of the title of the lands within the proposed private district;
 - (ii) particulars of the area of land within the proposed private district owned by each petitioner;
 - (iii) an estimate of the quantity of water proposed to be taken annually for the purposes of the proposed private district; and
 - (iv) particulars of any license or permit issued under Part II of the Water Act, 1912, license issued under Part V of that Act, or joint water supply scheme authority, under

which

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which any lands within the proposed private district are, at the date of lodgment of the petition, authorised to be irrigated; and

- (d) shall contain the names, addresses and occupations of the owners of the lands referred to in paragraph (b) (ii) and (iii) and be accompanied by separate particulars of the title of those lands.

Publication of petition.

6. (1) The Commission shall consider any petition lodged with it under section 5 and may, if it thinks fit, cause a notice containing particulars of the petition to be published in the Gazette.

(2) The Commission shall, where it publishes a notice under subsection (1), also publish in a newspaper circulating in the proposed private district a notice giving a brief reference to the notice published under subsection (1).

Constitution of provisional private districts.

7. (1) If, within the period referred to in section 14 (1) (a), a supplementary petition in relation to, or an objection to, a petition lodged under section 5—

- (a) is not lodged under section 14 (1) (a), the Governor may, by proclamation in the Gazette, constitute the lands described in the petition; or
- (b) is so lodged but the Review Board recommends the granting of the petition with respect to all of the lands described in the petition or with respect to such of the lands so described as are being worked as not less than thirty separate properties, the Governor may, by proclamation in the Gazette, constitute the lands with respect to which the Review Board recommended the granting of the petition,

as a provisional private domestic and stock water supply district or as a provisional private domestic and stock water supply and irrigation district, whichever was requested in the petition.

(2)

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- (2) The proclamation shall— No. 47, 1973
- (a) assign a name to the provisional private district and a corporate name to the Board for the provisional private district;
 - (b) define the boundaries of the provisional private district;
 - (c) specify at which office of the Commission a plan of the provisional private district is exhibited; and
 - (d) fix a time and place for the first election of the members of the Board.

8. (1) Where an application for a group license has been made by a Board and the Commission has informed that Board that it is proposed, subject to payment of the balance of the prescribed fee, to grant the application, the Governor may, by proclamation in the Gazette, constitute as a private domestic and stock water supply district or a private domestic and stock water supply and irrigation district, as the case may be, the lands the boundaries of which have been defined in the proclamation of the provisional private district of that Board. Constitution of private districts.

(2) Upon the proclamation of a private district, the Board for the provisional private district included in the private district shall, subject to this Act, be the Board for that private district until the members elected at the next election of members of the Board take office.

(3) A proclamation under subsection (1) shall assign a corporate name to the Board for the private district.

9. (1) An owner of lands adjacent to or near a private district may lodge with the Commission a petition for the addition of those lands to the private district. Addition of lands to private districts.

(2)

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(2) The petition—

- (a) shall specify the name, address and occupation of the petitioner and shall be signed by him;
- (b) shall be accompanied by plans showing—
 - (i) the lands on which any additional supply work to be used for the taking of water for the use of the occupier of the lands which the petitioner seeks to have added to the private district is proposed to be constructed or is located and the site on those lands of that supply work; and
 - (ii) the lands on which any additional conveying works to be used for the conveyance of water from any supply work of the Board for the private district or from any supply work referred to in subparagraph (i) to the lands which the petitioner seeks to have added to the private district are proposed to be constructed or are located and the site on those lands of those conveying works;
- (c) shall be accompanied by—
 - (i) particulars of the title and the area of the lands which the petitioner seeks to have added to the private district;
 - (ii) an estimate of the quantity of water proposed to be taken annually by the petitioner for the purposes of those lands;
 - (iii) particulars of any license or permit issued under Part II of the Water Act, 1912, license issued under Part V of that Act, or joint water supply scheme authority, under which those lands are, at the date of lodgment of the petition, authorised to be irrigated; and

(iv)

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(iv) where the private district has been constituted as a private domestic and stock water supply and irrigation district and the petitioner seeks a supply of water for irrigation, a statement by the Board for the private district as to whether some or all of the owners of holdings within the private district have agreed to reductions of the allocations of water made by the Board to the holdings of those owners so as to permit an allocation of water being made by the Board to the holding comprising the lands sought to be added to the private district in the event of their being included in the private district; and

(d) shall contain the names, addresses and occupations of the owners of the lands referred to in paragraph (b) (i) and (ii) and be accompanied by separate particulars of the title of those lands.

10. (1) The Commission shall consider any petition lodged with it under section 9 and may, if it thinks fit, cause a notice containing particulars of the petition to be published in the Gazette. **Publication of petition**

(2) The Commission shall, where it publishes a notice under subsection (1), also publish in a newspaper circulating in the private district to which the lands are sought to be added a notice giving a brief reference to the notice published under subsection (1).

11. (1) If within the period referred to in section 14 (1) (b) an objection to a petition lodged under section 9 is not lodged under section 14 (1) (b) or an objection is so lodged but the Review Board recommends the granting of the petition, the Governor may, by proclamation in the Gazette, re-define the boundaries of the private district to which the petition relates by adding to that district the lands referred to in the petition. **Alteration of private district.**

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(2) Where additional lands have been added to a private district under this section the Board—

- (a) shall, where an agreement referred to in section 9 (2) (b) (iv) has been made, re-determine the quantity of water to be allocated for domestic and stock use and for irrigation to each holding (including the holding comprising those additional lands) comprised in the private district and supplied or to be supplied with water for irrigation; and
- (b) shall in respect of the holding comprising those additional lands assess the rates and, if applicable, charges for water for the period or year, as the case may be, current at the date of the addition of those additional lands to the private district, on the basis of the rates and charges fixed in respect of that period or year pursuant to section 48 (2) or (3), the rates and charges, if any, so assessed being proportionate to the portion of the period or year during which those additional lands are added to the private district.

Excision
of lands
from
private
districts.

12. (1) An owner of lands within a private district may make application to the Land and Valuation Court, as prescribed by rules of court, for an order that his lands be excised from that district.

(2) Notice, in the prescribed form, of the application shall be given by the owner to the Board upon the lodging of the application in the Land and Valuation Court.

(3) The Board and all persons whose interests appear to the Land and Valuation Court to be affected by the application may attend the hearing of, and be heard in support of, or in opposition to, the application.

(4) The Land and Valuation Court shall hear and determine the application but shall not grant the application unless it is satisfied that there are exceptional circumstances which warrant the granting of the application.

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(5) The decision of the Land and Valuation Court No. 47, 1973 shall be final and may—

- (a) where the decision is in favour of the applicant, include an order that any supply works or conveying works which are situated on the excised lands shall be works of which the Board has the control, use and maintenance; and
- (b) embody such terms and conditions as to the Court seem just.

(6) Where the decision of the Land and Valuation Court is that the application be granted, the private district shall, subject to this Act, thereupon be deemed to have been altered by excising therefrom the lands referred to in the application.

(7) The excision of any lands from a private district pursuant to this section does not affect the liability of any person for any rates or charges levied or leviable in respect of those lands while they were in the private district.

13. (1) Where an error has been made in any proclamation under this Part the Governor may, by a further proclamation in the Gazette, correct the error. Correction of errors.

(2) Any such further proclamation shall take effect from the date of publication or shall take effect or be deemed to have taken effect on and from such other date (whether before or after the date of publication) as may be specified in the proclamation.

14. (1) Within a period of twenty-eight days after— Supplementary petitions, objections and inquiries.

- (a) the publication of the notice referred to in section 6 (2)—
 - (i) a person who is the owner of lands which he desires to be included in the district to which that notice relates may lodge with the Commission

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Commission a supplementary petition for the inclusion in that district of lands owned by him which are being worked as a separate property; or

- (ii) any person may lodge with the Commission an objection in writing to the petition referred to in the notice on the ground that the granting of that petition would adversely affect his interests; or

(b) the publication of the notice referred to in section 10 (2)—

- (i) the Board for the district to which that notice relates may lodge with the Commission an objection in writing to the petition referred to in the notice; or
- (ii) any person may lodge with the Commission an objection in writing to the granting of that petition on the ground that the granting of that petition would adversely affect his interests.

(2) A person may not lodge an objection under subsection (1) (a) (ii) or (1) (b) (ii) on the ground that his interests would, if the petition were granted, be adversely affected for reasons relating to the quantity of water available from the river or lake from which it is proposed to take water for the purposes of the proposed private district and any objection lodged on that ground shall not be entertained.

(3) A supplementary petition—

(a) shall contain the name, address and occupation of the supplementary petitioner;

(b) shall be accompanied by plans showing—

- (i) the location of the lands which he desires to be included in the proposed district;

(ii)

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- (ii) the lands on which any additional supply work to be used for the taking of water for the use of the occupier of the lands which the petitioner desires to be included in the proposed district is proposed to be constructed or is located and the site on those lands of that supply work; and
- (iii) the lands on which any additional conveying works to be used for the conveyance of water from any supply work shown on the plans referred to in section 5 (2) (b) (ii) which accompanied the petition lodged under section 5 (1) for the constitution of the district or from any supply work shown on a plan referred to in subparagraph (i) to the lands which the petitioner seeks to have included in the proposed private district are proposed to be constructed or are located and the site on those lands of those conveying works;
- (c) shall be accompanied by particulars of the title and area of the lands referred to in paragraph (b) (i) and of any license or permit issued under Part II of the Water Act, 1912, license under Part V of that Act, or joint water supply scheme authority, under which those lands are, at the date of lodgment of the supplementary petition, authorised to be irrigated; and
- (d) shall contain the names, addresses and occupations of the owners of the lands referred to in paragraph (b) (ii) and (iii) and be accompanied by separate particulars of the title of those lands.
- (4) An objection shall be in writing and shall state particulars of the grounds of objection.

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(5) Where a supplementary petition or an objection has been lodged with the Commission, the Commission shall refer the petition to which the supplementary petition or objection relates and the supplementary petition or objection to the Review Board for inquiry and recommendation.

(6) In holding an inquiry or making a recommendation under subsection (5), the Review Board shall not take into consideration any question, whether raised by a supplementary petitioner or an objector or by any other person, relating to the quantity of water available from the river or lake from which it is proposed to take water for the purposes of the proposed private district.

(7) Without limiting the powers of the Review Board in making any recommendation under subsection (5), it may—

(a) in relation to a petition lodged under section 5, make any such recommendation subject to the qualification that the site of any supply work or conveying works, as shown on any plan referred to in section 5 (2) (b), that is or are proposed to be constructed shall be varied in such manner as may be specified in the recommendation but not so as to locate the site elsewhere than on the parcel of land on which it is shown on that plan; or

(b) in relation to a petition lodged under section 9 (1) or a supplementary petition lodged under subsection (1) (a) (i), make any such recommendation subject to the qualification that the Board for the private district in which the petitioner's lands are recommended to be included shall not be obliged to supply water to those lands unless there has been paid to that Board such sum as may be specified in the recommendation.

(8) The provisions of section 30 (2) of the Water Act, 1912, apply to and in respect of the Review Board for the purpose of any inquiry under this section.

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PART III.

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BOARDS OF MANAGEMENT.

15. (1) For each private district and, after the election referred to in section 7 (2) (d) in respect of a provisional private district, for that provisional private district, there shall be a Board of Management which shall exercise and perform the powers, authorities, duties and functions conferred or imposed upon it by or under this Act and the Water Act, 1912.

Boards of Management.

(2) Each Board shall be a corporation under the corporate name assigned to it under section 7 (2) (a) or 8 (3), as the case may be.

(3) A Board shall consist of such number of members, being not less than five nor more than ten—

- (a) in the case of the first Board elected for a provisional private district, as may be determined by the commission; and
- (b) in the case of any subsequent Board elected for a provisional private district or any Board elected for a private district, as may be determined before the election by the Board for that provisional private district or by the Board for that private district or for the provisional private district included in that private district, as the case may be.

16. (1) An election of the members of the Board for a provisional private district shall be held on the day and at the time fixed under section 7 (2) (d) and thereafter an election of members of the Board for a provisional private district or a private district shall be held—

Election of members of Boards.

- (a) where the day that is the third anniversary of the declaration of the poll for the next previous election of members of that Board is a Saturday—on that day; or

(b)

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(b) where that day is not a Saturday—on the Saturday which follows the day that is the third anniversary of the declaration of the poll for the next previous election of members of that Board.

(2) A corporation may be a member of a Board, and a corporation which is a member of a Board shall, in writing under its common seal, authorise some person to represent it as a member of a Board.

(3) Subject to this Act, the members elected at an election held in accordance with subsection (1) shall hold office for the period from the date of the declaration of the poll for that election until the date of the declaration of the poll for the next subsequent election so held.

Casual
vacancies.

17. (1) A member of a Board, being an individual, shall be deemed to have vacated his office—

- (a) if he dies;
- (b) if he is absent without leave of the Board from four consecutive meetings of the Board of which reasonable notice has been given to him personally or in the ordinary course of post;
- (c) if he becomes bankrupt, applies to take the benefit of any law for relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his estate for their benefit;
- (d) if he becomes a temporary patient or a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) if he is convicted in New South Wales of a crime or offence punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of a crime or offence which if committed in New South Wales would be a crime or offence so punishable;

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(f) if he resigns his office by notice in writing No. 47, 1973 addressed to the Board;

(g) if, at any meeting of the Board at which he is present and at which any agreement or proposed agreement, in which he has a direct or indirect pecuniary interest, or any other matter, in which he has such an interest, is the subject of consideration or is included on the agenda for consideration—

(i) he fails, as soon as practicable after the commencement of the meeting, to disclose to the meeting his interest in; or

(ii) he takes part in the consideration or discussion of, or votes on any question with respect to,

the agreement, proposed agreement or other matter;

(h) if—

(i) he has any direct or indirect pecuniary interest in any agreement with the Board or in any other matter in which the Board is concerned, other than an interest in an agreement or in any other matter which he may have as a person liable to rates or charges levied by the Board, as an elector for the private district of the Board or as a consumer of water supplied to him by the Board, and in the like manner to that applicable, and subject to the like conditions as are applicable, in the case of persons who are not members of the Board; or

(ii) by virtue of his office as a member, he accepts or acquires any personal profit or advantage other than under this or any other Act;

(i)

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- (i) if he is no longer the owner of land worked as a separate property within the provisional private district or private district of the Board; or
- (j) if he fails to pay for a period of not less than three months after the due date for payment any rates or charges for water for which he is liable to the Board in respect of lands owned by him solely or otherwise.

(2) A member of a Board, being a member which is a corporation, shall be deemed to have vacated its office—

- (a) if it is dissolved;
- (b) if it does not, by a person authorised under its common seal, attend four consecutive meetings of the Board of which notice has been given to it in the ordinary course of post;
- (c) if an order approving of a compromise or arrangement with any of its creditors has taken effect, a receiver or manager of the property of the corporation has been appointed, the corporation is under official management, an order for the winding-up of the corporation is made or the corporation resolves to be wound up voluntarily;
- (d) if it is convicted in New South Wales of a crime or offence punishable by a penalty of \$2,000 or more or if it is convicted elsewhere than in New South Wales of a crime or offence which if committed in New South Wales would be a crime or offence so punishable;
- (e) if it resigns its office by notice in writing addressed to the Board;
- (f) if, at any meeting of the Board at which it is present by any person authorised to represent it as a member and at which any agreement or proposed agreement, in which it or that person has a direct or indirect pecuniary interest, or any other matter, in which it

or

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or that person has such an interest, is the subject of **No. 47, 1973** consideration or is included on the agenda for consideration—

- (i) that person fails, as soon as practicable after the commencement of the meeting, to disclose to the meeting the interest of the corporation or that person in; or
- (ii) that person takes part in the consideration or discussion of, or votes on any question with respect to,

the agreement, proposed agreement or other matter ;

(g) if—

- (i) it or any person authorised to represent it as a member has any direct or indirect pecuniary interest in any agreement with the Board or in any other matter in which the Board is concerned, other than an interest in an agreement or in any other matter which it or that person may have as a person liable to rates or charges levied by the Board, as an elector for the private district of the Board or as a consumer of water supplied to it or that person by the Board, and in the like manner to that applicable, and subject to the like conditions as are applicable, in the case of persons who are not members of the Board ; or
- (ii) by virtue of its office as a member, it, or by virtue of his representing the corporation as a member, he, accepts or acquires any personal profit or advantage other than under this or any other Act ;

(h) if it ceases to be the owner of land worked as a separate property within the provisional private district or private district of the Board ; or

(i)

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- (i) if it fails to pay for a period of not less than three months after the due date for payment any rates or charges for water for which it is liable to the Board in respect of lands owned by it solely or otherwise.

(3) If a corporation has a direct or indirect pecuniary interest in any agreement or proposed agreement or in any other matter the subject of consideration at a meeting of a Board—

(a) a member, being an individual, who—

- (i) is a substantial shareholder, within the meaning of section 69c of the Companies Act, 1961, in that company shall, for the purposes of subsection (1) (g) and (h)—be deemed to have a direct or indirect pecuniary interest in that agreement, proposed agreement or other matter; or

- (ii) has a relevant interest, within the meaning of section 6A of that Act, in any share of the company shall, for the purposes of subsection (1) (g) (i)—be deemed to have a direct or indirect pecuniary interest in that agreement, proposed agreement or other matter;

(b) a member, being another corporation, or a person authorised to represent another corporation as a member shall—

- (i) if the other corporation or that person is a substantial shareholder, within the meaning of section 69c of the Companies Act, 1961, in the firstmentioned corporation or the other corporation is, within the meaning of section 6 of that Act, a subsidiary or holding company of, or is related to, the first-mentioned corporation—be deemed, for the

purposes

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- purposes of subsection (2) (f) and (g), to No. 47, 1973
 have a direct or indirect pecuniary interest,
 in that agreement, proposed agreement or
 other matter; or
- (ii) if the other corporation or that person has
 a relevant interest, within the meaning of
 section 6A of that Act, in any share of the
 firstmentioned corporation—be deemed, for
 the purposes of subsection (2) (f) (i), to
 have a direct or indirect pecuniary interest
 in that agreement, proposed agreement or
 other matter.

18. Where a casual vacancy occurs in the office of a Filling of
a casual
vacancy.
 member an election shall be held to fill the vacancy and the
 member elected at that election shall hold office for the residue
 of the term of office of the member in whose office the casual
 vacancy occurred.

19. (1) A person shall not be eligible to be elected as a Eligibility
for election
as a member
of a Board.
 member of a Board unless he is the owner of land worked
 as a separate property within the provisional private district
 or the private district, as the case may be, of that Board.

(2) Subject to subsection (1), a corporation shall
 be eligible to be elected as a member of a Board.

20. (1) Subject to subsection (2), elections under this Conduct
of elec-
tions.
 Act shall be held as prescribed.

(2) At any election under this Act the owner of
 each holding within the provisional private district or private
 district concerned shall be entitled to vote as follows :—

- (a) the owner of a non-irrigated holding shall be
 entitled to one vote; and

(b)

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(b) the owner of an irrigated holding shall be entitled to—

- (i) two votes where, in the opinion of the Board, the area irrigated does not exceed 200 acres; or
- (ii) three votes where, in the opinion of the Board, the area irrigated exceeds 200 acres.

**Meetings
of Boards.**

21. (1) A Board shall hold meetings when convened by the Chairman on his own motion or on a requisition made by a majority of the members.

(2) A meeting of each Board shall be held at least once in each month and an annual meeting shall be held not later than three months after the thirtieth day of June in each year.

(3) Not less than seven days' notice of a meeting of a Board shall be given to each member in writing.

(4) The procedure for the calling of meetings of a Board and for the conduct of business at those meetings shall, subject to this Act and the by-laws, be as determined by that Board.

(5) The members of a Board shall at their first meeting elect from among their number a Chairman and a Deputy Chairman.

(6) The Chairman of a Board shall preside at all meetings of that Board at which he is present and, if he is absent from any meeting, the Deputy Chairman of that Board shall preside at that meeting.

(7)

Private Irrigation Districts and Water (Amendment).

(7) A quorum at any meeting of a Board shall consist of— No. 47, 1973

- (a) one-half of the number of members of the Board, if that number is a whole number; or
- (b) such number of members of the Board as is equal to the whole number that is next higher than one-half of the number of members of the Board, if one-half of the number of members of the Board is not a whole number.

(8) A Board shall not be competent to transact any business at a meeting of the Board unless the Chairman or Deputy Chairman is, or both of them are, present at the meeting.

(9) Each member shall have one vote.

(10) In the event of an equality of votes at any meeting of a Board, the person presiding at the meeting shall have, in addition to a deliberative vote, a second or casting vote.

(11) A decision of the majority of the members present at a meeting of a Board at which a quorum is present shall be the decision of that Board.

22. (1) During the absence or illness of the Chairman, the Deputy Chairman shall act in his place, and while so acting shall have and may exercise and perform the powers, authorities, duties and functions of the Chairman. Deputy
Chairman
may act
for
Chairman.

(2) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising the Deputy Chairman to act in the place of the Chairman, and all acts and things done or omitted by the Deputy Chairman while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairman.

23.

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Minutes of
meetings.

23. (1) Each Board shall cause full and accurate minutes to be kept of the proceedings at its meetings.

(2) Every entry in the minute or other book purporting to be a minute of the business transacted at a meeting of a Board and to be signed by the Chairman or Deputy Chairman or Secretary at a subsequent meeting of that Board shall be prima facie evidence—

(a) that the business as therein recorded was transacted at the meeting; and

(b) that the meeting was duly convened and held.

Board, etc.,
not liable
for bona
fide acts,
etc.

24. No matter or thing done, and no contract entered into, by a Board, and no matter or thing done by any member, or by any other person acting under the direction of a Board shall, if the matter or thing was done, or the contract was entered into, bona fide for the purpose of exercising or performing the powers, authorities, duties or functions of that Board, subject the Board, the member or the person so acting personally to any action, liability, claim or demand.

Removal
of Board
from office
and appoint-
ment of
adminis-
trator.

25. (1) The Governor may, by proclamation in the Gazette, remove all the members of a Board from office—

(a) if there are not sufficient members of the Board to form a quorum; or

(b) if, in the opinion of the Governor, the Board has failed or neglected to make or levy rates and, if applicable, charges as required by this Act, or otherwise to exercise or perform its powers, authorities, duties and functions under this Act.

(2) Where there are not sufficient members of a Board to form a quorum, the Governor, instead of removing the members from office, may, by proclamation in the Gazette, appoint a sufficient number of persons eligible to be elected as members to fill the vacancies in the membership of the Board and to hold office until elections are held to fill those vacancies as provided in this Act.

(3)

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(3) Where the Governor has under subsection (1) **No. 47, 1973** removed the members of a Board from office, he may, in the proclamation removing the members from office or in a subsequent proclamation in the Gazette, appoint an administrator for the provisional private district or the private district of the Board, and the administrator shall have the powers, authorities, duties and functions of the Board and be paid out of the funds of the Board such remuneration as the Governor may determine.

(4) The Governor may in like manner at any time remove an administrator from office.

(5) Where the members of a Board have been removed from office under subsection (1), the Minister may, and if the Board's term of office has more than twelve months to run, shall, by notice in the Gazette, order that an election of members be held on a day specified in the order.

(6) The day so specified shall be a day not more than six months after the date of removal of the members from office and not less than four weeks after the date upon which the notification is published in the Gazette.

(7) Any member elected at an election held under this section shall hold office until the time when the terms of office of the members of the Board who have been removed from office would but for their removal have expired and no longer, but shall be eligible for re-election if otherwise qualified.

(8) Upon sufficient members of a Board, by election or appointment under this section, taking office to form a quorum, the powers, authorities, duties and functions of the administrator shall cease.

(9) Where the members of a Board have been removed from office because of the Board's failure or neglect as referred to in subsection (1) (b) each of those members shall be ineligible for election at an election ordered under subsection (5) or, if no such election is ordered, at the next election of members of the Board held in accordance with
section

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No. 47, 1973 section 16 (1), unless the Minister is satisfied that the failure or neglect took place without the member's knowledge or consent and, by instrument in writing, declares that the member is eligible for election at any such election.

Abolition
of pro-
visional
private
districts.

26. The Governor may, by proclamation published in the Gazette, abolish any provisional private district for which a Board has not been elected.

Winding-up
of Boards.

27. (1) Where the Governor—

(a) is of the opinion that a Board has ceased to function satisfactorily; or

(b) is satisfied that a Board has made a request to the Minister that it be wound up,

the Governor may order that the Board be wound up.

(2) An order under subsection (1) shall be published in the Gazette and shall appoint a liquidator of the Board.

(3) A winding-up of the Board under this section shall commence upon the publication of the order in the Gazette.

(4) Such of the provisions of Part X of the Companies Act, 1961, as are specified in the regulations made under this Act shall, subject to such modifications of those provisions as may be prescribed by the regulations, apply to the winding-up of a Board under this section as if references in those provisions, as so modified, to a company were a reference to a Board.

(5) Where the Governor is satisfied that the winding-up of a Board has been completed under this section, he may by proclamation published in the Gazette, abolish the provisional private district or the private district of the Board.

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28. (1) Each Board may from time to time appoint such servants as it may think necessary to assist it in the exercise or performance of its powers, authorities, duties and functions. No. 47, 1973
Servants.

(2) A person who has ceased to be a member of a Board shall not be eligible to be appointed to any position in the pay of that Board until six months have elapsed after his so ceasing to be a member.

(3) All servants of a Board shall be subject to the control and governance of the Board and shall be subject to the provisions of any by-laws made by the Board in that behalf.

(4) A Board may fix wages and conditions of employment of its servants where they are not fixed in accordance with the provisions of any other Act.

PART IV.

CONSTRUCTION AND TAKING OVER OF WORKS.

29. (1) Subject to the Local Government Act, 1919, to the Water Act, 1912, and to subsection (3), the Board for a private district may construct, enlarge, modify, repair, operate, maintain or renew any supply work or conveying works, or any part thereof, on, or substantially on, any site which is an authorised site for that work or those works, as the case may be. Construction, etc., of
supply
works and
conveying
works.

(2) For the purposes of subsection (1), a site is an authorised site for a supply work or for conveying works if—

(a) it is the site shown on the plans referred to in section 5 (2) (b) (ii) or (iii) which accompanied the petition lodged under section 5 (1) for the constitution of the district, as the site of any work proposed to be constructed as a supply work or of any works proposed to be constructed as conveying works, as the case may be, and—

(i) no objection to the petition was lodged under section 14; or

(ii)

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- (ii) where an objection was so lodged, the site so shown has not been recommended, under section 14, to be varied by the Review Board;
- (b) it is the site referred to in paragraph (a) as recommended, under section 14, to be varied by the Review Board;
- (c) it is the site shown on the plans referred to in section 9 (2) (b) (i) or (ii) which accompanied the petition lodged under section 9 (1) for the addition of lands to the private district, as the site of any work proposed to be constructed as a supply work or of any works proposed to be constructed as conveying works, as the case may be, and—
 - (i) no objection to the petition was lodged under section 14; or
 - (ii) where an objection was so lodged, the site so shown has not been recommended, under section 14, to be varied by the Review Board;
- (d) it is the site referred to in paragraph (c) as recommended, under section 14, to be varied by the Review Board;
- (e) it is the site shown on the plans referred to in section 14 (3) (b) (ii) or (iii) which accompanied the supplementary petition lodged under section 14 (1) (a) (i) for the inclusion of lands in the proposed district, as the site of any work proposed to be constructed as a supply work or of any works proposed to be constructed as conveying works, as the case may be, and—
 - (i) no objection to the petition was lodged under section 14; or
 - (ii) where an objection was so lodged, the site so shown has not been recommended, under section 14, to be varied by the Review Board;

(f)

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- (f) it is the site referred to in paragraph (e) as recommended, under section 14, to be varied by the Review Board; No. 47, 1973
- (g) it is the site shown on any plan referred to in paragraph (a), (b), (c), (d), (e) or (f) as the site of any work proposed to be taken over as a supply work or of any works proposed to be taken over as conveying works, as the case may be, and—
- (i) no objection to the petition was lodged under section 14; or
 - (ii) where an objection was so lodged, the Review Board recommended, under section 14, that the work or works be taken over;
- (h) it is the site on which the Governor has under section 33 authorised the construction of a supply work or conveying works;
- (i) it is the site of any supply work or conveying works the taking over of which the Governor has authorised under section 33; or
- (j) it is the site of any works of which the Board has the control, use and maintenance under section 12 (5) (a) or 68 (7).

(3) The Board for a private district shall not exercise its powers under subsection (1) in respect of any authorised site on which are situated any existing works unless it has taken over the control, use and maintenance of those works under section 34.

(4) For the purpose of exercising its powers under subsection (1), a Board may enter any authorised site, not being an authorised site situated on lands which belong to, or are under the care, control or management of a public authority, and take or remove, and use, any gravel, sand, soil or other material.

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Location
of supply
work or
conveying
works on
new sites.

30. (1) Where a Board desires to construct or take over any supply work or conveying works on a site that is not an authorised site, within the meaning of section 29, for that work or those works, the Board may lodge with the Commission an application for authority to construct or take over that work or those works on that site.

(2) The application—

- (a) shall contain the names, addresses and occupations of the owners of the lands on which the supply work or conveying works referred to in the application is or are proposed to be constructed or is or are located; and
- (b) shall be accompanied by—
 - (i) a plan showing those lands and the site on those lands of that supply work or those conveying works; and
 - (ii) particulars of the title of those lands.

Publication
of
application.

31. (1) The Commission shall consider any application lodged with it under section 30 and may, if it thinks fit, cause a notice containing particulars of the application to be published in the Gazette.

(2) The Commission shall, where it publishes a notice under subsection (1), also publish in a newspaper circulating in the provisional private district or the private district, as the case may be, of the Board which made the application a notice giving a brief reference to the notice published under subsection (1).

Objections
to
applications
under
sec. 30.

32. (1) Within a period of twenty-eight days after the publication of the notice referred to in section 31 (2), any person may lodge with the Commission an objection in

writing

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writing to the granting of the application referred to in the notice on the ground that the granting of that petition would adversely affect his interests. No. 47, 1973

(2) A person may not make an objection under subsection (1) on the ground that his interests would, if the petition were granted, be adversely affected for reasons relating to the quantity of water available from the river or lake from which it is proposed to take or convey water by means of the proposed supply work or conveying works and any objection made on that ground shall not be entertained.

(3) An objection shall state particulars of the grounds of objection.

(4) Where an objection has been lodged with the Commission, the Commission shall refer the objection to the Review Board for inquiry and recommendation.

(5) In holding an inquiry or making a recommendation under subsection (4), the Review Board shall not take into consideration any question, whether raised by the applicant or by any other person, relating to the quantity of water available from the river or lake from which it is proposed to take or convey water by means of the proposed supply work or conveying works.

(6) Without limiting the powers of the Review Board in making any recommendation under subsection (4), it may make any such recommendation subject to the qualification that the site of any supply work or conveying works, as shown in the plan referred to in section 30 (2) (b) (i), shall be varied in such manner as may be specified in the recommendation but not so as to locate the site elsewhere than on the parcel of land on which it is shown in that plan.

(7) The provisions of section 30 (2) of the Water Act, 1912, apply to and in respect of the Review Board for the purpose of any inquiry under this section.

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No. 47, 1973 **33.** If within the period referred to in section 32 (1) an objection to an application made under section 30 (1)—

Authorisa-
tion of
construction
of new
supply work
or convey-
ing works.

- (a) is not lodged with the Commission under section 32 (1), the Governor may, by proclamation in the Gazette, authorise the construction or taking over of the supply work or the conveying works on the site shown on the plan, referred to in section 30 (2) (b) (i), which accompanied that application;
- (b) to such an application, being an application for authority to construct a supply work or conveying works, is so lodged but the Review Board recommends that the construction of the supply work or conveying works on the site shown on that plan or on that site as varied by the Review Board be authorised, the Governor may, by proclamation in the Gazette, authorise the construction of the supply work or conveying works, as the case may be, on the site so recommended; or
- (c) to such an application, being an application for authority to take over a supply work or conveying works, is so lodged but the Review Board recommends that the application be granted, the Governor may, by proclamation published in the Gazette, authorise the taking over of the supply work or conveying works, as the case may be.

**Taking over
works.**

34. (1) The Board for a private district may serve a notice in writing on the owner of any lands on which is situated any work (not being a work referred to in paragraph (b) of the definition of "work" in section 4 (1)) on an authorised site within the meaning of section 29, informing him that the Board proposes to take over the control, use and maintenance of that work on and from the day upon which a group license is issued to the Board.

(2)

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(2) Where a Board has under subsection (1) served a notice on the owner of any lands, the Board shall have the control, use and maintenance of the work specified in the notice on and from the day upon which a group license is issued to it. No. 47, 1973

(3) The Board for a private district shall not serve a notice under subsection (1)—

- (a) where the notice relates to a work on an authorised site within the meaning of section 29 (2) (c)—after the expiration of twelve months after the constitution of the private district; or
- (b) where the notice relates to a work on an authorised site within the meaning of section 29 (2) (e)—after the expiration of twelve months after the Board was authorised, under section 33, to take over the work.

(4) The Board for a private district shall not serve a notice under subsection (1) on any person in respect of a work that belongs to, or is under the care, control or management of a public authority.

(5) Where any work of which a Board has the control, use and maintenance under this section consists of personality, the property in that work vests in that Board.

35. (1) The Board for a private district, by notice in writing served, within twelve months after the constitution of the private district, on the owner of any lands which, immediately before the constitution of the private district, were vested in him on behalf of the occupiers of lands which were then supplied with water under a joint water supply scheme authority and which upon the constitution of the private district formed the whole or part of the private district, may require that person to transfer the lands so vested to the Board within such period as may be specified in the notice. Transfer of lands.

(2)

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(2) A person on whom a notice under subsection (1) is served shall comply with the requirement of the notice.

(3) Where a notice is served on a person under subsection (1) in respect of any land referred to in that subsection, the land shall be held by that person as a trustee for the Board by which the notice was served.

Certain works deemed to be structures for purposes of sections 171, 421 and 422 of Local Government Act, 1919.

36. (1) For the purposes of sections 171, 421 and 422 of the Local Government Act, 1919, any work or works referred to in section 29 (1) shall be deemed to be a structure.

(2) For the purposes only of subsection (1), section 421 (6) (a) of the Local Government Act, 1919, shall be deemed to be repealed.

Power of entry.

37. (1) A Board may, by its servants or agents, at any reasonable time enter any lands and thereon carry out any investigation or inspection, take levels, drill test bore-holes, make surveys and marks and fix pegs or stakes for the purpose of determining the site of any proposed supply work or proposed conveying works.

(2) The Board for a private district may, by its servants or agents, enter any lands on which is situated an authorised site within the meaning of section 29 for the purpose of exercising its powers under section 29.

Board's powers exercisable without easement.

38. A Board may exercise and perform its powers, authorities, duties and functions under this Part in respect of any land notwithstanding that an easement or right to do so has not been granted.

PART

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PART V.

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COMPENSATION.

- 39.** (1) A person shall not be entitled to claim or to be paid any compensation for or arising out of or by reason of—
- (a) any works becoming works of which a Board has the control, use or maintenance under section 12 (5) (a) or 68 (7); or
 - (b) the exercise by a Board of any of the powers conferred on it by section 37 (1) on any lands within the provisional private district or the private district of that Board.

No compensation for surveys, etc., on land within provisional private district or private district.

(2) Subsection (1) (a) has effect subject to any terms and conditions embodied in a decision of the Land and Valuation Court pursuant to section 12 (5) (b).

- 40.** Compensation shall be payable by a Board for all damage sustained by any person as a result of the exercise by that Board of any of the powers conferred on it by section 37 (1) on any lands outside the provisional private district or the private district of that Board.

Compensation for surveys, etc., on lands outside provisional private district or private district.

- 41.** (1) Subject to subsections (2) and (3) (b), compensation assessed in accordance with this Part shall be payable in any case where the Board exercises any of the powers conferred on it by section 29, 34 or 35.

Compensation where Board constructs, etc., or takes over works.

(2) Compensation shall not be payable by a Board in respect of the repair, operation or maintenance of any supply work or conveying works except where, in repairing, operating or maintaining any such work or works, the Board causes damage to any lands outside the private district of the Board.

(3)

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(3) Where immediately before a Board obtains the control, use and maintenance of any work under section 34 (1) there was in force a legally binding agreement or arrangement between the person who was then the owner or occupier of the land on which the work is situated and another person whose lands, or any part of whose lands, are or is included in the private district of that Board (being an agreement or arrangement under which that lastmentioned person was entitled to exercise any powers in relation to that work)—

- (a) that agreement or arrangement shall be deemed to be an agreement or arrangement between that Board and that firstmentioned person; and
- (b) any compensation to which that firstmentioned person may be entitled under this Act shall be assessed, having regard to his obligations under that agreement or arrangement.

Compensation—how assessed.

42. In assessing compensation payable under this Part, there shall be taken into account—

- (a) the value of the land to be used for any works and of any works the control, use and maintenance of which has been taken over; and
- (b) the damage, if any, caused by any severance in respect of the lands involved in that use or taking over from other lands of the claimant, or by the exercise of any powers by the Board otherwise injuriously affecting any such other lands.

Determination of amount of compensation.

43. Where compensation is payable under this Part the amount of compensation shall be determined—

- (a) by agreement between the Board and the person entitled to claim compensation; or
- (b) if such an agreement has not been reached, by the local land board, subject to a right of appeal to the Land and Valuation Court, in accordance with the provisions of this Part.

44.

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44. (1) Any person claiming compensation under the provisions of this Part may, within a period of three months after the claim for compensation arose or within such further time as the Land and Valuation Court on application being made to it by the claimant either before or after the expiration of that period may, at the cost of the claimant, allow, serve on the Board a notice in writing setting forth—

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Settlement
of com-
pensation;
reference
to local
land board

- (a) the nature of the estate or interest of the claimant in the land or work in respect of which the claim for compensation arose;
- (b) if he claims in respect of damage, the nature of the damage which he has sustained or will sustain by reason of the doing of the act out of which the claim for compensation arose; and
- (c) the amount of compensation which he claims.

(2) The Board shall as soon as practicable after receipt of a notice of claim notify the claimant in writing whether the Board agrees to the amount claimed as compensation or not.

(3) If the Board does not agree to the amount claimed as compensation the Board shall in its notice to the claimant specify the amount of compensation which the Board is prepared to pay.

(4) If, within a period of ninety days after service of the notice referred to in subsection (1), the claimant and the Board do not agree as to the amount of compensation, the claimant may, within twenty-eight days after the expiration of that period, refer the matter to the local land board to determine the amount of compensation.

(5) A reference to a local land board shall be made in writing and signed by the claimant and shall specify an address for service of notices.

(6)

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(6) Upon any such reference being made the local land board shall inquire into and determine the claim for compensation.

Appeal to
Land and
Valuation
Court.

45. (1) If the Board or the claimant is dissatisfied with any determination of the local land board pursuant to section 44 (6), the Board or the claimant, as the case may be, may, within twenty-eight days after the determination of the local land board, appeal to the Land and Valuation Court against the determination.

(2) The appeal shall be made as prescribed by rules of court of the Land and Valuation Court and be accompanied by the prescribed amount as security for the costs of the appeal.

(3) The Land and Valuation Court shall have jurisdiction to hear and determine the appeal and the decision of that court shall be final.

When pay-
ment of
compensa-
tion to be
made—

46. Any compensation payable in accordance with the provisions of this Part shall be paid by the Board to the claimant or as he directs in writing and the payment shall be made—

- (a) where the Board and the claimant agree on the amount of the compensation—within thirty days after the agreement;
- (b) where the amount has been determined by the local land board and no appeal has been lodged against that determination—within thirty days after the expiration of the period within which the appeal could have been lodged; and
- (c) in every other case—within thirty days after the decision of the Land and Valuation Court.

47.

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47. Any amount payable to a claimant as compensation in accordance with this Part may be recovered from the Board as a debt in any court of competent jurisdiction.

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Recovery
of com-
pensation.

PART VI.

RATES AND CHARGES FOR WATER.

48. (1) The Board for a provisional private district may—

Fixing of
rates and
charges.

- (a) in respect of the period commencing on the date of the constitution of the Board and terminating on the thirtieth day of June next following; and
- (b) in respect of each year commencing on the first day of July,

fix a rate per acre in respect of all holdings within the provisional private district so as to produce in the period, or in the year, in respect of which it is fixed a total amount sufficient to meet the estimated liabilities of that Board during that period or year and any outstanding liabilities of that Board.

(2) The Board for a private district shall—

- (a) in respect of the period commencing on the date of the issue to it of a group license and terminating on the thirtieth day of June next following; and
- (b) in respect of each year commencing on the first day of July,

fix a rate per acre for water or a charge for the quantity of water to be supplied for domestic and stock purposes in respect of all holdings within the private district.

(3)

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(3) The Board for a private district constituted as a private domestic and stock water supply and irrigation district shall in respect of the period and each year referred to in subsection (2) determine the total quantity of water which it proposes to supply to all holdings for the purpose of irrigation during that period or year and shall, in respect of that period or year, fix the charges in respect of the quantities of water allocated under Part VII for that purpose in respect of all holdings within the district.

(4) A rate or charges under subsection (1), (2) or (3) shall be fixed—

- (a) in the case of a rate or charges in respect of a period referred to in subsection (1) (a), (2) (a) or (3), as soon as practicable after the commencement of that period; and
- (b) in the case of a rate or charges in respect of a year referred to in subsection (1) (b), (2) (b) or (3), as soon as practicable after the commencement of that year.

(5) The fact that a Board fixes and levies a rate or charges in respect of the period referred to in subsection (2) (a) or (3) does not affect the liability of any person to pay any rate fixed and levied by that Board in respect of the period or a year referred to in subsection (1), notwithstanding that the period or year referred to in subsection (1) includes the whole or any part of the period referred to in subsection (2) (a) or (3).

(6) Rates and charges fixed by a Board under subsections (2) and (3) shall be fixed so as to produce in the period, or in the year, in respect of which they are fixed, a total amount not exceeding an amount estimated by the Board as being required in that period or year—

- (a) to defray the cost of constructing, enlarging, modifying, repairing, operating, maintaining and renewing works;

(b)

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(b) to pay the interest on and repay the capital of any No. 47, 1973 loans raised by the Board; and

(c) to meet any outstanding liabilities of the Board and the costs and expenses of administering the private district and of doing all such things as the Board may lawfully do.

49. For the purpose of raising money for the fulfilment of any contract, for the payment of any debt that may be due or become due by the Board or otherwise for the furtherance of any of its powers, authorities, duties and functions, the Board may from time to time fix a special rate per acre to be paid in respect of the area of all holdings within the provisional private district or the private district of the Board and may, if it thinks fit, in addition, fix special charges in respect of the quantities of water allocated for the purpose of irrigation or in respect of the quantities of water determined for domestic and stock purposes in respect of all holdings within the private district of the Board. Special rates and special charges.

50. (1) Rates fixed by a Board under section 48 or 49 shall be assessed, and shall be levied as prescribed, in respect of the area of each holding within the provisional private district or the private district, as the case may be. Assessment and levying of rates and charges.

(2) Charges fixed by a Board under section 48 or 49 shall be assessed, and shall be levied as prescribed, in respect of the quantity of water allocated for irrigation by the Board under Part VII or in respect of the quantity of water determined by the Board for domestic and stock purposes in respect of each holding within the private domestic and stock water supply and irrigation district.

51. (1) A Board shall, as soon as practicable after fixing any rates and charges under section 48 or 49, assess and levy the rates and charges. Assessment of rates and charges.

(2)

Private Irrigation Districts and Water (Amendment).

No. 47, 1973

(2) If the Board at any time finds it has made an error in the assessment of any rates or charges for water in respect of any holding or owner, whether through lack of knowledge of the name of the owner, or of the area or extent of the holding, or through miscalculation, or for any other reason, the Board, upon finding the error, may at any time re-assess the rates or charges in respect of the holding or owner affected and where it does so—

- (a) shall refund any amounts overpaid; and
- (b) may levy any additional amount found to be due.

Provision
for
determining
areas of
holdings.

52. For the purposes of fixing, assessing and levying rates under this Part a holding which has an area equal to a number of acres and a remaining fraction of an acre shall be deemed to have an area in acres equal to one more than that number.

Liability
for rates
and charges
for water.

53. (1) All amounts due and payable under this Part in respect of rates or charges levied under this Part shall be payable to the Board by the owner of the holding in respect of which they were levied, and shall be paid whether water is or is not taken by the owner.

(2) Rates and charges shall be due and payable to and recoverable by the Board on the expiration of one month after service of notice of the rates or charges.

(3) In any case where more than one person is an owner of the land the rates or charges may be levied upon any one or more of those persons and the Board may recover the rates or charges from any person upon whom the rates or charges are so levied, but nothing in this subsection entitles the Board to recover more than the full amount of the rates or charges.

(4)

Private Irrigation Districts and Water (Amendment).

(4) Where the land is owned jointly by two or more owners, they shall be jointly and severally liable to the Board for the rates or charges, but as between themselves each shall be liable only for such part of the rates or charges as is proportionate to his interest in the land and in the improvements thereon. No. 47, 1973

(5) If any such owner pays to the Board more than his proportionate part, he may recover the excess from the other or others.

(6) Where any land being the whole or part of a holding within a private district reverts to the Crown during any period or year in respect of which rates or charges are or are to be assessed under this Part, the person who immediately before the reversion was the owner of the land shall be liable for payment of only that part of the rates or charges proportionate to the part of the year for which the land was held by him and any excess payment by him shall be refunded to him.

54. (1) Overdue rates and charges assessed under this Part and any amount payable to a Board under an agreement referred to in section 65 that is overdue shall be increased in accordance with this section. Overdue rates and charges.

(2) If the rates or charges so assessed or the amount so payable are or is unpaid at the expiration of one month after the due date of payment the amount due shall be increased by a sum calculated at the maximum rate of interest fixed by the Reserve Bank of Australia from time to time for overdrafts, plus one per centum, and any such increase shall be deemed to be part of the rates or charges or amount payable, as the case may be.

(3) The calculation under subsection (2) shall be made in respect only of as many complete months as have expired between the date on which the payment became due and the date of payment, excluding any remaining portion of a month.

(4)

Private Irrigation Districts and Water (Amendment).

No. 47, 1973 (4) If in any case the increase calculated under subsection (2) produces less than three cents the increase shall be three cents.

(5) The increase, under this section, in the rates or charges or amount payable shall continue to apply to all unpaid rates or charges or amount notwithstanding that judgment therefor may have been obtained in any court.

Liability
where an
estate or
interest is
transferred.

55. (1) A person who disposes of his estate or interest in any land in respect of which any rates or charges have been or may be levied under this Part shall nevertheless remain liable for rates or charges to the same extent as if he had not disposed of his estate or interest in the land, if the rates or charges are levied either—

(a) before he disposed of his estate or interest in the land; or

(b) before he has given to the Board the prescribed notice of disposal.

(2) If any person who disposes of his estate or interest in land pays to the Board any rates or charges for water in respect thereof which are levied under this Part after he disposes of his estate or interest and before the notice referred to in subsection (1) is given to the Board, he may, subject to any agreement between him and the disponent, recover the amount from the disponent.

(3) As between a ratable person and any other person from or to whom he derives or disposes of his estate or interest in the land rates or charges under this Part shall be considered as accruing from day to day and shall be apportionable in respect of time accordingly.

Liability
where a
person
becomes
entitled
to an
estate or
interest.

56. (1) The owner of any land within a private district is, in addition to being liable for any current rates and charges, liable for all arrears of rates and charges owing by any

previous

Private Irrigation Districts and Water (Amendment).

previous owner in respect of the land, notwithstanding the fact that he became entitled to the estate or interest after the rates or charges were levied. **No. 47, 1973**

(2) If any person who becomes entitled to an estate or interest in any land within a private district pays to the Board any rates or charges in respect of that land which were levied before he became entitled to the estate or interest, he may, subject to any agreement between him and the person who was liable to the Board for the rates or charges at the time when they were levied, recover from that person such part of the rates or charges as was levied in respect of the period during which that person was the owner of the land.

57. (1) Rates and charges under this Part and any costs awarded to a Board by any court in proceedings for the recovery of any such rates and charges shall be a charge on the land in respect of which the rates and charges have been levied in priority to all sales, conveyances, transfers, mortgages, charges, liens and encumbrances. **Charge on land.**

(2) A charge created by subsection (1) shall not be of any effect as against a bona fide purchaser for value who at the time of purchase made due inquiry but had no notice of the liability.

(3) For the purposes of subsection (2), a purchaser shall only be deemed to have made due inquiry if he obtained a certificate from the Board as to the amount, if any, due in respect of rates, charges or costs.

(4) The charge under this section shall rank pari passu with any charge on the land under any other Act.

58. (1) Any person may apply for a certificate under this section as to the amount, if any, due or payable to the Board for rates, charges or otherwise in respect of any land. **Certificate as to amount due.**

(2)

Private Irrigation Districts and Water (Amendment).

No. 47, 1973

(2) Application for the certificate shall be made in writing, and shall state the name and address of the applicant and the particulars of the land in respect of which the certificate is required.

(3) The Board shall upon payment of the prescribed fee for each certificate having reference to a holding separately assessed forthwith give or post to the applicant a certificate in writing, signed by the Secretary or other servant of the Board authorised by the Board to sign any such certificate, and stating what, if any, rates, charges or sums of money are due or payable to the Board in respect of the holding, with the particulars thereof, and when they became due or payable, or that no such rates or charges or sums are then due or payable, as the case may be.

(4) The production of the certificate shall for all purposes be deemed conclusive proof in favour of a bona fide purchaser for value that at the date thereof no rates, charges or sums other than those stated in the certificate were due or payable to the Board in respect of the holding.

(5) For the purposes of this section, rates, charges or sums shall be deemed to be due or payable notwithstanding that the requisite period after service of any notice may not have expired.

Abandonment of rates.

59. Rates and charges may be abandoned or written off the books of account of a Board in accordance with a by-law in that behalf made by the Board but only upon the certificate of the auditor of the Board that the abandonment or writing off is in accordance with the by-law and on the unanimous resolution of the Board.

Assessment book.

60. (1) Each Board shall cause to be kept a book or record (in this Act referred to as the "assessment book") in which shall be recorded—

(a) the name, address and occupation of each owner of land within the provisional private district or the private district;

(b)

Private Irrigation Districts and Water (Amendment).

- (b) particulars of the area of each parcel of land owned No. 47, 1973 by each such owner;
- (c) particulars identifying the separate holdings within the provisional private district or the private district;
- (d) particulars of the total area of land owned by all such owners;
- (e) in the case of a Board for a private domestic and stock water supply and irrigation district, particulars of the quantity of water last allocated by the Board to each irrigated holding within the district and if applicable particulars of the quantity of water last determined by the Board for domestic and stock purposes in respect of each such holding; and
- (f) such particulars relating to the fixing, assessing and levying of rates and charges as may be prescribed.

(2) The Board may from time to time rectify any errors or omissions in the assessment book.

(3) Without prejudice to the generality of subsection (2), if at any time the Board is satisfied that—

- (a) the assessment book does not accurately—
 - (i) show the respective areas referred to in subsection (1); or
 - (ii) identify the separate holdings, as required by subsection (1);
- (b) any person has ceased to be or has become an owner of any land within the provisional private district or the private district; or
- (c) any person appearing in the assessment book as the owner of any land within the provisional private district or the private district is not the owner thereof,

the Board shall alter the assessment book accordingly.

PART

No. 47, 1973

PART VII.

SUPPLY OF WATER.

Determination of allocation.

61. (1) As soon as practicable after the issue to it of a group license, the Board for a private domestic and stock water supply and irrigation district shall determine the quantity of water, if any, to be allocated for irrigation to each holding within the private district.

(2) Where—

- (a) a holding comprises or includes lands to which immediately before the constitution of the private district water was being, or was authorised to be, supplied or conveyed for irrigation pursuant to a joint water supply scheme authority which specified the maximum quantity of water that might be taken or diverted by the holders of that authority; and
- (b) there was, immediately before the constitution of the private district, an agreement in force between the occupiers of all lands to which water was being, or was authorised to be, supplied pursuant to that joint water supply scheme authority, which agreement specified the maximum quantity of water that might be taken by the occupier of that holding,

the quantity of water determined by the Board in respect of that holding under subsection (1) shall be not less than the quantity referred to in paragraph (b).

Supply of water.

62. (1) Subject to this Act, to the terms, limitations and conditions of the group license issued to it and to the exercise by the Commission in relation thereto of any of its powers under Division 4A of Part II of the Water Act, 1912, the Board shall in each year commencing on the first day of July, at the times fixed by it—

- (a) supply water, in such quantities as may be determined by the Board, for domestic and stock purposes to the boundary of each holding within its private district; and

(b)

Private Irrigation Districts and Water (Amendment).

- (b) if its district was constituted as a private domestic and stock water supply and irrigation district, supply water for irrigation, in the quantities allocated by the Board under section 61, to the boundary of each holding within its district in respect of which an allocation of water for irrigation has been made by the Board, No. 47, 1973

and to such other points as may be agreed upon by the Board and the owner of the holding.

(2) The Board shall—

- (a) at or near the point of supply of water from the works of a private domestic and stock water supply and irrigation district to each holding in respect of which an allocation of water for irrigation has been made by the Board, install, to the satisfaction of the Commission in respect of location, form, type and construction, an appliance or appliances for the measurement of the quantity of water delivered by the Board to that holding for irrigation;
- (b) continuously maintain the appliance or appliances in good working order and condition; and
- (c) record by means of the appliance or appliances the measurement of all water delivered to that holding for irrigation and supply particulars of the measurement to the Commission at such intervals as may be directed by the Commission.

(3) An appliance referred to in subsection (2) shall consist of a measuring weir with an automatic recorder or a meter of the Dethridge type, or such other class of meter or means of measurement as may be approved by the Commission.

Private Irrigation Districts and Water (Amendment).

No. 47, 1973 **63.** (1) Notwithstanding anything in this Part, the Board may at any time refuse to deliver water to any holding or may discontinue any delivery of water thereto—

Discon-
tinuance
or reduction
of supply
of water.

- (a) (i) in the case of a holding in respect of which an allocation of water for irrigation has been made by the Board—if the land to be irrigated is not in its opinion properly prepared for irrigation or on which the ditches or channels to be used for the distribution of water within the holding are in the opinion of the Board inadequate or in a bad state of repair; or
- (ii) to the extent that the water is for the irrigation of grasses or pastures which are not sown grasses or improved pastures;
- (b) if any rates or charges for water in respect of the holding are, and have been for a period of two months or more after the due date of payment, unpaid;
- (c) if there has not been paid to the Board in respect of the holding or any original holding of which the holding forms part any amount specified in a recommendation made by the Review Board as referred to in section 14 (7) (b);
- (d) if the owner of the holding does not comply with any requirement specified in a notice given to him under section 64; or
- (e) if the water is being used for any unauthorised purpose.

(2) Nothing in this Part shall render it obligatory on the Board to supply water to any land or owner if, by reason of drought, accident, the exercise by the Commission of any of its powers under Part II of the Water Act, 1912, in relation to a group license or any other cause, the Board is of the opinion that it is impracticable to do so.

(3)

Private Irrigation Districts and Water (Amendment).

(3) Without prejudice to the operation of subsection (2), if at any time the supply of water at the disposal of the Board is insufficient to enable all owners to draw the supplies in the quantities referred to in section 62 (1) (a) or (b), whichever may be applicable, the Board may deliver to those owners such amount of water as the Board deems proper, in quantities proportionate to the quantities so referred to.

(4) Unless the Board in its absolute discretion may otherwise determine, any refusal to deliver, discontinuance of delivery of, or failure to deliver water to a holding pursuant to this section in the quantities referred to in section 62 (1) (a) or (b), whichever may be applicable, shall not relieve the owner of the holding of liability for payment of rates and charges, and rates and charges shall continue to be leviable in respect of the holding as if water were available thereto at all relevant times and notwithstanding the refusal, discontinuance or failure.

(5) No matter or thing done by the Board or by any person acting under the direction of the Board shall, if the matter or thing was done bona fide for the purpose of carrying subsection (1), (2) or (3) into effect, subject the Board or that person to any action, liability, claim or demand.

64. The Board may, by notice in writing given to the owner of any holding, require that owner to provide on his holding—

- (a) ditches or channels of not less than such size and capacity as will enable water to be delivered to his land at not less than such rate of delivery as the Board may stipulate in the notice and to maintain, continuously and effectively, the ditches or channels so provided so that water may be carried or passed at not less than the rate so stipulated; and

Owners may be required to provide distribution works.

(b)

Private Irrigation Districts and Water (Amendment).

No. 47, 1973

(b) storages satisfactory to it in such locations and of such nature and extent as it may deem necessary for water to be supplied for domestic and stock purposes from the works of a private district.

Sale of surplus water.

65. (1) If the full quantity of water to be supplied under section 62 has been supplied or, notwithstanding any sales made under this section, will be supplied, the Board for a private district may, subject to the terms, limitations and conditions of the group license issued to it, agree to sell by measure to the owner of any holding water from the works of the private district subject to such terms and conditions as may be agreed to by the Board and that owner.

(2) If the Commission authorises the Board for a private district to take water, in addition to the water the Board is entitled to take under its group license, the Board may agree to sell by measure the water it is so authorised to take to the owner of any holding within the Board's private district, subject to such terms and conditions as may be agreed upon by the Board and that owner.

Supply of water for domestic and stock purposes to new holdings resulting from subdivisions.

66. (1) Where a holding, whether it is an irrigated holding, or a non-irrigated holding, is subdivided, a new holding resulting from the subdivision shall not be entitled to a supply of water for domestic and stock purposes until a date determined by the Board (not being a date earlier than the date on which the Board became aware of the disposition of that new holding).

(2) Where rates for a period or year ending on the thirtieth day of June, being the period or year during which the date specified by the Board under subsection (1) occurred, have not, before the date so specified, been levied in respect of the holding that was subdivided, the Board shall levy the rates for the whole of that period or year in respect of each of the new holdings that resulted from the subdivision, and that was disposed of.

67.

Private Irrigation Districts and Water (Amendment).

67. (1) Where a holding that is an irrigated holding is subdivided and any new holdings are thereby created, the Board shall, subject to subsection (2), allocate to such one of the new holdings as the owner of the holding that was subdivided nominates the whole of the quantity of water last allocated to the holding that was subdivided.

No. 47, 1973
Supply of water for irrigation purposes to a new holding resulting from a subdivision.

(2) If, within such time as may be specified by the Board in a notice sent by post to the owner of the subdivided holding at his last known address, the owner—

- (a) fails to make the nomination referred to in subsection (1); or
- (b) nominates a new holding which, in the opinion of the Board, does not contain land capable of being irrigated from the works of the private district or to which, in the opinion of the Board, it is impracticable to convey water for irrigation from those works,

the Board shall allocate to such one of the new holdings resulting from the subdivision as it thinks fit the whole of the quantity of water last allocated to the holding that was subdivided and shall notify the owner of the holding that was subdivided and the owner of the new holding of the allocation.

(3) An allocation of water to a new holding made under subsection (1) or (2) has effect as on and from a date to be specified in the instrument by which the allocation is made (not being a date earlier than the date on which the Board became aware of the first disposition of any of the new holdings resulting from the subdivision).

(4) The owner of a new holding resulting from a subdivision referred to in subsection (1) shall not be entitled to an allocation of water by the Board for irrigation purposes otherwise than in accordance with this section.

(5)

Private Irrigation Districts and Water (Amendment).

No. 47, 1973

(5) Where charges for water for a period or year ending on the thirtieth day of June, being the period or year during which the date specified by the Board under subsection (3) occurred, have not, before the date so specified, been levied in respect of the holding that was subdivided as referred to in subsection (1), the Board shall levy the charges for the whole of that period or year in respect of the new holding to which the water previously allocated to the holding that was subdivided has been allocated in accordance with this section.

Additional
works
required
as a
result of
subdivision.

68. (1) The person who, immediately before the disposition of a new holding resulting from a subdivision referred to in section 66 (1) or 67 (1), was the owner thereof shall construct at his own cost such works as are necessary to provide—

- (a) means of supplying and conveying water from the works of the private district to the new holding and, where an allocation of water is made to the new holding for irrigation, means of measuring the water so supplied;
- (b) means of access from roads to any works of the private district or any works provided for the purposes of paragraph (a) where that access would not be available except by crossing a channel of the private district; and
- (c) means of access across a channel of the private district to the new holding where that means of access is required by reason of the subdivision.

(2) All works to be constructed under subsection (1)—

- (a) in respect of the supply of water to a new holding that is a non-irrigated holding, shall be constructed before the new holding is disposed of or within such period after the disposition of the new holding as the Board may in any particular case allow; and

(b)

Private Irrigation Districts and Water (Amendment).

(b) in respect of the supply of water to a new holding No. 47, 1973 that is an irrigated holding, shall be constructed within such period after the date referred to in section 67 (3) relating to that holding as the Board may, by notice in writing, have notified to the owner of the holding that was subdivided.

(3) All works constructed or to be constructed under subsection (1)—

(a) shall, for the purposes of sections 171, 421 and 422 of the Local Government Act, 1919, be deemed to be a structure; and

(b) shall be constructed in accordance with the approval in writing of the Board in respect of location, design, form, dimensions and construction.

(4) For the purposes only of subsection (3), section 421 (6) (a) of the Local Government Act, 1919, shall be deemed to be repealed.

(5) At the request of the owner referred to in subsection (1), the Board may by agreement with him undertake, at his cost, the construction of any works required under this section.

(6) The Board may construct such works required under subsection (1) as have not been constructed by the owner referred to in that subsection, and any costs and expenses (including any compensation paid or payable by the Board under Part V by reason of the construction of the works) shall be moneys due and payable to the Board either by the person who, immediately before the disposition of the new holding, was the owner thereof or by the owner of the new holding, as the Board may determine.

(7) Where the whole or any part of the costs and expenses referred to in subsection (6) is recovered by the Board from the owner of the new holding, that owner may, subject to the terms of any agreement between himself and the person who, immediately before the disposition of the new holding,

Private Irrigation Districts and Water (Amendment).

No. 47, 1973 holding, was the owner thereof, recover the whole or that part, as the case may be, of those costs or expenses from that person.

(8) Any works constructed under this section shall, upon their completion, be works of which the Board has the control, use and maintenance.

PART VIII.

MEETINGS OF OWNERS.

General
meeting.

69. (1) The Chairman may, whenever he thinks fit, convene a general meeting of owners.

(2) The Board shall, within twenty-one days after the receipt of a requisition signed by not less than one-fifth in number of the owners of the holdings in the provisional private district or the private district, convene a general meeting of those owners.

(3) Seven days' notice of every general meeting, signed by the Secretary, shall be delivered or sent by post to every owner at the address shown in the assessment book informing him of the time and place of the general meeting.

Voting
rights.

70. (1) A corporation may, by any person authorised in writing under its common seal—

- (a) attend general meetings; and
- (b) vote.

(2) If there is more than one owner of any holding all of those owners may attend meetings but only—

- (a) the owner in actual occupation of the holding; or
- (b)

Private Irrigation Districts and Water (Amendment).

- (b) if there is more than one owner in actual occupation, No. 47, 1973 such one of them as may, by notice in writing given to the Secretary of the Board, have been last nominated for the purposes of this paragraph by all of the owners in actual occupation,

may vote.

PART IX

FINANCE.

71. Each Board shall cause to be kept, in relation to its funds, proper books of account which shall be audited as often as the Board may deem it advisable so to do, but at least once in every year, by an accountant registered under the Public Accountants Registration Act, 1945. Books of account.

72. Each Board shall as soon as practicable, and not more than three months after the thirty-first day of July in each year, transmit to the Commission a copy of the income and expenditure account, balance sheet and rate account as last audited, together with a copy of the certificate of audit relating thereto. Accounts to be rendered.

73. (1) All money received by or on account of a Board shall be paid into a bank appointed by the Board. Banking of money.

(2) Every payment of two dollars or more by or on behalf of the Board shall be by cheque on the bank, drawn and countersigned as prescribed.

(3) Payments of less than two dollars may be made out of a petty cash fund, replenished from time to time by cheque drawn and countersigned as prescribed.

74.

Private Irrigation Districts and Water (Amendment).

No. 47, 1973 **74.** (1) For the temporary accommodation of a Board it may obtain advances by way of overdraft of current account in any bank or banks upon the security of the income of the Board.

Temporary
accom-
modation.

(2) The amount of any such overdraft shall be limited to—

- (a) one-half of the income of the Board as shown by the last audited accounts; or
- (b) if there are no audited accounts, one-half of the income of the Board estimated by the Board in respect of the year commencing on the first day of July immediately preceding the date on which the overdraft is proposed to be obtained.

(3) No greater amount shall be borrowed under this section than the amount stated in a certificate of the auditor of the Board as being the sum which may be borrowed within the limits imposed by this section.

Borrowing. **75.** (1) A Board may, with the approval of the Governor given with the concurrence of the Treasurer, borrow money for the purpose of—

- (a) enabling or assisting it to carry out or perform any of the powers, authorities, duties, obligations or functions conferred or imposed upon it under this Act; or
- (b) repaying or renewing any other loan.

(2) For the purpose of securing the repayment of principal and interest on any moneys borrowed in pursuance of subsection (1) the Board may—

- (a) mortgage any real property vested in it; or
- (b) issue debentures in or to the effect of the prescribed form.

(3)

Private Irrigation Districts and Water (Amendment).

(3) The powers of a Board under this section are in No. 47, 1973 addition to the powers conferred on Boards by section 74.

76. (1) A Board shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Board. ^{Reserves for repayments.}

(2) The Board shall during each year transfer to each reserve for loan repayment fund from the revenue of the Board a sum not less than the sum that the Board specified in its application for approval of the loan that it proposed to transfer to that fund.

(3) Moneys held as a reserve for loan repayment fund may be invested in Government securities of the Commonwealth or of the State of New South Wales, or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Board, or in any securities guaranteed by the Government of that State, or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(4) Any interest or profits realised on any such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

(5) All moneys paid into a reserve for loan repayment fund may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(6) Where the Board decides to cancel debentures purchased from the reserve for repayment of the loan for which they were issued, the Board shall, in addition to the sum otherwise payable to the reserve for repayment of that loan and subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of four

and

Private Irrigation Districts and Water (Amendment).

No. 47, 1973 and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(7) If, after a loan has been repaid, there remains in the reserve for repayment of that loan any balance, that balance shall form part of the general funds of the Board.

(8) A reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than the loan in respect of which the reserve was created.

(9) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

Transfer of
debentures
and
coupons.

77. Every debenture issued under the provisions of this Act, and every coupon originally annexed to the debenture, and whether separated therefrom or not, may be transferred by simple delivery.

Payment of
debentures
and
coupons.

78. (1) The due repayment of any loan in respect of which debentures have been issued by a Board, and the interest thereon, shall be a charge upon the income of the Board from whatever source arising.

(2) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment from the Board of the interest specified in the coupon upon its presentation on or after the date when, and at the place where, the interest is payable.

Lost
debentures.

79. (1) If any debenture issued by a Board is lost or destroyed or defaced before it has been paid, the Board may, subject to the provisions of this section, issue a new debenture instead.

Private Irrigation Districts and Water (Amendment).

(2) The new debenture with interest coupon annexed No. 47, 1973 shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- (a) the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some other person approved by the court, that it has been lost or destroyed before redemption;
- (b) such advertisements as the court may direct have been published;
- (c) six months have elapsed since the publication of the last of those advertisements; and
- (d) sufficient security has been given to the Board to indemnify it against any double payment if the missing debenture is presented for redemption.

(4) When the debenture is defaced the new debenture shall not be issued unless the defaced debenture is lodged with the Board for cancellation.

(5) This section applies to a lost, destroyed, or defaced coupon in the same way as it applies to a lost, destroyed or defaced debenture.

80. All debentures issued by a Board shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise. Debentures to rank *pari passu*.

PART

No. 47, 1973

PART X.

GENERAL.

Delegation. **81.** (1) The Board may by instrument in writing under seal delegate—

- (a) to any member of the Board; or
- (b) to any servant of the Board,

the exercise or performance of such of the powers (other than this power of delegation), authorities, duties or functions conferred or imposed on the Board by or under this Act as may be specified in the instrument of delegation.

(2) A power, authority, duty or function, the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation by the delegate to whom the exercise or performance thereof has been delegated.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to the time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Board may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing done had been done or suffered by the Board.

Assessment
book
admissible
as evidence.

82. In any legal proceedings for the recovery of rates or charges, the assessment book or any document purporting to contain a copy or extract therefrom certified as a true copy or extract under the hand of the Chairman or the Secretary of the Board shall be received in evidence.

83.

Private Irrigation Districts and Water (Amendment).

83. A person shall not—

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- (a) hinder or obstruct the Board or any of its servants or agents in the exercise of any power conferred by this Act; or Hindering Board or removing marks, etc.
- (b) remove, injure or interfere with any marks made or pegs or stakes fixed pursuant to the provisions of section 37 (1).

Penalty : \$200.

84. A person shall not, except under the authority of this Act or the Water Act, 1912, or with the permission of the Board— Unauthorised use of water.

- (a) take water from or use water taken from any work of a private district;
- (b) interfere with the flow of the water in any work of a private district by opening or closing either in whole or in part any valve, sluice, gate, meter, or other like regulator, or by removing or placing in position any drop-bar or like appliance;
- (c) divert or take water supplying or flowing into any work of a private district; or
- (d) do any act whereby the water from any such work may be drawn off or diminished in quantity.

Penalty : \$500.

85. A person shall not throw or place, or cause or permit to be thrown or placed into or in any water in any supply work or conveying work any refuse, litter, debris or other matter, whether solid, liquid, or gaseous, so that the water becomes, or is likely to become, or the refuse, litter, debris or other matter, either alone or together with any other refuse, litter, debris or matter present in the water makes, or is likely to make, the water unclean, noxious, poisonous or impure, detrimental to the health, safety, welfare or property of

persons,

Private Irrigation Districts and Water (Amendment).

No. 47, 1973 persons, undrinkable for farm animals or unsuitable for use in irrigation, or obstructs or interferes with, or is likely to obstruct or interfere with the exercise or enjoyment of the rights of the Board in relation to the water.

Penalty : \$500.

Damage to
or inter-
ference
with works.

86. A person shall not destroy, damage or interfere with any supply work or conveying works.

Penalty : \$500.

Notice of
action.

87. (1) Proceedings in respect of any damage or injury to a person or to property shall not be commenced against a Board or any member of a Board or any servant of a Board or any person acting in its or his aid for anything done or intended to be done or omitted to be done under this Act until the expiration of one month after notice in writing has been served on the Board, member, servant or person as provided in this section.

(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Board shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, and the amount of money, if any, expended in repairing the damage shall be given to him.

(4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice and, unless the notice has been served,

Private Irrigation Districts and Water (Amendment).

served, the plaintiff shall not be entitled to maintain the action, No. 47, 1973 but at any stage of the proceedings the court in which the action is pending may, if the court deems it to be just or reasonable in the circumstances so to do—

- (a) amend any defect in the notice on such terms and conditions, if any, as the court may fix; or
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

(5) Every such action shall be commenced within the period (in this section referred to as the "prescribed period") of twelve months next after the cause of action arises but where an application is made to the Supreme Court in accordance with rules of court for an extension of the prescribed period that court may, if it is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case, it would be just or reasonable so to do, make an order for the extension of the prescribed period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

(6) Any such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

(7) Any person who is dissatisfied with the decision of the Supreme Court on any such application may, in accordance with rules of court, appeal to the Court of Appeal which may on the appeal make any order which it considers ought to have been made in the first instance.

(8) The Board or any member, or servant or person to whom any such notice is given, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and if the tender is not accepted may plead the tender as a defence to the action.

Private Irrigation Districts and Water (Amendment).

- No. 47, 1973** **88.** Every summons, process, demand, order, notice, statement, direction or document requiring authentication by a Board shall be sufficiently authenticated without the seal of the Board if signed by two members of the Board or by a member of the Board and the Secretary.
- Documents—how authenticated.**
- 89.** Any notice, summons, writ or other proceedings required to be served on a Board may be served by being left with some person apparently employed by the Board at the office of the Board or, in the case of a notice, by posting it by certified mail in an envelope duly stamped and addressed to the Board at its office, and shall be deemed to have been served upon its being so left or, in the case of a notice served by so posting it, shall be prima facie deemed to have been served when it would be delivered in the ordinary course of post.
- Service of notice of proceedings on the Board.**
- 90.** (1) Any rates, charges or moneys due to the Board under the provisions of this Act or the by-laws may be recovered as a debt in a court of competent jurisdiction.
- (2) Proceedings for the recovery of any rates, charges or money so due to the Board shall be deemed to be for the recovery of a debt or liquidated demand.
- Recovery of rates, etc.**
- 91.** Any penalty imposed by this Act or the by-laws may be recovered in a summary manner before a stipendiary magistrate sitting in petty sessions alone.
- Proceedings for offences.**
- 92.** (1) The imposition or payment of any penalty imposed upon any person by this Act or by any by-law shall not bar or affect the right of the Board to bring any other action or take any other proceeding against that person.
- Penalty no bar to other action.**
- (2) A prosecution for an offence against this Act or any by-law, being an offence relating to a provisional private district or a private district, shall not be commenced without the written consent of the Board for that provisional private district or that private district.

Private Irrigation Districts and Water (Amendment).

93. The Governor may make regulations not inconsistent with this Act for or with respect to the first election of the members of any Board (including regulations for or with respect to the dividing of the provisional private district of the Board into zones for the purpose of any such election) or for or with respect to any matter (not being a matter for or with respect to which by-laws may be made) which is required or permitted to be prescribed or which is necessary or convenient to be prescribed for the carrying out or giving effect to this Act.

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Regulations.

94. (1) A Board may, with the approval of the Governor, make by-laws not inconsistent with this Act or the regulations made under this Act for or with respect to—

- (a) elections (other than the first election) of the members of the Board (including by-laws for or with respect to the dividing of the provisional private district or the private district of the Board into zones for the purpose of any such elections);
- (b) the election of a Chairman and a Deputy Chairman of the Board;
- (c) the procedure for convening and holding meetings of the Board;
- (d) the regulation of the conditions of appointment and employment of servants of the Board;
- (e) the provision of a scheme of superannuation for servants of the Board;
- (f) the convening and holding of general meetings of owners;
- (g) the appointment by an owner of a proxy for voting purposes;
- (h) the supply of water for domestic and stock purposes or for irrigation;

(i)

Private Irrigation Districts and Water (Amendment).

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- (i) the provision of storages on holdings for water supplied from the works of the Board for domestic and stock purposes;
- (j) the methods of measuring water supplied;
- (k) the sale of water to owners;
- (l) regulating the use of the works of the Board;
- (m) the prevention of waste of water;
- (n) the fixing, assessing and levying of rates and charges for water;
- (o) the collection and recovery of rates and charges and the charging of rates and charges on the holdings in respect of which they are levied;
- (p) the class of case in which, and the circumstances in which, rates and charges may be abandoned or written off;
- (q) the accounts of the Board;
- (r) the collection and banking of moneys, and the signing and countersigning of cheques;
- (s) the books and records of the Board;
- (t) the access of members of the Board to documents and books of the Board;
- (u) fees for any service provided by the Board;
- (v) the form of any notice or other document to be prepared, issued or received in accordance with this Act or any by-laws of the Board;
- (w) any matter which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Private Irrigation Districts and Water (Amendment).

(2) The by-laws made under subsection (1) may No. 47, 1973 impose a penalty not exceeding \$50 for any offence against the by-laws and in the case of a continuing offence a further penalty not exceeding \$20 for each day the offence continues.

PART XI.

AMENDMENTS TO WATER ACT, 1912.

95. The Water Act, 1912, is amended—

Amendment
of Act No.
44, 1912.

- (a) by inserting in section 1 next after the matter relating to Division 4 of Part II the following new matter :—

Sec. 1.
(Short
title and
division.)

DIVISION 4A.—*Group licenses*—ss. 20I–20U.

- (b) (i) by inserting in section 5 next after the definition of “Drainage” the following new definitions :—

Sec. 5.
(Interpreta-
tion.)

“Group license” means a group license issued under Division 4A.

“Group license occupiers”, in relation to a group license, means all of the occupiers of lands to which water is supplied by means of a work in respect of which the group license is held.

- (ii) by inserting in section 5 next after the definition of “Local land board” the following new definitions :—

“License” does not include a group license.

“Licensee” means the holder of a license.

- (c) (i) by inserting in section 14B (2) after the word “license” wherever occurring (except in section 14B (2) (c)) the words “, group license”;

Sec. 14B.
(Flow
assured by
a work of
the Crown.)

(ii)

Private Irrigation Districts and Water (Amendment).

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- (ii) by omitting from section 14B (2) the words "licensee or holder of" and by inserting instead the words "holder of the license, the group license or";
- (iii) by inserting in section 14B (2) (c) after the word "license" the words "or group license";
- (iv) by omitting from section 14B (3) (a) the words "licensee or" and by inserting instead the words "holder of the license, by the group license occupiers or by the";
- (v) by inserting in section 14B (3) (a) after the word "permit" the words ", as the case may be,";
- (vi) by omitting from section 14B (4) the words "licensee or holder of the authority or permit" and by inserting instead the words "holder of the license, by the group license occupiers, or by the holder of the authority or permit, as the case may be,";
- (vii) by inserting in section 14B (6) after the word "license" wherever occurring the words ", group license";
- (viii) by omitting from section 14B (7) the words "The amount" and by inserting instead the words "Where the charges were paid or payable by the holder of a license, authority or permit, the amount";
- (ix) by inserting at the end of section 14B (7) the words "Where the charges were paid or payable by the holder of a group license, the amount so remitted or waived shall not exceed the charges paid or payable by the holder of the group license in respect of the quantity of water, as assessed by the Commission, used for the irrigation of any crop which has been conserved and held as fodder for a period of not less than eighteen months and is in good condition and is protected to the satisfaction of the Minister.";

(d)

Private Irrigation Districts and Water (Amendment).

- (d) by inserting in section 15 after the word "license" **No. 47, 1973**
 wherever occurring the words "or a group license"; **Sec. 15.**
 (Separate applica-
 tions.)
- (e) by inserting in section 17 after the word "license" **Sec. 17.**
 wherever occurring the words "or group license"; **(Rights of**
holder of
license or
group
license.)
- (f) (i) by inserting in section 17A after the word **Sec. 17A.**
 "license" wherever occurring (except where **(Recovery**
 lastly occurring in section 17A (1) (a)) the **or suspen-**
 words ", group license"; **sion of**
license,
group
license, or
authority.)
- (ii) by omitting from section 17A (1) (a) the
 words "a licensee or the holder of the" and
 by inserting instead the words "the holder of
 the license, group license or";
- (iii) by omitting from section 17A (1) (a) the
 words "has irrigated an area in excess of that
 which he is entitled by his license or authority
 to irrigate" and by inserting instead the words
 "any land has been irrigated as to an area in
 excess of that which is authorised by the
 license, group license or authority to be
 irrigated";
- (iv) by omitting from section 17A (1) (a1) and
 (b) the words "licensee or the holder of the"
 and by inserting instead the words "holder of
 the license, group license or";
- (v) by omitting from section 17A (1) (a1) the
 words "licensed or" and by inserting instead
 the words "licensed work, the work the
 subject of the group license or the";
- (vi) by inserting in section 17A (1) (b) after the
 word "held" the words "or a group license
 occupier has failed to observe and perform
 any of the limitations and conditions subject
 to which the group license was issued and is
 held";

(vii)

Private Irrigation Districts and Water (Amendment).

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- (vii) by omitting from section 17A (1) (c) the words "licensee or the holder of the authority" and by inserting instead the words "holder of the license, group license or authority or by any group license occupier";
- (viii) by omitting from section 17A (1) (d) the words "licensed or" and by inserting instead the words "licensed work, the work in respect of which the group license is held or the";
- (ix) by omitting from section 17A (1) the words "licensee or such holder, as the case may be," and by inserting instead the words "holder of the license, group license or authority";
- (x) by omitting from section 17A (1) the words "the licensee or such person respectively" and by inserting instead the words "that holder";
- (xi) by omitting from section 17A (2) the words "licensee or holder of the" and by inserting instead the words "holder of the license, group license or";
- (xii) by omitting from section 17A (3) the words "a licensee or the holder of an" and by inserting instead the words "the holder of a license, group license or";
- (xiii) by omitting from section 17A (3) the words "licensee or such holder, as the case may be," and by inserting instead the word "holder";
- (xiv) by omitting from section 17A (3) the words "licensee or such holder respectively" and by inserting instead the word "holder";

Sec. 17B.
(Offences.)

- (g) (i) by inserting in section 17B after the word "license" wherever occurring the words ", group license";

(ii)

Private Irrigation Districts and Water (Amendment).

(ii) by omitting from section 17B (1) (d) and (e) ^{No. 47, 1973} the words "unlicensed or unauthorised work to which this Part extends" wherever occurring and by inserting instead the words "work to which this Part extends, being a work that is an unlicensed work, a work not the subject of a group license, or an unauthorised work,";

(h) (i) by inserting in section 18B (1), (2), (3) and (4) after the word "licenses" wherever occurring the words "^{Sec. 18B. (Classification of existing licenses, group licenses and authorities.)}group licenses";

(ii) by inserting in section 18B (2) (a), (3) (a), (6), (7), (8) and (9) after the word "license" wherever occurring the words "^{group licenses and authorities.)}group license";

(iii) by omitting section 18B (2) (b) and by inserting instead the following paragraph :—

(b) the holder of the license or authority has, during the period of five years immediately preceding the date of the proclamation, made beneficial use for irrigation of the rights held under the license or authority, or the group license occupiers have, during that period, made beneficial use for irrigation of the water supplied to them pursuant to the group license, as the case may be.

(iv) by omitting section 18B (3) (b) and by inserting instead the following paragraph :—

(b) the holder of the license or authority has, during the period of three years immediately preceding the date of the proclamation, made beneficial use for irrigation of the rights held under the license or authority, or the group
license

Private Irrigation Districts and Water (Amendment).

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license occupiers have, during that period, made beneficial use for irrigation of the water supplied to them pursuant to the group license, as the case may be.

(v) by inserting at the end of section 18B (3A) (b) the following word and new paragraph :—

; and

(c) in the case of a group license, where all of the lands occupied by the group license occupiers are war service holdings, the group license shall be classified as Class A.

(vi) by inserting in section 18B (5) after the word “authority” where firstly occurring the words “or has been made of the water supplied to the group license occupiers under the group license, as the case may be,”;

(vii) by inserting in section 18B (5) (c) after the word “authority” the words “or pursuant to the group license”;

Sec. 18c.
(Classification of new licenses, group licenses and authorities.)

(i) (i) by inserting in section 18c after the word “license” where firstly occurring the words “, group license” ;

(ii) by omitting from section 18c (b) the words “authority; and” and by inserting instead the following word and new paragraph :—

authority;

(b1) in the case of a group license, where all of the lands occupied by the group license occupiers are war service holdings, be classified by the Commission as a Class A group license; and;

(iii) by inserting in section 18c (c) after the word “license” the words “, group license”;

(j)

Private Irrigation Districts and Water (Amendment).

- (j) (i) by inserting in section 18D (1) after the word "license" wherever occurring the words ", group license";
- (ii) by inserting in section 18D (2) after the word "license" where firstly and secondly occurring the words ", group license";
- (iii) by inserting in section 18D (2) (a) after the word "authority" where firstly occurring the words "or each group license occupier, as the case may be,";
- (iv) by inserting in section 18D (2) (a) after the word "authority" where secondly occurring the words "; or by the group license, as the case may be,";
- (v) by omitting section 18D (2) (b) and by inserting instead the following paragraph:—
- (b) the holder of the license or authority has, during the period of five years immediately preceding the lodgment of the application, made beneficial use for the irrigation of lands of the rights held under the license or authority, or the group license occupiers have during that period made beneficial use for the irrigation of lands of the water supplied to them pursuant to the group license, as the case may be.
- (vi) by inserting in section 18D (3) after the word "license" where firstly, secondly and thirdly occurring the words ", group license";
- (vii) by omitting section 18D (3) (b) and by inserting instead the following paragraph:—
- (b) the holder of the license or authority has, during the period of three years immediately preceding the lodgment of the

No. 47, 1973
 Sec. 18D.
 (Reclassification of
 licenses,
 group
 licenses and
 authorities.)

Private Irrigation Districts and Water (Amendment).

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the application, made beneficial use for the irrigation of lands of the rights held under the license or authority, or the group license occupiers have, during that period, made beneficial use for the irrigation of lands of the water supplied to them pursuant to the group license, as the case may be.

- (viii) by inserting in section 18D (4) after the word "authority" the words "or has been made of the water supplied to the group license occupiers under the group license, as the case may be";
- (ix) by inserting in section 18D (5) and (6) after the word "license" wherever occurring the words ", group license";
- (x) by inserting next after section 18D (7A) the following new subsection :—
 - (7B) If—
 - (a) at any time all of the lands occupied by group license occupiers become lands occupied by war service settlers; and
 - (b) the group license is classified or reclassified by the Commission as a Class B or a Class C group license,
 the group license shall be reclassified by the Commission as a Class A group license.
- (xi) by inserting in section 18D (8) (a) after the words "authority has" the words ", or any of the group license occupiers under a group license have,";
- (xii) by inserting in section 18D (8) (a) after the word "license" where thirdly occurring the words ", group license";

(xiii)

Private Irrigation Districts and Water (Amendment).

- (xiii) by omitting from section 18D (8) (a) (i) the word "failed" and by inserting instead the words "in the case of a license or authority, failed";
- (xiv) by inserting in section 18D (8) (a) (i) after the word "years" the words "or, in the case of a group license, failed to make beneficial use of the water supplied to them pursuant to the group license for the irrigation of lands for a period of three years";
- (xv) by inserting in section 18D (8) (a) (ii) and (iii) after the word "license" wherever occurring the words ", group license";
- (xvi) by omitting from section 18D (8) (a) the words "such holder" and by inserting instead the words "the holder of the license, group license or authority";
- (xvii) by inserting in section 18D (8) (a) after the word "license" where ninthly and tenthly occurring the words ", group license";
- (xviii) by inserting in section 18D (8) (b) and (c) after the word "license" wherever occurring the words ", group license";
- (xix) by inserting in section 18D (8) (d) after the word "authority" where secondly occurring the words "or whether a group license occupier has failed to make beneficial use of the water supplied to him pursuant to the group license, as the case may be,";
- (xx) by inserting at the end of section 18D (9) the following new paragraph :—

(c) Notwithstanding the provisions of subsection (8), where all of the lands occupied by group license occupiers supplied with water pursuant to a group license are war service holdings, the group license shall not be subject

to

Private Irrigation Districts and Water (Amendment).

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to reclassification by the Commission for a period of five years from the date of the granting of the group license.

Sec. 18E.
(Restrictions and suspensions of rights in times of shortage of water.)

(k) (i) by inserting in section 18E after the word "licenses" wherever occurring the words ", group licenses";

(ii) by inserting in section 18E after the word "license" wherever occurring the words ", group license";

(iii) by inserting in section 18E (4) after the word "authority" where lastly occurring the words "or, following a second offence by a group license occupier, cancel such group license";

New Division 4A.

(l) by inserting next after Division 4 of Part II the following new Division :—

DIVISION 4A.—Group licenses.

Inter-pretation.

20I. In this Division—

"Board" means Board of Management elected under the Private Irrigation Districts and Water (Amendment) Act, 1973;

"private district" means private domestic and stock water supply district or private domestic and stock water supply and irrigation district constituted under the Private Irrigation Districts and Water (Amendment) Act, 1973.

Boards to take water only under a group license.

20J. A Board shall not take water from any river or lake for the use of occupiers of lands within a private district except under a group license.

20K.

Private Irrigation Districts and Water (Amendment).

20K. (1) A Board may apply to the Commission in the prescribed form for a group license authorising the Board—

No. 47, 1973
Application
for group
license.

- (a) to construct and use or to use any work to which this Part extends, specified in the application, for the purpose of taking water from a river or lake; and
- (b) to take the water conserved or obtained thereby and dispose of it for the use of the occupiers from time to time of lands within the private district of the Board for the purposes specified in the application.

(2) The provisions of section 20 (2) (paragraphs (h), (i) and (j) excepted) and section 20A (except so much of subsection (2) as relates to the matters to be embodied in the recommendation referred to in that subsection) apply to and in respect of an application under this section in the same way as those provisions apply to and in respect of an application for an authority under Division 4 of Part II.

(3) It shall not be a function of the local land board or stipendiary magistrate to inquire and report whether the Board has the right to enter and occupy the site of any work referred to in subsection (1) (a) or of any works which may be required to convey water to the lands of the occupiers on which the water is to be used and no objection relating to that right shall be entertained.

20L. (1) If no objection to the granting of the application has been lodged or if such an objection has been lodged and the Commission has received the report of the local land board or stipendiary magistrate upon any inquiry into the application,

the

Private Irrigation Districts and Water (Amendment).

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the Commission shall decide whether or not to grant the application, but where the local land board or stipendiary magistrate, as the case may be, has recommended that the application be refused the Commission shall not grant the application unless the Minister so approves.

(2) Where the Commission's decision is that the application for the group license shall be granted, the Commission shall notify the Board of the prescribed fee, of the period for which the group license is to be issued and of the terms, limitations and conditions which the Commission has decided shall be attached to the group license.

(3) On payment of the prescribed fee and the Board certifying that the works referred to in section 20K (1) (a) and the works required to convey the water to the lands of the occupiers on which the water is to be used—

- (a) have, under section 29 of the Private Irrigation Districts and Water (Amendment) Act, 1973, been constructed;
- (b) are the subject of a notice served under subsection (1) of section 34 of that Act; or
- (c) have been transferred to the Board under section 35 of that Act,

the Commission shall issue to the Board a group license for the period and on the terms, limitations and conditions referred to in subsection (2).

(4) A group license shall not be issued for a period exceeding ten years.

(5) If the Board fails to pay to the Commission within the time prescribed the fee payable in respect of the issue of the group license the Commission may at any time thereafter reject the application.

(6)

Private Irrigation Districts and Water (Amendment).

(6) When an application is rejected under No. 47, 1973 subsection (5) the deposit accompanying such application or any part of that deposit may, in the discretion of the Commission, be retained by it.

20M. (1) Unless the Commission otherwise determines, upon the issue of a group license or an amended group license any license or authority issued under this Part and any license issued under Part V pursuant to which water may be taken and used by the occupier or occupiers of any lands within the private district of the Board to which the group license or amended group license has been issued shall lapse and no compensation shall be payable by reason of the operation of this subsection. Lapse of license or authority.

(2) Any such determination may be subject to such terms, limitations and conditions whether by way of restriction or variation or modification or otherwise of the licenses or authorities referred to in subsection (1), or any of them, as the Commission may in its absolute discretion determine.

20N. Where any license or authority lapses pursuant to section 20M (1), the Commission may waive payment of so much of the prescribed fee relating to the issue of the group license or amended group license as it may think fit. Partial waiver of fee.

20o. (1) An application for renewal of a group license may be made by a Board before the expiration of the period for which it was granted or last renewed, as the case may be, and shall be accompanied by the prescribed fee. Renewal of group license.

(2)

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(2) Any such application—

- (a) may be granted by the Commission for the renewal of the license for such period and subject to such terms, limitations and conditions as the Commission thinks fit; or
- (b) may be refused by the Commission, but shall not be refused unless the Minister so approves.

(3) A renewal shall not be granted for a period exceeding ten years.

(4) Pending consideration by the Commission of the application for renewal, the group license shall not lapse, but if the prescribed fee is not paid within the prescribed time the group license shall lapse.

Power to charge different fees.

20P. For the purpose of sections 20L and 20O different fees may be prescribed, differing according to the class of work, the object or purpose of the work or the river or lake on which it is situate.

Amendment of group license.

20Q. (1) The Board may apply to the Commission in the prescribed form for an amended group license to be issued to it in substitution for the group license or amended group license held by it.

(2) Where—

- (a) a Board is notified by the Commission that the Governor proposes pursuant to section 11 of the Private Irrigation Districts and Water (Amendment) Act, 1973, to re-define the boundaries of a private district by adding to that private district any lands and the Board makes an application under

subsection

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subsection (1) for an amended group license to enable those lands to be supplied with water; or

- (b) a Board makes an application under subsection (1) for an amended group license by reason of any proposed alteration of any work to which this Part extends and the Commission is of the opinion that the alteration would, if made, materially and prejudicially affect the quantity or quality of water flowing in, to, or from, or being in any river or lake,

the provisions of section 20E (2) (b) and (c) apply to and in respect of the application in the same way as those provisions apply to an application referred to in that section and—

- (c) the provisions of section 20K (3) apply to and in respect of any inquiry and report made for the purposes of this subsection; and
- (d) the provisions of section 20L (1) and (2) (except so much of section 20L (2) as relates to the period for which a group license is to be issued) apply to and in respect of the granting of the amended group license in the same way as they apply to the granting of a group license.

(3) The Commission may grant any application made under subsection (1) but shall not grant an application referred to in subsection (2) unless—

- (a) the provisions referred to in subsection (2) have been complied with;
- (b) such fee as the Commission may determine has been paid in respect of the amended group license applied for; and

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(c) in the case of an application referred to in subsection (2) (a)—

- (i) a proclamation under section 11 of the Private Irrigation Districts and Water (Amendment) Act, 1973, re-defining the boundaries of the private district has been published in the Gazette; and
- (ii) the Board has certified that any works necessary to convey water to the lands added to the private district have, under section 29 or 34 of that Act, been constructed or taken over.

(4) Except as provided in subsection (3), no fee shall be payable in respect of an application for or the issue of an amended group license.

(5) An amended group license shall be issued for the unexpired period for which the group license it replaces was issued.

Occupiers
bound by
group
license.

20R. The Board and the occupiers from time to time of the lands specified in a group license which are supplied with water obtained by means of the work covered by the group license shall be bound by the terms, limitations and conditions of the group license and upon breach of any such terms, limitations and conditions the group license may be cancelled by the Commission.

Penalties.

20s. (1) The Board or any person who contravenes the provisions of this Division or contravenes or fails to carry out any term, limitation or condition of a group license by which it or he is bound is guilty of an offence against this Act and is liable to a penalty not exceeding two hundred and fifty dollars

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dollars and to a further penalty not exceeding No. 47, 1973 twenty-five dollars for each day the offence continues after conviction, and, in addition to the imposition of the penalty, the group license may be cancelled by the Commission.

20T. If during the time that a group license is in force, alterations have been made in or in connection with the work covered by the group license which materially and prejudicially affect the quantity of water flowing into or from, or being in any river or lake, without the previous consent of the Commission, the person who made the alterations shall be liable to a penalty not exceeding five hundred dollars, and, in addition to the imposition of that penalty, the group license may be cancelled by the Commission.

Penalty for certain alterations to work.

20U. A group license may be cancelled under this Division by the Commission by notification in the Gazette which shall be conclusive evidence of the cancellation.

Cancellation of group licenses.

- (m) (i) by inserting in section 26B after the word "license" where firstly occurring the words ", group license";
- Sec. 26B. (Power to determine license, group license or authority.)
- (ii) by inserting in section 26B after the word "authority" where secondly occurring the words "or to the holder of the group license, as the case may be";
- (iii) by omitting from section 26B the words "work licensed or authorised" and by inserting instead the words "licensed work, the work the subject of the group license or the authorised work";

(n)

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- (n) (i) by inserting in section 27 (1) (a) and (b) after the words "renewals of permits" wherever occurring the words ", group licenses and renewals of group licenses";
- (ii) by omitting from section 27 (1) (d) the word "licensees" and by inserting instead the words "holders of licenses, holders of group licenses";
- (iii) by inserting in section 27 (1) (d) after the words "joint water supply schemes," the words "group license occupiers,".

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