

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1910.

A BILL

To amend the Water and Drainage Act, 1902, and the Water and Drainage (Amending) Act, 1906; and for other purposes.

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

Preliminary.

1. This Act may be cited as the "Water and Drainage Short title. (Amendment) Act, 1910."

In this Act, "the Principal Act" means the Water and Drainage Act, 1902.

Amendments of Principal Act.

2. The following paragraph is added to section seven of the Amendment of s. 7. Principal Act :—

- (i) where thought desirable, provision for deferring the payment, in whole or in part, of interest, and to the sinking fund in cases where, owing to the condition of certain land in the trust district, the occupier of such land cannot at the time profitably use the works.

3. Section nine of the said Act is amended—

Amendment of s. 9.

- (a) by inserting “amendments” in lieu of “modifications” wherever that word occurs in the section ;
- (b) in subsection three, by inserting after “carry out” the words “or acquire.”

4. In section fourteen of the said Act—

Amendment of s. 14.

- (a) omit “modifications” wherever that word occurs, insert “amendments” ;
- (b) after “board” where first occurring, insert “with a statement of the costs of any works (if any) proposed to be constructed or acquired” ;
- (c) after “accordingly” insert “and may construct or acquire such works and increase the maximum rate which may be assessed by the trust” ;
- (d) at the end of the section add : “On the completion or acquisition of the work a notification shall be sent to the trustees, and shall be published in the Gazette directing that, with the Governor’s approval, the interest on the cost of such work shall be paid by the trust. Such interest shall commence to run, and such maximum rate shall be so increased from the date of such notification ; and such interest shall be calculated on a sum not exceeding the estimated cost plus ten per centum.”

5. The following new section is inserted next after section fourteen of the Principal Act :—

New section 14A.

14A. On the joint application of the trustees of any two adjoining trust districts, duly approved by a majority of the voters of each trust at separate meetings of which at least fourteen days’ notice has been given, the Minister may unite any part of one such trust district to the other trust district.

6. In subsection two of section fifteen of the said Act, the following is inserted next before the proviso :—“One of the trustees shall be appointed by the Minister to be chairman.”

Amendment of s. 15 (2).

7. Section twenty-four of the said Act is amended by inserting after “constructed” the words “or acquired by the Minister.”

Amendment of s. 24.

8.

8. Section twenty-seven of the said Act is amended in subsection three, by omitting "the" before "police magistrate" and inserting "a"; and by inserting before "the district" the words "any part of." Amendment of s. 27.

9. (1) Section twenty-nine of the said Act is amended— Amendment of s. 29.
(a) in the first paragraph, by inserting after "works under their charge" the words "or to acquire any other works";
(b) in the second paragraph, by inserting after "construction" the words "or acquisition";
(c) in the third paragraph, by inserting after "completion" the words "or acquisition."

(2) The same section is also amended—
(a) in the first paragraph, by inserting after "water supplied," where secondly occurring, the words "or the cost of any works constructed or acquired under this section, and in respect of any proposed increase in the maximum rate which may be assessed by the trust";
(b) in the last paragraph, by inserting after "run" the words "and the maximum rate shall be so increased."

(3) The same section is further amended by adding the following at the end of the section:—"Due provision shall also be made for a sinking fund in the manner provided by paragraph (d) of section twenty-five. The amount of the payments to the sinking fund shall be calculated at the same rate as in the case of the other works under the charge of the trustees."

10. The following sections and short headings are inserted next after section thirty of the Principal Act:— New sections to follow s. 30.

Acquisition of works.

30A. Where by this Act the Minister is authorised to acquire any work, such work may be purchased, resumed, or appropriated under the Public Works Act, 1900, and the said Act shall apply thereto. In so applying the said Act, the work shall be deemed to be an authorised work, and the Minister shall be deemed to be the Constructing Authority. Any work so purchased, resumed, or appropriated shall thereupon vest in the Minister. Acquisition of works under Public Works Act.

Acquisition and disposal of land.

30B. (1) The Governor may, under the Public Works Act, 1900, but subject to the provisions hereinafter mentioned, purchase, resume, or appropriate any land which, in his opinion, would come within the beneficial influence of any works carried out or proposed to be carried out under this Act; and such purchase, resumption, or appropriation shall be deemed to be made for an authorised work. Power to acquire land within beneficial operation of works.
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Such land, when so purchased, resumed, or appropriated, shall thereupon vest in the Minister for the purposes of this Act, and the Minister shall for those purposes have all the powers of a Constructing Authority under the Public Works Act, 1900.

(2) Provided that the purchase money or compensation payable in respect of any such land which is purchased or resumed within five years after the constitution of the trust shall not exceed the value of the land at the date of such constitution, with ten per centum thereof added to such value, together with the value of any improvements placed on such land after such date.

(3) Provided also that before land is resumed under this section an advisory board, constituted under the Closer Settlement (Amendment) Act, 1907, shall make a valuation and shall report to the Minister in respect of such land (without any limitation as to the value of the same) under section three of the said Act, and that the provisions of sections nine and ten of the said Act, as to the determination of the value of the land and improvements by a court, shall apply to any such resumptions, and the provisions of subsection one of section twenty-three of the Closer Settlement (Amendment) Act, 1909, relating to costs in the proceedings therein referred to shall, *mutatis mutandis*, apply to costs in any proceedings under this proviso for determining the value of land and improvements.

The above provisions shall be in lieu of the valuation under section ninety-six of the Public Works Act, 1900, and in lieu of the provisions of sections ninety-seven, ninety-eight, and ninety-nine of the same Act.

In applying any such provisions of the Closer Settlement Acts the word "Minister" shall mean the Secretary for Public Works.

30c. The Minister may cause any land vested in him in pursuance of this Act to be surveyed, subdivided, and prepared for sale, with such roads, reserves, and sites for villages or towns or other public purposes as he may think fit. Preparation of land for sale.

30d. (1) The Minister, by notice in the Gazette, may— Closing and opening of certain roads.

(a) close any roads passing through or between lands vested in him in pursuance of this Act;

(b) open, dedicate, and form as a public road, or reserve and dedicate for public recreation and use, or reserve for any other purpose any land vested in him in pursuance of this Act, and revoke any such dedication.

(2) On such closing of any such road, the land comprised therein shall vest in the Minister, freed and discharged from any rights to the same as a highway. Land to vest in Minister.

(3)

(3) The above provisions are in lieu of the provisions of the Public Roads Act, 1902, relating to the closing, opening, and dedicating of public roads.

(4) The provisions of the Local Government Act, 1906, or any Act amending the same, relating to the opening, diverting, or altering, or increasing the width of roads, or relating to the closing of any road or part of a road, shall not apply to roads passing through or between lands vested in the Minister in pursuance of this Act: Provided that nothing herein shall affect the powers or duties of the council of a municipality or shire under the Local Government Act, 1906, or any Act amending the same, with respect to the care, control, and maintenance of public places as defined in the said Act.

30E. Where the Minister has acquired any land as aforesaid, he may, with the approval of the Governor, in his discretion resell for a cash payment any portion of such land to any person from whom he has so acquired it at a price based upon the cost of acquiring such land.

30F. (1) The Minister, with the approval of the Governor, may sell any lands vested in him in pursuance of this Act, and may lease until they are required for settlement any of such lands as are unoccupied.

(2) Such sale or lease shall be at such price or rent and subject to such conditions as the Minister, with the approval of the Governor, may think fit or as may be prescribed, and subject also to the following conditions and provisions:—

- (a) Where land has been purchased or resumed in pursuance of this Act, the Minister shall fix the lowest price of the various subdivisions of such land so as at least to recoup the Crown for the sum paid for the land, with survey fees and other expenses connected with the purchase or resumption and the disposal thereof.
- (b) The Minister may agree for the payment for any land so sold, with interest at the rate of four per centum per annum on the balance unpaid in each year, by fifteen equal annual instalments.
- (c) The annual rent reserved in any such lease, the term of which exceeds or may exceed three years, shall not be less than five per centum of the lowest price of the land as fixed by the Minister under this section.

11. Section thirty-three of the said Act is amended by adding at the end of the section:—“In any prosecution under this section, proof that the flow of water in any channel has been obstructed shall be prima facie evidence that such obstruction has been caused by the occupier of the land where such obstruction occurs.”

12. Section thirty-four of the said Act is amended by omitting Amendment of s. 34. the words "the election by trustees of a chairman."

Amendments of Water and Drainage (Amending) Act, 1906.

13. Section six of the Water and Drainage (Amending) Act, Amendment of s. 6. 1906, is amended by omitting "seven" and inserting the word "twelve."

14. Section thirteen of the said Act is amended by adding the Amendment of s. 13. following at the end of the section: "or if such surplus water is not required for any ratepayer, the trust may so sell such water to any other person."

15. Section sixteen of the said Act is amended by omitting Amendment of s. 16. "cultivated" and substituting the words "covered by perennial or permanent plantation."
