

**FARM WATER STORAGES AND BORES SUBSIDIES  
ACT.**

**New South Wales**



ANNO VICESIMO SECUNDO

**ELIZABETHÆ II REGINÆ**

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**Act No. 58, 1973.**

An Act to make provision with respect to the payment of subsidies towards the cost of certain farm water storages and bores; and for purposes connected therewith. [Assented to, 12th October, 1973.]

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

**1.** This Act may be cited as the "Farm Water Storages and Bores Subsidies Act, 1973".

**2.**

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No. 58, 1973 2. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

Interpre-  
tation.

“application” means application under this Act for a subsidy;

cf. No. 44,  
1912, s.  
105.

“bore” means any bore or well or any excavation or other work connected or proposed to be connected with sources of sub-surface water and used or proposed to be used or capable of being used to obtain supplies of sub-surface water, whether the water flows naturally at all times or has to be raised either wholly or at times by pumping or other artificial means;

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

“Commissioner” means the Commissioner of the Soil Conservation Service appointed under the Soil Conservation Act, 1938;

“Crown Lands Acts” has the meaning ascribed thereto in the Crown Lands Consolidation Act, 1913;

“farm water storage” means a tank, dam or other water storage used or proposed to be used or capable of being used—

(a) to store water obtained from a bore or from run-off from rainfall or otherwise; and

(b) to provide a water supply to a holding;

“holding” means any land for the time being—

(a) determined to be a holding under section 7 (1); or

(b) declared to be a holding under section 7 (3);

“owner”,

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“owner”, in relation to a holding, includes every person <sup>No. 58, 1973</sup> who, jointly or severally, whether at law or in equity—

- (a) is entitled to the holding for any estate of freehold in possession;
- (b) is a person to whom the Crown has lawfully contracted to grant the fee simple in the holding under the Crown Lands Acts or under any other Act relating to the alienation or disposition of lands of the Crown;
- (c) is the holder of any lease granted in respect of the holding under the Crown Lands Acts or any other Act relating to the alienation or disposition of lands of the Crown; or
- (d) is entitled to receive, or is in receipt of, or if the holding 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;

“prescribed authority” means—

- (a) in relation to a farm water storage, other than a soil conservation storage—the Commission;
- (b) in relation to a soil conservation storage—the Commissioner; or
- (c) in relation to a bore—the Commission;

“previous scheme” means the scheme that—

- (a) came into operation as from 1st July, 1971;
- (b) was administered by the Commission and the Commissioner; and

(c)

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(c) made provision for the payment of subsidies toward the cost of the work of constructing or improving certain farm water storages or bores;

“rural land” means land used for farming, agricultural, horticultural, viticultural, vegetable-growing, market gardening, silvicultural, piscicultural, floricultural, pastoral or grazing purposes or for any other purpose for the time being declared to be a rural purpose under subsection (2);

“soil conservation storage” means a farm water storage comprising or comprised in a work of soil conservation or erosion mitigation;

“subsidy” means subsidy under this Act;

cf. No. 44,  
1912, s.  
105.

“sub-surface water” means water occurring naturally under the surface of the ground whatever may be the geological structure in which it is standing or moving.

(2) The Minister may, by order published in the Gazette, declare any purpose for which land may be used and which is specified in the order to be a rural purpose for the purposes of the definition of “rural land” in subsection (1).

Approval of  
application  
for subsidy.

3. (1) Subject to this Act, where—

(a) an application is made in relation to a holding to the prescribed authority for a subsidy toward so much of the cost of the work of constructing or improving a farm water storage or bore intended to provide, improve or augment a water supply to the holding as is or is to be incurred by the applicant;

(b)

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(b) the application is—

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- (i) made by the owner of the holding; or
- (ii) made by the holder of a lease of the whole or any part of the holding, other than a lease referred to in paragraph (c) of the definition of "owner" in section 2 (1), and accompanied by the consent in writing of the owner of the holding; and
- (c) the application is made in or to the effect of a form approved by the prescribed authority and is verified by a statutory declaration,

the prescribed authority may—

- (d) approve the application unconditionally or subject to such conditions as are imposed by the prescribed authority; or
- (e) refuse the application.

(2) Where an application for a subsidy toward the cost of work is made in connection with a farm water storage and the work includes the provision of islands in the farm water storage for the conservation of birdlife and other wild-life, the application may be approved as to the work of providing the islands as well as to the work of constructing or improving the farm water storage.

(3) The prescribed authority may require an applicant to furnish to the prescribed authority such particulars as the prescribed authority thinks fit.

(4) Subject to section 5, an application may be approved in relation to a holding notwithstanding that the work to which the application relates is not, or is not to be, carried out on the holding.

4. Where an application for a subsidy is approved, payment of the subsidy shall, subject to this Act, be made by the Commission out of money provided by Parliament.

5.

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**No. 58, 1973**     **5.** (1) An application made in relation to a holding shall not be approved unless the prescribed authority is satisfied that the work to which the application relates will effect an improvement of the holding in the interests of primary production.

Restrictions  
on subsidies.

(2) An application for a subsidy shall not be approved or, if approved, payment of the subsidy shall not be made—

(a) if the application was made after the work to which the application relates was commenced;

(b) if the work to which the application relates was commenced after the application was made but before the prescribed authority authorised the commencement of the work, unless, subject to subsection (3), in any particular case the prescribed authority, having regard to the circumstances of the case, otherwise determines; or

(c) if the applicant or the owner of the holding in relation to which the application is made is a corporation, not being—

(i) a trustee company, as defined in the Trustee Companies Act, 1964, acting in its representative capacity;

(ii) an exempt proprietary company, as defined in the Companies Act, 1961; or

(iii) a prescribed corporation or a corporation of a prescribed class.

(3) The Commission shall not make a determination referred to in subsection (2) (b) if the work to which the application relates is the work of constructing a bore and the Commission is not satisfied that, as at the time of commencement of the work, there were reasonable prospects of success in obtaining a suitable water supply.

(4) Subject to subsection (3), a subsidy toward the cost of work in connection with a bore may be paid notwithstanding that a satisfactory supply of, or increase in the supply of, water is not obtained as a result of the work.

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6. (1) Subject to this section, the amount of subsidy payable in pursuance of an application shall be as determined by the prescribed authority.

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 Amount of  
 subsidy  
 payable.

(2) Notwithstanding anything in this Act, but subject to subsection (3), the amount of subsidy payable toward the cost of any work shall not exceed twenty-five per centum of the cost of the work.

(3) Notwithstanding anything in this Act—

- (a) the maximum total amount payable by way of one or more subsidies (including subsidies under the previous scheme) shall not exceed \$1,000 in relation to any one holding; and
- (b) a subsidy is not payable in relation to any work to the extent to which payment of the subsidy would result in the total amount paid by way of subsidy or grant under—
  - (i) this Act;
  - (ii) the previous scheme;
  - (iii) any other Act or any Commonwealth Act; and
  - (iv) any prescribed scheme, whether constituted under statute or otherwise,
 exceeding the cost of the work.

7. (1) Subject to this section, the Commission or the Commissioner may determine any land to be a holding, and may, from time to time, vary or revoke any such determination.

(2) In determining land to be a holding, the Commission or the Commissioner shall have regard to the following provisions :—

- (a) a holding is an area of rural land in the one ownership, whether or not a lease, other than a lease referred to in paragraph (c) of the definition of “owner” in section 2 (1), has been granted in respect of the whole or any part of the land;
- (b)

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- (b) each part of a holding adjoins another part of the holding;
- (c) without affecting the generality of paragraph (b), a part of a holding shall, for the purposes of that paragraph, be deemed to adjoin another part of the holding if the two parts are separated only by any one or more of the following, that is to say, by a road or other thoroughfare, a river, a water-course, tidal or non-tidal water, a park or other reserve, or another like division; and
- (d) where, but for this paragraph, two or more areas of rural land would constitute separate holdings, those areas constitute one holding if they are in the one ownership and are, in the opinion of the Commission or the Commissioner, operated as a farming unit.

(3) Notwithstanding subsection (1), the Minister may, by order in writing, declare any land specified therein to be a holding.

(4) Subsection (3) has effect in relation to an area of land whether or not the area would, but for the declaration, constitute a single holding, or two or more holdings, or part or parts of one or more holdings, or any combination thereof.

(5) Any determination of the Commission or the Commissioner in respect of any land under subsection (1) has effect subject to any order for the time being in force in respect of the land under subsection (3).

Division or  
amalgama-  
tion of  
holdings.

**8.** (1) Where a holding (in this subsection referred to as "the original holding") is divided into two or more holdings (each of which is in this subsection referred to as "a new holding") and a subsidy under this Act or the previous scheme was paid in relation to the original holding—

- (a) in any case where the farm water storage or bore in relation to which the subsidy was paid is situated solely on one of the new holdings—the subsidy shall be deemed to have been paid solely in relation to that new holding; or
- (b)



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- (b) in any other case—the subsidy shall be deemed to have been paid in relation to the new holdings in such proportions as the Commission or the Commissioner thinks fit. No. 58, 1973

(2) Where two or more holdings (each of which is in this subsection referred to as “an original holding”) become one holding (in this subsection referred to as “the new holding”) and a subsidy under this Act or the previous scheme was paid in relation to an original holding, the subsidy shall be deemed to have been paid in relation to the new holding.

**9.** A person authorised, either generally or in a particular case or class of cases, by the Commission or the Commissioner may enter at all reasonable times any land in relation to which an application is made, for the purpose of inspecting the land and any farm water storage or bore to which the application relates. Entry and inspection.

**10.** (1) The Commissioner may by instrument in writing delegate to any officer of the Soil Conservation Service such of the powers (other than this power of delegation), authorities, duties or functions conferred or imposed on the Commissioner under this Act as may be specified in the instrument of delegation and may in like manner revoke wholly or in part any such delegation. Delegation by Commissioner.

(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.

(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 time or circumstances, as may be specified in the instrument of delegation.

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(4)

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 (4) Notwithstanding any delegation made under this section, the Commissioner 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 had been done or suffered by the Commissioner and shall be deemed to have been done or suffered by the Commissioner.

Recovery  
 of certain  
 amounts.

**11.** Any subsidy paid to a person by reason of a false statement made in an application is recoverable by the Commission as a debt in any court of competent jurisdiction.

Regulations.

**12.** The Governor may make regulations, not inconsistent with this Act, for or with respect to prescribing any matter that is required or permitted to be prescribed by this Act or that is necessary or convenient to be prescribed for the purpose of carrying out or giving effect to this Act.

Previous  
 scheme.

**13.** (1) Subject to this section, the previous scheme shall cease to operate upon the commencement of this Act.

(2) Nothing in this Act shall be construed as affecting the previous operation of the previous scheme and—

(a) any application made under the previous scheme and pending immediately before the commencement of this Act may be dealt with as if this Act had not been enacted; and

(b)

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(b) where an application was approved under the No. 58, 1973 previous scheme before that commencement—

(i) any terms or conditions subject to which the application was approved shall continue in force; and

(ii) any payment in pursuance thereof may be made,

as if this Act had not been enacted.

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PREVENTION