

388

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1938.

A BILL

To make provision with respect to the reduction or extinguishment of certain indebtedness to the Rural Bank of New South Wales and for the alteration or reduction of the annual rental of certain leases of lands within the irrigation area constituted under the Wentworth Irrigation Act; to provide for the terms of payment of certain indebtedness to the Rural Bank of New South Wales; to validate certain matters; and for purposes connected therewith.

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 :—

1. This Act may be cited as the "Wentworth Irrigation Area Occupiers Relief Act, 1938," and shall be read and construed with the Wentworth Irrigation Act and the Irrigation Act, 1912-1931, as amended, in each case, by subsequent Acts. Short title.

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

"Arrears of indebtedness" means so much of the indebtedness of an occupier to the Rural Bank of New South Wales in its Irrigation Agency, whether for instalments, interest, rent, water charges or otherwise as had become payable to the Crown or to the Commission but was not actually paid on or before the first day of July, one thousand nine hundred and thirty-four.

"Commission" means the Water Conservation and Irrigation Commission.

"Current indebtedness" means so much of the indebtedness of an occupier to the Rural Bank of New South Wales in its Irrigation Agency whether for instalments, interest, rent, water charges or otherwise as was owing to the Crown or the Commission but had not become payable on or before the first day of July, one thousand nine hundred and thirty-four, together with interest on such indebtedness so owing and not payable calculated up to and including the thirty-first day of December, one thousand nine hundred and thirty-four, at the rate of four pounds per centum per annum.

"Occupier" means a person holding under any tenure any land within the irrigation area constituted under the provisions of the Wentworth Irrigation Act, as amended by subsequent Acts.

3. Where, in the opinion of the Minister, the circumstances warrant such action, he may determine that the arrears of indebtedness of any occupier shall be reduced or extinguished.

Reduction or extinguishment of arrears of indebtedness.

Any such reduction or extinguishment shall be deemed to have taken effect on the first day of July, one thousand nine hundred and thirty-four.

4. (1) The arrears of indebtedness of each occupier (or, where the arrears of indebtedness of any occupier have been reduced pursuant to section three of this Act, the balance of the arrears of indebtedness of that occupier) shall be payable without interest by equal regular half-yearly instalments over such period (which shall end not later than the thirty-first day of December, one thousand nine hundred and sixty-one) as the Minister may in each case determine.

Payment of arrears of indebtedness.

The first of such instalments shall be deemed to have become payable on the thirtieth day of June, one thousand nine hundred and thirty-five: Provided that the Minister may in any particular case determine that the first instalment shall be deemed to have become or shall become payable on any later date and in any such case the first instalment shall be deemed to have or shall become payable on the date so determined.

(2) If any such instalment is not paid on the due date interest on such instalment shall accrue at the rate of four pounds per centum per annum from such date to the date of payment.

5. Where, in the opinion of the Minister, the circumstances warrant such action, he may determine that the current indebtedness of any occupier shall be reduced or extinguished.

Reduction or extinguishment of current indebtedness.

Any such reduction or extinguishment shall be deemed to have taken effect on the thirty-first day of December, one thousand nine hundred and thirty-four.

6. (1) The amount of the current indebtedness of each occupier (or, where the current indebtedness of any occupier has been reduced pursuant to section five of this Act, the balance of the current indebtedness of that occupier

Payment of current indebtedness.

Wentworth Irrigation Area Occupiers Relief.

7

occupier) shall, except in a case to which subsection two of this section applies, be paid by equal regular half-yearly instalments (including both principal and interest at the rate of four pounds per centum per annum) over such period (which shall end not later than the thirty-first day of December, one thousand nine hundred and sixty-one) as the Minister may in each case determine.

The first of such instalments shall be deemed to have become payable on the thirtieth day of June, one thousand nine hundred and thirty-five:

Provided that the Minister may in any particular case determine that the first instalment shall be deemed to have become or shall become payable on any later date (which shall not be subsequent to the thirty-first day of December, one thousand nine hundred and thirty-nine) and in any such case the first instalment shall be deemed to have become or shall become payable on the date so determined. Where the first instalment is made payable on a date later than the thirtieth day of June, one thousand nine hundred and thirty-five, interest at the rate of four pounds per centum per annum shall be paid half-yearly on the amount of the current indebtedness or on the balance of the current indebtedness, as the case may be, calculated from and including the first day of January, one thousand nine hundred and thirty-five, so that the first payment of such interest shall be deemed to have become payable on the thirtieth day of June, one thousand nine hundred and thirty-five.

(2) The amount of the current indebtedness of an occupier (or, where the current indebtedness of any occupier has been reduced pursuant to section five of this Act, the balance of the current indebtedness of that occupier) shall, in any case where the Minister so determines, bear interest at the rate of four pounds per centum per annum for a period not exceeding five years, to be fixed by the Minister, at the end of which period the interest which has accrued shall be added to such amount or to such balance, as the case may be, and the whole sum shall then be paid by equal regular half-yearly instalments (including principal and interest at the rate of four pounds per centum per annum) over a period to be fixed

by

392

Wentworth Irrigation Area Occupiers Relief.

by the Minister which shall end not later than the thirty-first day of December, one thousand nine hundred and sixty-one.

(3) If any instalment or interest is not paid on or before the due date for payment of the same, interest shall accrue in respect thereof at the rate of four pounds per centum per annum as from such date to the date of payment.

7. Where a determination is made by the Minister pursuant to section three or section five of this Act, the Rural Bank of New South Wales shall give proper effect to the same by reducing or extinguishing the arrears of indebtedness or the current indebtedness, as the case may be, of the occupier concerned in accordance with the determination and by allowing the terms of repayment fixed by the determination.

Rural Bank to give effect to determination.

8. In any case where the lease of an occupier is cancelled in pursuance of the Wentworth Irrigation Act, as amended by subsequent Acts, or the regulations thereunder, the Minister may determine that after such cancellation the whole of the arrears of indebtedness and/or of the current indebtedness of the occupier to the Rural Bank of New South Wales in its Irrigation Agency in respect of the said lease as at the date of such cancellation shall be extinguished, and such indebtedness shall be extinguished by the said Bank accordingly.

Indebtedness may be extinguished on cancellation of lease.

9. In any case where before the date of transfer of a lease granted in pursuance of the Wentworth Irrigation Act, as amended by subsequent Acts, the Commission and the proposed transferee have agreed that on such transfer the annual rental in respect of such lease shall be altered, the Minister may determine such annual rental in accordance with the agreement between the Commission and the proposed transferee, and such rental so determined shall be the annual rental on and from the date of the transfer.

Power to alter the annual rental, upon transfer of lease.

10. In any case where in the exercise of the powers conferred upon it the Commission has defined an area or areas of land being part of a lease of an irrigated holding granted

Power to reduce annual rental upon alteration of irrigable area.

Wentworth Irrigation Area Occupiers Relief.

granted in pursuance of the Wentworth Irrigation Act, as amended by subsequent Acts, as being non-irrigable land or land unsuited for irrigation or has varied the area or areas so defined and has agreed with the occupier that the annual rental in respect of such lease should be reduced on and from the first day of July, one thousand nine hundred and thirty-five, the Minister may determine such annual rental at the amount so agreed upon and such amount so determined shall be the annual rental on and from the said date.

11. (1) The powers conferred upon the Minister by this Act shall be deemed to have become exercisable on the thirtieth day of September, one thousand nine hundred and thirty-five, and shall remain exercisable until the expiration of a period of one year from the date of commencement of this Act.

Duration of powers conferred on the Minister.

(2) Any act, matter or thing made, done or performed by the Minister or by the Rural Bank of New South Wales on or after the thirtieth day of September, one thousand nine hundred and thirty-five, and before the commencement of this Act, which would have been valid if made, done or performed after such commencement, is hereby validated.

Validation.

12. In any case where in its opinion, the circumstances warrant such action, the Rural Bank of New South Wales may reduce or extinguish the indebtedness to it in its Irrigation Agency of an occupier in respect of moneys which have become due for payment during the period which commenced on the first day of July, one thousand nine hundred and thirty-four, and ended on the first day of July, one thousand nine hundred and thirty-seven.

Power of Rural Bank to reduce or extinguish indebtedness.

13. Notwithstanding anything contained in this or any other Act and notwithstanding any determination by the Minister in pursuance of this Act, in any case where any lease of land under the Wentworth Irrigation Act, as amended by subsequent Acts, expires by effluxion of time,

Special provisions as to expired leases.

394

Wentworth Irrigation Area Occupiers Relief.

time, and any moneys remain owing in respect of the said lease for arrears of indebtedness or for current indebtedness the following provisions shall have effect:—

- (a) If a further lease of land is not granted by the Commission then such moneys so remaining owing shall be deemed to be and to have become due and payable on the day of such expiry and may be recovered accordingly in any court of competent jurisdiction.
- (b) If a further lease of the land is granted it shall be a condition of such further lease that the moneys so remaining owing shall be paid on the same dates and under the same conditions as if the original lease had not expired.

The further lease shall be subject to such mortgages, charges or liens as were existing in respect of the original lease immediately prior to its expiry to the like extent to which the original lease was subject to the same and the Rural Bank of New South Wales or other person entitled to the benefit of any such mortgage, charge or lien may exercise its rights under such mortgage, charge or lien as if the same had been given or executed in respect of the further lease.

The Registrar-General shall enter on the folium of the register book constituted by the further lease particulars of any mortgage, charge or lien which was registered on the folium of the register book constituted by the original lease on the date of such expiry, and every such mortgage, charge or lien so entered shall be deemed to have been given and executed in respect of the further lease.

14. (1) In any case where any mortgage, charge, lien or security exists in favour of the Rural Bank of New South Wales in respect of the indebtedness of an occupier, neither anything contained in this Act nor any action taken in pursuance of this Act relative to such indebtedness shall operate so as to postpone, negative or otherwise prejudice or affect any such mortgage, charge, lien or security

Saving as to certain mortgages, etc.

Wentworth Irrigation Area Occupiers Relief.

8

security except in so far as the indebtedness secured thereby may be reduced or extinguished or the terms of payment thereof varied.

(2) In this section. "indebtedness" includes arrears of indebtedness, current indebtedness and the indebtedness referred to in section twelve of this Act.
