

**WATER.**

<i>Irrigation Act of 1922</i>	.. .. .	13 <i>Geo. V. No. 29</i>
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13 Geo. V.  
No. 29.  
THE  
IRRIGATION  
ACT OF 1922.

**An Act to make Provision for the Construction, Maintenance, and Management of Works for the Storage and Supply of Water for the purposes of Irrigation, and for other purposes.**

[ASSENTED TO 18TH OCTOBER, 1922.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

- Short title.      **1.** This Act may be cited as "*The Irrigation Act of 1922.*"
- Interpretation.      **2.** In this Act, unless the context otherwise indicates, the following terms have the meanings respectively assigned to them, that is to say:—
- Authorised.      "Authorised," when used with respect to persons—  
An employee of the Commissioner authorised by him either generally or for any particular purpose under this Act; when used with respect to machinery fittings and other matters—  
Authorised by this Act or by the Commissioner ;
- Channel.      "Channel"—Any ditch, channel, race, aqueduct, trench, conduit, tunnel, sluice, fluming, or line of pipes ;
- Commissioner.      "Commissioner"—The Commissioner of Irrigation appointed under this Act ;
- Construct.      "Construct" includes provide, set up, dig, excavate, erect, lay down or place : the power or duty to construct includes the power or duty to maintain when constructed ; and correlatives have the like meaning ;
- Crown land.      "Crown land"—Land vested in His Majesty which is not for the time being dedicated to any public purpose or subject to any deed of grant, lease, contract, provision, or engagement made by or on behalf of His Majesty ;

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- “Daily penalty”—A penalty for each day on which an offence is continued or repeated—<sup>Daily penalty.</sup>
- (a) After notice has been given to the offender of the commission of the offence; or
- (b) After a conviction or order by any court;
- “Domestic purposes” includes all the purposes for which water is ordinarily used in or in connection with a dwelling-house or the land attached thereto, or in watering gardens appurtenant to dwelling-houses (and not used for the purposes of business), or in cleansing private vehicles: the term does not include the use of water for any manufacturing purpose, or for irrigation, or for water power; <sup>Domestic purposes.</sup>
- “Employee”—Any State officer or other person <sup>Employee.</sup> whosever employed under or pursuant to this Act;
- “Fitting”—A pipe, valve, meter, wire, lamp, lamp iron, conductor, or other fitting apparatus or appliance for or in connection with water supply or the supply of power; <sup>Fitting.</sup>
- “Improvements” includes all works, structures, machinery, plantations, and other improvements constructed on a holding under the authority of this Act; <sup>Improvements.</sup>
- “Irrigable,” as applied to land—Land of such situation and quality as to be capable of being irrigated from the works or proposed works of an undertaking; <sup>Irrigable.</sup>
- “Irrigation Area” or “Area”—An Irrigation Area constituted under this Act; <sup>Irrigation Area.</sup>
- “Irrigation Holding” or “Holding”—Land held from the Commissioner in an Area as an irrigation holding under any prescribed tenure; <sup>Irrigation Holding.</sup>
- “Irrigation undertaking” or “Undertaking” includes all works and operations necessary and incidental to the carrying into effect the objects and purposes of this Act within and in relation to an Area: the term includes so much of the Commissioner’s business as relates to the undertaking concerned; <sup>Irrigation undertaking.</sup>

Land.	“Land”—All messuages, structures, premises, lands, tenements, and hereditaments of every tenure, also streams, reservoirs, and water of every description, also easements of every description: the term, when necessary, includes any part of a structure, curtilage, or premises;
Local Authorities Act.	“Local Authorities Act”—*“ <i>The Local Authorities Act of 1902</i> ” and any Act amending or in substitution for that Act;
Local Authority.	“Local Authority”—Any Local Authority or Joint Local Authority constituted under or pursuant to the Local Authorities Act;
Machinery.	“Machinery”—Any machine, machinery, instrument, or fitting for carrying into effect any of the objects authorised by this Act;
Meter.	“Meter”—Any instrument, apparatus, or appliance for measuring and ascertaining the quantity of water or the quantity of power, as the case may require;
Minister.	“Minister”—The Treasurer or other Minister of the Crown for the time being charged with the administration of this Act;
Noxious animal.	“Noxious animal”—Any animal which the Commissioner may from time to time, by notification in the <i>Gazette</i> , declare to be noxious;
Noxious plant.	“Noxious plant”—Any weed, plant, grass, or growth which the Commissioner may from time to time, by notification in the <i>Gazette</i> , declare to be noxious: the term includes any part and seeds of any such weed, plant, grass, or growth;
Occupier.	“Occupier”—The person in actual occupation of land, or, if there is no person in actual occupation, the person entitled to possession of the land;
Order in Council.	“Order in Council” or “Order”—An Order in Council made or purporting to be made under or for the purposes of this Act;
Owner.	“Owner”—The person for the time being entitled to receive the rents and profits of the land in connection with which the word is used, whether on his own account or as the agent

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\* 2 Edw. VII. No. 19, *supra*, page 1860.

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of or trustee for any other person, or who would be entitled to receive the same if the land were let at a rent: the term includes the registered proprietor under the Acts relating to real property and any person seised of the legal estate in land;

- “Person” includes corporation, company, association, syndicate, firm, partnership, and local authority; Person.
- “Pipe”—A main, main-pipe, pipe, stop-cock, water-cock, syphon, hydrant, branch, or other similar apparatus; Pipe.
- “Post”—Any post, pole, pillar, pilaster, tower, or other aboveground structure or contrivance for carrying, supporting, or suspending any conductor or channel; Post.
- “Power”—Electric current, electric light, electrical power, and water power, or any of them; Power.
- “Prescribed”—Prescribed by this Act; Prescribed.
- “Public Works Land Resumption Act”—\*“*The Public Works Land Resumption Act of 1906*” and any Act amending or in substitution for that Act; Public Works Land Resumption Act.
- “Regulations”—Regulations made under the authority of this Act; Regulations.
- “Reservoir”—A reservoir, bore, dam, tank, cistern, or well; Reservoir.
- “Road”—Any highway, bridge, road, street, public place, lane, footway, square, court, alley, or passage, whether a thoroughfare or not, and any public wharf or jetty: the term, when necessary, includes the roadway or pavement of a road; Road.
- “Secretary”—The secretary to the Commissioner: the term, when necessary, includes the employee for the time being authorised to discharge the duties of the secretary; Secretary.
- “Stock”—Horses, cattle, sheep, and pigs, and such other animals as the Commissioner from time to time, by notification in the *Gazette*, declares to be stock for the purposes of this Act; Stock.

\* 6 Edw. VII. No. 14, *supra*, page 8211.

Stream.	“Stream”—A river, creek, spring, waterway, watercourse, or other water: the term includes the bed of a river, creek, watercourse, or channel in which water flows either ordinarily, intermittently, or occasionally;
Structure	“Structure”—Any building, wall, fence, wharf, pier, jetty, or other structure, or anything affixed to or projecting from any structure;
This Act.	“This Act”—This Act and all regulations and Orders made thereunder;
Water right.	“Water right”—A right to such a quantity annually of water twelve inches deep as would cover an area of one acre;
Works.	“Works”—Any waterworks, reservoir, stream, culvert, channel, weir, water, land, generating works, line, station, post, conductor, pipe, machinery, structure, or plant of any description whatsoever necessary or proper for the purposes of the undertaking, and all other works which the Commissioner under this Act is authorised to construct, and all matters and things connected with any works or appurtenant thereto: the term includes any tramway, quarry, gravel pit, or coal-mine vested in or under the control of the Commissioner.

Appoint-  
ment of  
Com-  
missioner.

**3. (1.)** The Governor in Council may from time to time, by commission under his hand and the public seal of the State, appoint a Commissioner of Irrigation for a term not exceeding five years.

Upon such appointment all the functions, duties, rights, liabilities, privileges, and powers imposed and conferred upon the Commissioner under this Act shall be vested in and be performed and exercised by such Commissioner.

Salary of  
Com-  
missioner

**(2.)** The Commissioner shall, during his continuance in office, receive an annual salary, to be fixed by the Governor in Council, but not exceeding two thousand pounds.

Such salary shall be a charge upon and be paid out of the Consolidated Revenue, which is hereby permanently appropriated for that purpose.

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(3.) The Commissioner shall not be or have been a member of the Executive Council or of Parliament either now or at any time during the last five years immediately preceding the passing of this Act, and shall not act as a director or auditor or in any other capacity take part in the management of any bank joint-stock company or other financial institution or of any trade or business, or acquire or hold any interest in any land which is or may be required to be acquired, taken, or occupied for the purposes of this Act; and in any such case shall be disqualified from holding the office of Commissioner.

Disabilities.

(4.) The Commissioner may be suspended from his office by the Governor in Council, but shall not be removed from office except as hereinafter provided.

Suspension  
and removal  
from office.

If the Commissioner is so suspended, the Minister shall cause to be laid before the Legislative Assembly a full statement of the grounds of such suspension within seven days thereafter if Parliament is in session or, if Parliament is not in session, within seven days after the commencement of the next session.

The Commissioner so suspended shall be restored to office unless the Legislative Assembly, within twenty-one days from the time when such statement has been laid before it, declares by resolution that the Commissioner ought to be removed from office; and if within the said time the Legislative Assembly so declares, the Commissioner shall be removed by the Governor in Council accordingly.

(5.) The Commissioner shall be deemed to have vacated his office—

Office, how  
otherwise  
vacated.

- (i.) If he is or becomes disqualified under this Act from holding the office of Commissioner;
- (ii.) If he engages, during his term of office, in any employment outside the duties of his office;
- (iii.) If he becomes insolvent, or institutes proceedings for liquidation of his affairs by arrangement or composition with, or assigns his salary for the benefit of, his creditors;
- (iv.) If he absents himself from duty for a period of fourteen consecutive days except on leave granted by the Minister (which leave is hereby authorised to be granted), or becomes incapable of performing his duties;

(v.) If he becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Commissioner or in anywise participates or claims to be entitled to participate in the profit thereof or in any benefit or emolument arising therefrom.

Governor in Council may fill vacancy.

(6.) On the occurrence of any vacancy in the office of Commissioner, whether by effluxion of time or otherwise, the Governor in Council may appoint a person to fill the vacancy.

When Secretary may act as Commissioner.

(7.) In case of the illness, suspension, or absence of the Commissioner, the secretary (or other officer appointed by the Governor in Council in that behalf) shall, under the direction of the Minister, during such illness, suspension, or absence, have and exercise all the powers and authorities and perform all the duties of the Commissioner.

Secretary to act in case of death of Commissioner.

(8.) In case of the death of the Commissioner, the secretary (or other officer appointed by the Governor in Council in that behalf) shall, under the direction of the Minister, assume and exercise all the powers and authorities and perform all the duties of the Commissioner until a new Commissioner is appointed.

Commissioner to be a corporation sole— powers and liabilities.

4. (1.) The Commissioner, representing the Crown, shall be a corporation sole by the name of "The Commissioner of Irrigation," and by that name shall have perpetual succession and an official seal, and shall be capable in law of suing and being sued, and shall have power to take, purchase, sell, exchange, lease, and hold land, goods, chattels, and other property.

(2.) But save as by this Act is expressly provided, no exchange or sale of any land vested in the Commissioner shall have any effect unless or until the same has been approved by the Governor in Council.

Secretary and other employees

5. (1.) The Commissioner shall appoint a secretary, who, subject to the direction of the Commissioner, shall have power to execute documents on his behalf and affix the seal of the Commissioner thereto. He shall also have such other powers and perform such other duties as are from time to time appointed by the Commissioner.

(2.) The Commissioner shall appoint and employ managers and such engineers, surveyors, inspectors, collectors, rangers, clerks, and other employees to assist in the execution of this Act as he thinks necessary.

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The Commissioner may from time to time appoint a bailiff or bailiffs for the purpose of levying moneys due to the Commissioner by distress and sale.

A bailiff so appointed shall have power and authority to sell by public auction any goods and chattels seized under warrant of distress without taking out a license as an auctioneer.

(3.) Unless in any case the Governor in Council otherwise directs, every employee shall hold office during pleasure only.

(4.) The Commissioner may dismiss any employee; and may discontinue the offices of or appoint other persons in the place of employees who are dismissed, or die, or resign, or vacate office as hereinafter provided.

(5.) The Commissioner shall pay such salaries, wages, and allowances to the employees respectively as Parliament from time to time appropriates for that purpose.

(6.) No employee shall, without the permission of the Commissioner, engage in any employment outside the duties of his office.

(7.) The provisions of \**"The Public Service Acts, 1906 to 1920,"* or of any Act amending or in substitution for the same, shall not apply to employees so appointed: Provided that nothing herein contained shall affect the rights accrued or accruing under the said Acts to any such employee whose services are transferred by appointment under this section; and such employees may continue to contribute to any account, and shall be entitled to receive any payment, pension, or gratuity as if they were officers within the meaning of the said Acts.

6. Subject to this Act, every irrigation undertaking shall be administered by the Minister, and under the Minister the Commissioner as representing the Crown is hereby authorised and empowered to carry on the same.

7. (1.) No irrigation undertaking shall be established until the proposed scheme of the undertaking has been submitted to the Legislative Assembly for approval, and has been approved by a resolution of the Legislative Assembly.

\* Repealed. See now 13 Geo. V. No. 31, *supra*, page 10159.



- (2.) When it is proposed to establish an irrigation undertaking and to constitute an Irrigation Area in relation thereto, the Commissioner shall forward to the Minister a report with respect to the proposed scheme.
- (3.) Every such report shall contain or be accompanied by the following particulars, that is to say :—
- |                             |  |
|-----------------------------|--|
| Report of Commissioner.     |  |
| Particulars of scheme.      |  |
| Boundaries of Area.         | (a) A map or plan showing the boundaries and the extent of the lands proposed to be comprised in the Area ;  |
| Scheme of works.            | (b) A description setting forth the scheme and purpose of the proposed works ;   |
| Plan of works.              | (c) A general plan, prepared on a scale approved by the Minister, showing the nature and extent of the proposed works ;  |
| Cost of works.              | (d) An estimate of the total cost of the works and of the annual charges necessary for the maintenance and management of the undertaking ;   |
| Proposed loan.              | (e) A statement as to what amount of money it is proposed should be advanced to the Commissioner by way of loan for the undertaking ;  |
| Revenue of Area.            | (i) An estimate of the annual revenue expected to be derived from the proposed works; such estimate of annual revenue to allow of the suspension, for the first three years after settling on the Area, of any payments by the settler other than such rates as the Commissioner in his capacity of a Local Authority may require ;  |
| Water available.            | (g) An estimate of the quantity of water that is proposed to be made available for use for irrigation purposes in the Area, after making allowance for present and probable future requirements for all or any other purposes ; and a statement of the sources from which it is proposed to obtain it, specifying, where deemed necessary, the quantity of water proposed to be taken from each of such sources and the seasons at which it is to be taken ; |
| Quantity of water required. |  |
| Streams, &c., in Area.      | (h) A statement of the existing streams, lakes, lagoons, marshes, or swamps, within or outside of the Area, over or from which it is intended that the Commissioner should exercise any  |

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control or draw any part of his supply, and the nature or extent of such control, and for what purpose such control is necessary ;

- (i) An estimate of the approximate value of the existing waterworks, if any, within the Area which it is proposed that the Commissioner should take over from any existing authority or person ; Existing waterworks.
- (j) A statement of the quantity of irrigable land that may be beneficially irrigated, and of the character and description and value of such land in its then state, including all existing improvements ; Land capable of irrigation.
- (k) A statement, if the fact is so, that the proposed works could be made available to supply other lands besides those comprised in the proposed Area, or for purposes of supplying power, and an estimate of the proportion of the water made available by the works which would be required for the proposed Area and the proportion which would be available for other lands or for purposes of power. Works for joint benefit of Area and other land, &c.
- (l) Any other special advantages which are likely to accrue generally from the establishment of the undertaking.

(4.) Copies of such report, with all accompanying plans, sections, books of reference, and other documents relating to the proposed scheme, shall be prepared by the Commissioner and laid before the Legislative Assembly. Every such report shall contain a plan showing the boundaries and extent of other lands which may be acquired for the purposes of this Act and an estimate of the cost of acquiring same. Report, &c., to be laid before Parliament.

No resolution approving of the establishment of any irrigation undertaking shall be adopted unless or until such report and documents have been so laid before the Legislative Assembly.

(5.) Notwithstanding anything in this section contained, it shall be lawful for the Governor in Council, without compliance with the provisions of this section or obtaining further or other approval of the Legislative Assembly than is hereby granted, to proceed with the Castle Creek section of the Dawson Valley irrigation proposal and to expend such moneys thereon, as in his Dawson Valley irrigation.

opinion are necessary, to an amount not exceeding sixty thousand pounds; and for all the purposes of this Act the said Castle Creek section and all works constructed under the authority of this subsection shall be deemed to be a part of an irrigation undertaking approved by the Legislative Assembly and established by the Governor in Council, and the Minister shall have all the powers granted by this Act accordingly.

All moneys so expended shall be deemed to be a loan to the Commissioner under this Act and shall be charged against the Dawson Valley Irrigation Fund, as and when the same is established.

Authority to  
construct  
works.

8. After the establishment of an irrigation undertaking has been approved by resolution of the Legislative Assembly, the Governor in Council may establish the undertaking, and the Minister may cause all proper works connected therewith to be constructed, and may give such orders and directions for the due carrying out and execution of the works and for the effective control and direction of the Commissioner and other employees in carrying out and executing the same, as appear expedient; and the Commissioner, under the Minister, shall have and may exercise all the powers of this Act with respect to the undertaking so established.

Creation of  
Irrigation  
Area, &c.

9. (1.) The Governor in Council may from time to time by Order in Council—

- (i.) Constitute any defined part of Queensland wherein is located the whole or any part of any stream, lake, or other source of supply wherefrom or whereby water is or may be utilised for irrigation or other purposes under the powers contained in this Act, an Irrigation Area under such name as is declared by the Order;
- (ii.) Unite two or more Areas into one Area;
- (iii.) Divide an Area into two or more Areas;
- (iv.) Alter the boundaries of an Area by including in an Area part of another Area and excluding it from the latter;
- (v.) Include in an Area an outlying district;
- (vi.) Abolish an Area;
- (vii.) Adjust any financial or other matters in his opinion requiring adjustment by reason of any Order.

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(2.) Where two or more Areas are constituted and it is proposed that a supply of water for each Area shall be obtained from the same source, the Order shall, in the case of each Area, contain a statement of the whole proposed scheme of which the works of each Area form part and, if deemed necessary, of the respective quantities or proportions of water which may be taken within a given time from the source for the purposes of each Area.

Where  
several Areas  
with  
common  
headworks.

**10.** Forthwith upon the constitution of an Irrigation Area, that Area shall be constituted a Shire within the meaning of the Local Authorities Act by the Governor in Council by an Order.

Irrigation  
Area to be a  
Shire.

Thereupon the land comprised in such Shire shall be excluded from the Area or Areas of the Local Authority or Local Authorities in which it was formerly included; and every Local Authority formerly having any jurisdiction over any such land comprised within such Shire shall cease to have or exercise any such jurisdiction.

Notwithstanding anything contained in the Local Authorities Act, the Commissioner shall constitute and for all purposes be deemed to be the Council of such Shire and a Local Authority within the meaning of the Local Authorities Act, and, subject to the Minister, shall have and be entitled to, and may exercise such and so many of the powers, authorities, jurisdiction, and immunities of a Local Authority under the Local Authorities Act, including the power to make, levy, and recover rates on land as are declared by the Governor in Council by an Order or Orders:

Provided nevertheless that at any time after the expiration of five years from the date on which the Commissioner has published a notification that he is prepared to supply water in an Irrigation Area any fifty ratepayers of such Area may, by memorial to the Minister, demand that a poll of ratepayers of such Area shall be taken upon the question whether a Shire Council under the Local Authorities Act shall be duly constituted for such Area, and the functions of the Commissioner as such Council shall cease. Whereupon the Commissioner shall cause a poll of ratepayers to be taken on such question in manner directed by the Local Authorities Act with respect to polls of electors. And if on such poll the majority of the ratepayers of such Area vote in the affirmative then a Shire Council shall forthwith be

constituted under the Local Authorities Act by the Governor in Council, either by appointment or election of the first members thereof as he may direct, and the Shire Council so constituted shall be a Local Authority within the meaning and for all the purposes of the Local Authorities Act, and the functions of the Commissioner as a Council of a Shire under this section shall cease.

The Minister shall make such adjustments of accounts (including adjustments of loan moneys) between all Local Authorities concerned and the Commissioner as he deems necessary in consequence of the operation of this section.

What lands  
exempt from  
rates.

**11.** Any land whether within or outside an Irrigation Area—

- (a) Occupied by works vested in the Commissioner ; or
- (b) Covered by water which is used or intended to be used for the purposes of this Act ; or
- (c) Purchased, resumed, appropriated, or set apart by or on behalf of the Crown and vested in or placed under the control of the Commissioner and not the subject of a lease by him ;

shall not be rateable land within the meaning of the Local Authorities Act:

Provided that where any land vested in or under the control of the Commissioner is not within the boundaries of an Irrigation Area and is in the occupation of any person (except the Crown or the Commissioner), and the Commissioner derives a benefit from such occupation, such land shall, whilst such occupation continues, be rateable land within the meaning of the Local Authorities Act.

Provisions as  
to business  
of Com-  
missioner.

**12.** The provisions set forth in Part I. of the Schedule to this Act shall be applicable to the business, property, works, and undertakings of the Commissioner.

Schedule,  
Part I.

Any of the provisions of the said Part I. of the said Schedule may from time to time be altered or added to by the Governor in Council by an Order, and the said Part I. as so altered or added to shall thereupon become Part I. of the Schedule to this Act.

Irrigation  
undertaking  
funds.

**13.** In respect of each irrigation undertaking, a separate and distinct fund shall be created at the Treasury to be called the “[ *Name of Area* ] Irrigation Fund.”

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All moneys received by the Minister or Commissioner under this Act shall be paid into the proper fund.

All payments in respect of each undertaking, together with such contributions to reserve fund or sinking fund, if any, as the Commissioner from time to time directs, shall be payable out of the proper fund.

All payments in respect of the administration of Commissioner's department and of this Act shall be apportioned between and payable out of the divers funds created pursuant to this Act in such proportions as the Commissioner from time to time directs.

When joint works are constructed for the supply of water for the benefit of two or more Areas, the proportion of the capital cost to be charged to each fund shall be fixed and declared by the Commissioner.

The salaries, wages, and allowances of any officers or employees of the Public Service who are employed for any purposes under this Act shall, if paid out of the Consolidated Revenue, be recouped from the proper fund.

14. The Governor in Council may from time to time, upon obtaining from the Commissioner such security as in the opinion of the Governor in Council is necessary or desirable by warrant under the hand of the Treasurer, direct and authorise loans to be made to the Commissioner for the purposes of any undertaking. Such loans shall bear such interest and shall be repayable upon such terms as the Governor in Council may determine.

Loans,  
&c., by  
Government  
to Com-  
missioner.

15. (1.) The Governor in Council may at any time, by Order, vest in fee-simple in the Commissioner any Crown land to be used for the purposes of any undertaking.

Power to  
vest lands in  
the Com-  
missioner.

The value of any land vested in the Commissioner under this section shall be fixed by the Governor in Council, and the amount thereof shall be charged to the proper fund.

(2.) The Secretary for Public Lands may from time to time, by notification in the *Gazette*, set apart for the purposes of this Act and place under the control of the Commissioner any unalienated Crown lands, within an Area, which in his opinion may be required for irrigation holdings or otherwise for the purposes of this Act.

Setting  
apart Crown  
lands.

Any notification under this subsection may be corrected, amended, modified, or revoked, whether as to the whole or any part thereof, by notification in the *Gazette*.

Interim use  
of lands.

(3.) Until any such lands so vested or set apart are used for the purposes of this Act or taken up as holdings and, also while any such lands for any reason are without an occupant, the Commissioner may use them for depasturing stock, or may lease them for that purpose or for any other purpose for any term not exceeding seven years.

Water  
reserves and  
catchment  
areas may be  
constituted.

(4.) The Governor in Council may from time to time, by Order, constitute and define the boundaries of any water reserve or catchment area for the purposes of this Act, and may place any such water reserve or catchment area under the control of the Commissioner.

Any such water reserve or catchment area may be situated wholly within or wholly without the Area, or partly within and partly without the Area.

Power to  
acquire land  
for purposes  
of Act.

(5.) Under and subject to the provisions of the Public Works Land Resumption Act, the Minister may acquire for the Commissioner, either by agreement or compulsorily, any land, whether land held under lease or license from the Crown, or land alienated from the Crown in an Area which may, in the opinion of the Minister, be required for the purposes of this Act, and for that purpose the Minister shall be deemed to be a constructing authority within the meaning of the Public Works Land Resumption Act. Such land upon being so acquired shall become and be vested in the Commissioner and available for the purposes of this Act :

Provided that, in estimating the compensation to be paid on the acquirement of land by the Minister, no allowance shall be made for any increase in the value of such land by reason of any matter arising out of the exercise of powers under this Act :

Provided further that in the acquirement of land for disposal as irrigation holdings the Minister may, upon the application in writing of the owner, permit him to retain unresumed so much of his land as in the opinion of the Minister is reasonably sufficient for the purpose of enabling him to carry on agricultural operations.

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(6.) Nothing in this section shall be construed to derogate from or limit the powers of the Governor in Council or the Minister to resume or acquire land for any public purpose under any other Act.

16. Nothing in this Act contained shall be construed so as to constitute any business or undertaking carried on by the Commissioner under this Act a State enterprise within the meaning or for any of the purposes of \**"The State Enterprises Act of 1918."* Business of the Commissioner not to be a State enterprise.]

17. (1.) The Governor in Council may, from time to time, make regulations providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act, and, where there may be in this Act no provision or no sufficient provision in respect of any matter or thing necessary or expedient to give full effect to this Act, providing for and supplying such omission or insufficiency; and, without prejudice to the foregoing powers, providing for all or any of the matters set forth in the second part of the Schedule to this Act. Regulations. Schedule, Part II.

(2.) Any such regulations may—

- (a) Apply to only an Area or specified part of an Area;
- (b) Prescribe a date or different dates for the coming into operation of any such regulations or of any portion thereof;
- (c) Provide that any such regulations or any portion thereof shall apply to undertakings generally or to undertakings of any prescribed class or classes or any particular undertaking.

(3.) Notwithstanding the amendment or repeal of any regulation, every offence committed against the regulation before the amendment or repeal thereof shall be adjudicated upon and punished; and every act or proceeding done or commenced, and every right, privilege, or protection acquired, and every liability incurred, shall continue to be prosecuted and be of the same force and effect as if the regulation had not been amended or repealed. Saving of past operation of amended or repealed regulation.

\* 9 Geo. V. No. 20, *supra*, page 8591.



(4.) The regulations shall, upon publication in the *Gazette*, have the same force as if they were enacted in this Act, and shall be judicially noticed, and shall not be questioned in any proceeding whatsoever.

Orders in  
Council.

**18.** (1.) The Governor in Council may, from time to time, make all such Orders as he thinks fit for the further or more effectually or particularly carrying out the objects and purposes of this Act, and for extending periods of time, and for curing irregularities.

(2.) Such Orders may be of general application, or refer to certain classes of cases, or to any particular cases.

(3.) The generality of this section shall not be qualified or affected by any provision of this Act giving power to make Orders with regard to any subject-matter in such provision specified.

(4.) All Orders made under this Act, when published in the *Gazette*, shall have the same force as if they were enacted in this Act, and shall be judicially noticed, and shall not be questioned in any proceeding whatsoever.

(5.) The Governor in Council may, by another Order, amend or rescind any Order.

(6.) No misnomer or inaccurate description or omission in any Order shall in anywise prevent or abridge the operation of this Act with respect to the subject of such description, provided the same is designated so as to be understood.

(7.) No Order shall be deemed invalid on account of any non-compliance with any of the matters required by this Act as preliminary to the same.

Regulations  
and Orders  
to be laid  
before  
Parliament.

**19.** (1.) A copy of all regulations and Orders made under this Act shall be laid before Parliament within fourteen days from the publication thereof if Parliament is then sitting, and, if it is not then sitting, within fourteen days from the commencement of the next session.

(2.) If the Legislative Assembly, within forty days next after any regulations or Orders have been so laid before such House, resolves that such regulations or Orders or any of them ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such regulations or Orders.

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20. The expense of carrying out the provisions of this Act shall be defrayed from such moneys as may from time to time be appropriated by Parliament for the purpose. Appropriation for expenses.

21. Nothing in this Act shall restrict or abridge any prerogative, right, power, or privilege of the Crown. Saving of Crown, &c.

22. (1.) The Commissioner shall in each year prepare and forward to the Minister an Annual Report of his department for the year ending on the thirtieth day of June. Annual Report.

(2.) The report shall show, separately and in detail, the revenue and expenditure upon each respective irrigation undertaking.

(3.) The report shall be laid before Parliament.

SCHEDULE.

PART I.

*Provisions relating to the business, property, works and undertakings of the Commissioner.*

1. (1.) For all the purposes of this Act— General powers of Commissioner.
- (a) The Commissioner, under the Minister, shall have and may exercise all the powers, privileges, rights, and remedies of the Crown;
  - (b) All legal proceedings may be brought by or against the Commissioner in his official name.

Subject to this Act, for the purpose of carrying on business the Commissioner shall have and may exercise all such powers, authorities, and discretions, and may do all such acts and things, as a private person carrying on business in Queensland has or may exercise or do; and the Commissioner generally may do whatever he deems necessary in connection with or incident to such business.

The foregoing powers shall be in addition to any other powers conferred upon the Commissioner by this Act.

(2) The Commissioner may appear before any court or in any legal proceeding by the secretary, or by an authorised officer; and the secretary or such officer shall be at liberty to institute and carry on any proceeding which the Commissioner is authorised to institute and carry on under this Act. Commissioner may appear by secretary or other officer.

The secretary or such officer shall, out of the proper fund, be reimbursed all damages, costs, charges, and expenses to which he may be put or with which he may become chargeable by reason of anything contained in this provision.

If any person against whom the Commissioner has any claim or demand under this Act takes the benefit of any Act for the relief of insolvent debtors, the secretary or an authorised officer, in all proceedings against the estate of such insolvent or under any adjudication, sequestration, or act of insolvency against or by such insolvent, may represent the Commissioner and act on his behalf in all respects.

Branches  
and  
agencies.

2. (1.) For the purposes of this Act, the Commissioner may from time to time establish branches or agencies of his department, and may close any branch agency.

Agents.

(2.) The Commissioner may appoint any person to act as his agent.

At the request of the Commissioner, any State officer shall, with the approval of the Minister of the department of which he is an officer, act as such agent, and with, under, and subject to such powers, conditions, and limitations as are contained in such request.

Security.

3. Every employee or agent whose duties involve the receipt or custody of moneys or securities shall give such security for the due and faithful performance of his duties as to the Commissioner seems proper, and shall be deemed to be a public accountant within the meaning of \**"The Audit Act of 1874."*

Secrecy.

Every permanent employee and agent shall be bound to secrecy by declaration in the prescribed form.

Delegation  
by Commis-  
sioner.

4. The Commissioner may from time to time, by writing under his hand, delegate to the secretary or any employee any of the powers, functions, or duties conferred or imposed on the Commissioner by this Act, and such person shall thereupon for the purpose for which he has been deputed have all the powers and may exercise all the functions of the Commissioner. But such delegation shall not be construed to deprive the Commissioner of his right to exercise such powers and functions.

Safe custody  
of books, &c.

5. (1.) The secretary shall be responsible for the safe custody of all books of account, agreements, instruments, receipts, vouchers, and other books, papers, and writings belonging to or relating to the business of the Commissioner.

He shall make a record of the same in obedience to the direction of the Commissioner, and shall not destroy or mutilate any of them without his sanction in writing previously obtained.

Loss or  
destruction  
of records.

(2.) Whenever any book of account, agreement, instrument, receipt, voucher, or other paper or writing belonging to or relating to the business of the Commissioner is destroyed or lost, the Governor in Council may, by Order, direct all such acts and things to be done as he thinks best for repairing the loss, and may declare any copy of any such book, agreement, receipt, voucher, or other paper or writing to be valid and effectual for all purposes, and may, if necessary, define the time during which such copy shall remain in force.

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**6.** Every notice, order, process, or document requiring authentication by the Commissioner shall be sufficiently authenticated without the seal of the Commissioner if signed by the Commissioner, or by the secretary, or by an authorised officer. Authentica-  
tion of  
documents.

**7.** (1.) Any notice, order, process, or document under this Act required or authorised to be given or served to or upon any person may be served— Service of  
notice, &c.

(i.) By delivering the same or a true copy thereof to such person; or

(ii.) By leaving the same or a true copy thereof at his usual or last known place of abode; or

(iii.) By forwarding the same or a true copy thereof by post in a prepaid letter addressed to such person at his usual or last known place of abode.

(2.) Any such notice, order, process, or document required or authorised to be given to or served on the owner or occupier of any land or premises may, if the name of the owner or occupier is not known to the Commissioner, be addressed to him by the description of the "owner" or "occupier" of the land or premises in question (naming them) without further name or description.

(3.) All notices and orders required under this Act to be served on any owner or occupier shall, if due service thereof has been once made on any owner or occupier, be binding on all persons claiming by, from, or under such owner or occupier to the same extent as if such order or notice had been served on such last-mentioned persons respectively. Continued  
operation of  
notices and  
orders.

(4.) Any document may be served on the Commissioner—

(i.) By delivering the same to the secretary; or

(ii.) By forwarding the same by post in a prepaid letter addressed to the secretary. Service on  
Commis-  
sioner.

**8.** (1.) All works and all water which at any time is in any stream, reservoir, channel, or other parts of the works, and all real and personal property of every kind (including all money and securities for money) constructed, purchased, acquired, received, or held in any manner for the purposes of an irrigation undertaking, shall be held by the Commissioner under this Act, and shall be and be deemed to be vested in the Commissioner according to the nature of the estate and interest therein respectively. Vesting of  
property in  
Commis-  
sioner and  
power  
thereover.

(2.) Subject to this Act, the Commissioner shall, with respect to such real and personal property, and any estate or interest therein, have the power—

(i.) To sell, lease, exchange, or make partition;

(ii.) To accept or make surrender of leases;

(iii.) To assign, reconvey, or discharge mortgages, securities, or other obligations, either wholly or in part;

(iv.) To enter into, modify, or alter any contract with any person for all or any of the purposes of this Act;

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(v.) To erect buildings and repair, equip, furnish, and maintain the same; and let offices or other accommodation in any building or premises for such rent as he thinks proper; and

(vi.) Generally to exercise all other rights, powers, functions, and authorities thereover.

All moneys to be property of Crown.

**9.** (1.) All moneys in any irrigation undertaking fund, or payable into any such fund by any person, and also all debts and other moneys for the time being owing to the Commissioner by any person, on any account whatsoever, are hereby declared to be the property of the Crown and recoverable with interest accordingly by the Commissioner as from debtors to the Crown.

Recovery of moneys.

(2.) Any money due to the Crown under this Act may be recovered by summary proceedings before two justices on the complaint of the Commissioner or secretary, or by action in any court of competent jurisdiction.

From the owner or occupier for the time being.

(3.) Subject to this Act, money so due shall be a debt due by the owner or occupier of the land for the time being, notwithstanding that he was not the owner or occupier at the time when the money became due, and shall also be a debt due by the person primarily liable to pay the same under this Act.

Distress.

(4.) Instead of proceeding under the foregoing provisions of this section, the Commissioner may recover any such money by distress in manner prescribed.

Persons liable may be resorted to in succession.

(5.) An unsatisfied judgment or order of any court for the recovery of any moneys due to the Crown or the Commissioner under this Act from any person shall not be a bar to the recovery thereof from any other persons liable under this Act to the payment thereof.

Contracts, &c.

**10.** (1.) The Commissioner may enter into contracts, either by himself or through the medium of such employees or agents as he from time to time authorises for that purpose.

(2.) Any contract which if made between private persons, or any power which if exercised by private persons—

Firstly, must be by deed or in writing under seal;

Secondly, must be in writing signed by the parties thereto or the persons executing the power;

Thirdly, may be made or exercised orally without writing;

When entered into or exercised by the Commissioner:—

In the first case, shall be in writing under his seal, and signed by or on behalf of the Commissioner;

In the second case, shall be in writing, signed by or on behalf of the Commissioner;

In the third case, may be made or exercised orally, without writing, by or on behalf of the Commissioner.

Compounding.

(3.) The Commissioner may, for such sum of money or other consideration as he thinks fit, compound with any person who has entered into any contract with the Commissioner, or by or against whom any action or other proceeding may be or has been brought against or by the Commissioner, for any cause whatsoever.

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11. (1.) No matter or thing done and no contract entered into by the Commissioner or any employee or other person on his behalf or under his direction shall, if the matter or thing was done or the contract was entered into *bonâ fide* for the purposes of this Act, subject the Commissioner or any such person to any personal liability in respect thereof.

Protection of Commissioner and employees from personal liability.

(2.) An action shall not be brought against the Commissioner or any employee or other person for any thing done or intended or omitted to be done under this Act until the expiration of one month after notice in writing has been served on the Commissioner or person to be sued, clearly stating the cause of action and the name and place of abode of the intended plaintiff and of his solicitor or agent.

Notice of action.

On the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action which is not stated in the notice so served.

Unless such notice is proved, the Court shall find for the defendant.

Every such action shall be commenced within six months next after the accruing of the cause of action, and not afterwards.

Any person to whom any such notice of action is given may tender amends to the plaintiff, his solicitor, or agent, at any time within one month after service of the notice, and in case the same is not accepted may plead such tender.

12. (1.) In any proceeding under this Act, it shall not be necessary for the complainant or plaintiff to prove the limits of the Area or the limits of any water reserve or catchment area. But this provision shall not prejudice the right of any defendant to prove the facts.

Area, &c., need not be proved.

(2.) In any proceedings under this Act, the due appointment of all employees or agents, and the authority of any employee or agent to do any act or to institute such proceedings, shall be presumed until the contrary is proved.

Appointments and authority of officers presumed.

(3.) The seal of the Commissioner affixed to any document shall be judicially noticed, and, until the contrary is proved, it shall be presumed to have been properly affixed thereto.

Seal judicially noticed.

The signatures of the Commissioner and the secretary shall be judicially noticed.

(4.) In any proceeding under this Act the production of any map or plan purporting to be made by the Commissioner or any employee, and sealed with the seal of the Commissioner, or purporting to be issued or published by any department of the Government or any officer thereof, shall be sufficient evidence of the matters stated or delineated thereon until the contrary is proved.

Plans, &c.

Copies of any plans, sections, specifications, and books of reference relating to matters arising under this Act, and of any alteration or correction thereof, or extracts therefrom, certified by an authorised officer to be true copies thereof (which certificates such officer shall give to all parties interested when required, on payment of such fees as are prescribed by the Commissioner), shall be conclusive evidence of the contents thereof.

Documents signed by Commissioner, &c.

(5.) All documents whatever purporting to be issued or written by or under the direction of the Commissioner and purporting to be signed by the Commissioner or secretary, shall be received in evidence in all courts, and shall be deemed to be issued or written by or under the direction of the Commissioner until the contrary is proved. The expression "documents" includes all orders, directions, and notices.

Presumption against registered proprietor.

(6.) The production in any court of a certificate of title, memorandum of transfer, or other instrument creating an interest in land, or of a duly certified copy thereof, shall be sufficient evidence that the person named therein as registered proprietor, or as entitled to such interest, is the owner of or person entitled to an interest in such land until the contrary is proved.

Certificate of officer.

(7.) The certificate in writing of an authorised officer that any works, matters, or things have been constructed, done, or supplied by the Commissioner pursuant to the requirement or for or on behalf of any person shall be *primâ facie* evidence of the facts therein stated, and as to the amount of the expense with interest (if any) recoverable in respect thereof.

Register of meters to be *primâ facie* evidence.

(8.) The quantity of water or power shown by the index or register of an authorised meter to have passed through such meter shall be taken *primâ facie* to be the quantity of water or power which has actually passed through the meter and been supplied.

A certificate under the hand of an authorised officer stating the quantity so shown shall, in any proceeding in which the quantity of water or power is in dispute, be *primâ facie* evidence of the quantity of water or power supplied.

Reference to "owner" and "occupier."

(9.) Whenever in any proceeding or otherwise for any purpose under this Act it becomes necessary to mention or refer to the owner or occupier of any land or premises, it shall be sufficient to designate him as the "owner" or "occupier" of such land or premises, without name or further description.

Presumption when water, &c., diverted.

(10.) Whenever it is shown that any water or power is or has been wrongfully taken or used or illegally diverted or taken on to or into land owned or occupied by any person, the taking or using or diversion of such water or power shall be deemed to have been effected by or by the direction of such person, unless such person satisfies the court that such taking or using or diversion of the water or power on to or into such land was effected without his direction or connivance.

Preliminaries to construction. Surveys and levels.

**13.** The Commissioner shall, before undertaking the construction of any works—

(i.) Cause the necessary surveys and levels of lands and roads to be made and taken; and

Plans, &c., to be furnished.

(ii.) Cause to be prepared plans, sections, specifications, books of reference, and an estimate of the cost of the proposed works, and forward the same or certified copies thereof to the Minister for his approval.

Constructional powers of Commissioner.

**14.** (1.) Subject to this Act, for the purposes of the construction, maintenance, management, and control of works, and the doing of anything which the Commissioner is by this Act authorised

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to do, the Commissioner, by his employees and agents, may from time to time exercise the powers in this section mentioned and do all such ancillary or consequential acts, matters, and things as he deems proper for the execution of this Act.

(2.) He shall have power, from time to time, to construct, acquire, provide, extend, renew, and improve, and to maintain, alter, and repair works, matters, and things, and to discontinue such of them as in his opinion are obsolete or useless. He may—

- (a) Construct and maintain streams, channels, drains, mains, fittings, posts, conductors, apparatus, machinery, and pipes, and put stop-cocks, syphons, plugs, and branches in, under, across, along or against any road, land, or structure, or under any railway or tramway, in such manner as he thinks necessary or proper;
- (b) Construct and fix any machinery necessary for ensuring to any structure, premises, or land a proper and sufficient supply of water or power, or for measuring and ascertaining the extent of such supply;
- (c) Use water or power in or in connection with any works or lands vested in him or under his control.

(3.) He shall have power, from time to time—

- (a) To obtain from any stream, and also from his reservoirs and works, an adequate supply of water for the purposes of this Act;
- (b) To divert, intercept, and store all water in or coming from any stream or other source, or in any water reserve or catchment area under his control, and alter the course of any such stream, and take any water found under or on any land;
- (c) To construct and thereafter maintain, repair, enlarge, alter, and renew any weirs across any stream.

He shall, when reasonably practicable, provide other watering places and channels for the use of adjoining lands in place of those taken away or interrupted.

(4.) Save as by this Act is expressly provided with respect to the payment of compensation, no action, indictment, information, claim for compensation, or other proceedings shall be commenced, presented, made, prosecuted, or maintained against the Crown or the Minister or the Commissioner or any employee or other person for or in respect of—

- (a) Any obstruction of the navigation of, or deprivation of access to, or diminution of the quantity of water in any stream by reason of the execution of any work authorised by this Act; or
- (b) Any damages, loss, or expenses occasioned or alleged to be occasioned or in anywise whatsoever arising from the exercise of any of the powers under this Act.

(5.) Whenever in the opinion of the Commissioner it is expedient for the execution of this Act and facilitating the execution and management of the works and business of the Commissioner



or the successful working of the undertaking, he may, with the approval of the Governor in Council, construct, acquire, purchase, contract for the use of, work, maintain, and manage—

- (a) Any tramway;
- (b) Any coal-mine;
- (c) Any quarry;
- (d) Any gravel pit;
- (e) Any cement mill;
- (f) Any mine containing alum or other mineral requisite for the purposes of the operations of the Commissioner;
- (g) Any sawmill; and in connection with the working thereof employ or contract with teamsters for drawing timber, purchase and work teams for drawing timber, and make advances to or guarantee the liability of teamsters who purchase teams for drawing timber;
- (h) Works for the manufacture of machinery, pipes, fittings, or apparatus for use in the operations of the Commissioner, with all necessary machinery, plant, and equipment;
- (i) Any other trade, business, factory, service, or industry.

Any such tramway may be constructed, worked, and managed in, upon, across, over, or under any road, reserve, or navigable stream.

The Commissioner may use and employ upon any such tramway locomotive engines propelled by steam or other power and rolling-stock to be drawn and propelled thereby.

The Commissioner may carry for hire upon any such tramway for the public, passengers, goods, live stock, and material, at such rates as shall be prescribed, and in so doing shall have no further liability than the liability of stage coach proprietors and common carriers under the laws of Queensland.

Entry on  
land, &c.

(6.) The Commissioner may enter upon any road, land, or premises, and make surveys and take levels, and set out such parts of any work as he thinks fit, and break up the soil, and carry out therein all necessary operations, and erect fences, and remove or use any earth, trees, timber, materials, and other things in, on, or under the land or road, and where necessary carry on blasting operations.

Temporary  
use of  
road.

(7.) The Commissioner may temporarily place on any part of any road any pipes, machinery, or things during or in preparation for the construction of any works: Provided that such pipes, machinery, or things shall not be so placed as unnecessarily to obstruct traffic or the drainage of any road, and that no more of the same shall be so placed than are reasonably necessary for the works as the works proceed.

Dredging,  
clearing, &c.

(8.) The Commissioner may, on any land within the Area or any reserve or catchment area under his control, or on any stream, contract for or himself undertake—

- (a) The dredging, deepening, and widening of any stream or other water or source of water supply;

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- (b) The removal from any stream or other water or source of water supply, or from the bed or banks of the same, of weeds and other growth, driftwood, logs, trees, branches, or other timber, rock, sand, stone, and gravel or other obstructions, and may dispose of the same towards recouping the cost of removal;
- (c) The construction and maintenance of any work necessary to prevent floods or damage from floods of streams, and all walls, embankments, and works necessary for rendering such work effective.
- (d) The construction and maintenance of works for the preservation of the bed and banks of any stream from erosion or other damage or injury from any cause;
- (e) The filling up, levelling, grading, and reclamation of low-lying or flooded lands.
- (f) The construction of drainage and other works;
- (g) The providing and construction of improvements;
- (h) Sanitary, sewerage, and garbage systems, and the disposal of garbage, nightsoil, and other refuse.

(9.) If the Commissioner deems it necessary to alter the situation of any tram rails, water pipes or water works, gas pipes or gas works, hydraulic steam or other pipes, electric or telephone lines, pneumatic pipes or tubes, or other works laid in or under or over any road or land, he may, by notice in writing, require the person to whom the works belong to alter the situation of the same in such manner and within such reasonable time as is specified in such notice. Alteration  
of other  
works.

The expense connected with any such alterations shall be paid by the Commissioner.

If such notice is not complied with, the Commissioner may make the alterations required.

(10.) In the exercise of the powers conferred by this Act, the Commissioner shall do as little damage as may be. Minimum of  
damage.

**15.** (1.) An authorised officer, with such attendants as he thinks fit, shall have power, without notice, to enter at all reasonable times and as often as may be deemed necessary upon any road, land, or premises for the purpose of generally enforcing and executing this Act; and in particular for— Entry.

- (a) Examining whether any of the provisions of this Act or any requisitions of any notice or order thereunder are being complied with or are being contravened; or
- (b) Making any plan or survey or taking levels, whether for the purpose of acquiring information prior to the establishment of any undertaking, or the constitution of any Area, or otherwise in or for carrying out any of the purposes or objects of this Act; or
- (c) Executing, fixing, removing, replacing, renewing, substituting, altering, repairing, cleansing, or examining any work or machinery; or
- (d) Making any inspection or examination; or

- (e) Taking account of the amount of water or power consumed or used; or
- (f) Comparing the amount so ascertained to be consumed or used with the terms of any contract, and regulating the supply in accordance therewith;

and may there carry out the necessary operations.

If such admission to any land is refused, any justice, on complaint by such officer (made after reasonable notice in writing of the intention to make it has been given to the occupier), may, by order under his hand, require the occupier to admit such officer.

Any such order made by a justice shall continue in force until the necessary purpose has been completed.

Any person who refuses to obey an order of a justice for the admission of such officer shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

Such occupier shall be entitled to compensation for any loss of or damage to any growing crop occasioned by any such entry or act as aforesaid.

(2.) The provisions of this section shall be in addition to and not in derogation of any powers of entry or for doing any act for any purpose authorised by this Act.

Prevention of  
interference  
with  
water.

**16.** (1.) The Commissioner, by his authorised officers, may, in the exercise of his jurisdiction under this Act over the water in the Area or in any water reserve or catchment area under his control, or for the purpose of preventing the improper use or waste of water, enter upon any land and take such measures as may be thought fit for the conservation and regulation of such water, and for the protection of the bed, banks, channels, and works over or within which it flows or is contained, and may interfere summarily to prevent the undue, excessive, or illegal use, diversion, pollution, or waste of such water or interference with such bed, banks, channels, or works; and it shall not be necessary for the Commissioner to obtain an injunction or other order of a court to entitle him to make such entry or to take such measures.

(2.) The Commissioner shall be entitled to institute and maintain any proceeding in any court of justice, whether such proceeding is for any civil remedy or for the recovery or enforcement of any penalty, against any person or corporation for illegally diverting, taking, or polluting any water in the Area or in any water reserve or catchment area under his control, or for unlawfully interfering with the bed, banks, or channels of any stream, or any works of the Commissioner.

(3.) In such proceedings it shall not be necessary for the Commissioner to show that the Commissioner or any person has sustained damage by such diversion, taking, pollution, use, wasting, or interference, nor that the Commissioner is a riparian owner or otherwise entitled to the use or to the protection of the stream, works, or water in question.

(4.) But the Commissioner shall be entitled to judgment in his favour if it is proved that the water has been illegally diverted or taken or polluted or improperly used or wasted, or that the bed, banks, channels, or works have been unlawfully interfered with.

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(5.) And the Commissioner shall, in the discretion of the court, be entitled to the costs and expenses of the proceedings against the defendant.

**17.** Whenever the Commissioner or any person under his authority breaks up a road he shall—

Provisions relating to breaking up roads.

- (a) Make such temporary and other works for the convenience of passengers and traffic as the circumstances require; and
- (b) With all convenient speed complete the work for which it is broken up, and fill in the ground, and reinstate and make good the road and carry away all surplus materials and the rubbish occasioned by the operations. All such surplus materials and rubbish shall be the property of the Commissioner and may be carried away in such manner as in the opinion of the Commissioner will occasion the least expense; and
- (c) At all times, whilst any such road continues broken up, cause it to be fenced and guarded, and a sufficient light to be kept there at night.

The Commissioner and such person as aforesaid shall each of them be liable to make compensation in respect of any injury or damage occasioned to any person by reason of the failure of the Commissioner or such person as aforesaid to comply with the foregoing provisions.

**18.** The Commissioner, with the approval of the Governor in Council, may exercise all or any of his powers outside the Area for the purpose of the storage, distribution, or supply of water or power.

Commissioner may go outside Area

**19.** (1.) Subject to any general Act in force for the time being regulating such matters or any of them, the Commissioner, with the approval of the Governor in Council, may—

Power.

- (i.) Enter upon and continue the manufacture and conservation of power, and the manufacture of all materials arising from such manufacture or conservation, by means of any machinery, and by any process, art, or invention now or hereafter to be known or used, and from any substance that now is or may hereafter be used for such purposes;
- (ii.) Contract with any person for the supply of power to him or to any structure, premises, or land of which he is the owner or occupier, in such manner and under such stipulations as the Commissioner thinks proper.

(2.) Any authorised officer may, at all reasonable times and as often as he thinks necessary, inspect and examine at all reasonable times any machinery or works which have been constructed by any person with whom the Commissioner has so contracted.

If such officer considers any such machinery or works to be incomplete or otherwise defective, the person who constructed the same shall not be entitled to call on the Commissioner for the fulfilment of such contract until all such machinery and works have been altered or removed, and other machinery and works have been substituted therefor, to the satisfaction of such officer.

The provisions of this subsection shall be in addition to and not in derogation of any powers conferred on the Commissioner by or under this Act or any other Act.

Commissioner  
may supply  
water.

**20.** (1.) Subject to this Act, the Commissioner may supply water to be used within the Area to such persons, upon such terms, at such prices, and with such guarantees and securities for payment, and generally upon such conditions, as the Commissioner thinks proper—

(a) For irrigation purposes;

(b) For domestic purposes or for the watering of stock or for any other purposes approved by the Minister.

Who entitled  
to water for  
irrigation.

(2.) Save as by this Act is otherwise provided, the owners or occupiers of lands in the Area shall alone be entitled to the supply of water for irrigation purposes:

Provided that the Commissioner may enter into a contract with persons whose lands are not within the Area for the supply of surplus water for irrigation purposes at a prescribed rate. Such contract shall in no case be entered into for a longer period than one year; but in each case the Commissioner may, if he thinks fit, grant any number of renewals for periods of one year upon each renewal.

Sale by  
measure.

(3.) Water supplied by the Commissioner for the purposes of irrigation or any other purpose shall be sold by measure only, and, subject to any minimum amount fixed by regulation as payable in every case, shall be charged for accordingly. Payment for water supplied by the Commissioner shall be made at such times and for such periods as may be prescribed or as the Commissioner may determine, and shall, if the Commissioner thinks proper, be made wholly or partly in advance and subject to periodical adjustment.

Supply to  
adjoining  
local Areas.

**21.** Upon application by any Local Authority whose Area adjoins the Irrigation Area, or through whose Area any works of the Commissioner pass, the Commissioner may, with the approval of the Governor in Council, supply water or power to such Local Authority by measure and on such terms and conditions as may be agreed upon between the Commissioner and such Local Authority.

Agreement to  
supply water  
for a term.

**22.** (1.) Subject to this Act, the Commissioner may agree with an owner or occupier of land situated within or without the Area, to supply water to be used by him on that land, but not elsewhere, for any purpose.

(2.) Any such agreement as aforesaid may be for the supply of water for a term not exceeding fourteen years, and at a price by measure to be specified in the agreement, such price not being less than the price of water supplied by measure by the Commissioner current at the time of making the agreement.

In every such agreement the consumer shall agree to pay the agreed price for the term therein limited, and to take not less water in any year than the minimum quantity therein specified, and to pay a minimum amount for water therein fixed.

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Any such agreement, whether under seal or not, shall be deemed to be a covenant running with the land, and shall bind the land and the successive owners and occupiers thereof during the term:

Provided that in the case of land held under \**"The Real Property Acts, 1861 to 1887,"* a caveat notifying the terms of the agreement shall † lodged in the office of the Registrar of Titles. No such caveat shall be removed except upon the order of the Supreme Court or a judge thereof, which may be made upon petition or summons in a summary way upon proof that the agreement has ceased to have effect.

†[*Sic in Gazette, semble "be lodged".*]

Nothing in any such agreement shall be construed to create any obligation on the part of the Commissioner to supply any fixed quantity of water in the event of an insufficiency of water requiring, in the opinion of the Commissioner, a discontinuance or lessening of the supply as hereinafter provided.

**23.** When the water upon which the Commissioner relies for the maintenance of the supply has been diminished to such an extent as to render it expedient, in the opinion of the Commissioner, to lessen the quantity of water or power supplied, the Commissioner may discontinue or lessen the supply throughout the whole or any part of the Area, or under any agreement for supply, whether within or outside the Area, as he thinks proper, and may, whenever and as often as he is satisfied of the actual or approaching insufficiency of such supply, from time to time, make orders regulating the order of priority in which and the quantities with which the various consumers shall be entitled to be supplied, and the Commissioner shall not on that account incur any liability:

Commissioner may lessen supply.

Provided that, before taking any action under this section, reasonable public notice shall be given by the Commissioner of his intention so to do.

**24.** Nothing in this Act shall be deemed to render it obligatory on the Commissioner to supply water or power in any Area or to any person if by reason of drought, accident, or other cause the Commissioner is of opinion that it is impracticable to do so.

General protection to Commissioner as to supply.

**25.** The Commissioner may authorise and empower any person entitled to be a consumer of water for the purposes of irrigation or other agricultural purposes to exercise all or any of the powers of the Commissioner for the purpose of constructing and maintaining channels or other works for conveying water from the reservoir or works to the lands of such consumer.

Consumers may construct channels, &c.

**26.** An owner or occupier of land or premises supplied with water or power shall not use in connection with such water or power any fitting other than such as is prescribed or authorised; and it shall not be arranged in a mode different from that prescribed or authorised.

Prescribed fittings only to be used.

Every fitting arranged or attached in contravention of this section shall become the property of the Commissioner, and may be seized and removed by an authorised officer.

Provisions as to fittings, &c.

\* 25 Vic. No. 14 and Amending Acts, *supra*, pages 2984 *et seq.*

Irrigation  
holdings.

**27.** Subject to this Act the Commissioner may, from time to time by notification in the *Gazette*, open land for disposal as irrigation holdings.

Every such notification shall—

- (a) State the number of water rights which are a fixed charge on each holding comprised in such notification;
- (b) State the price for such water rights;
- (c) Specify such provisions, conditions, and covenants as, according to the circumstances of each case, the Commissioner thinks fit.

Power to deal  
with pests,  
&c.

**28.** The Commissioner may, by any of his employees or workmen, after notice given as prescribed, enter upon any land within the Area, and at the cost and expense of the occupier, swab, spray, prune, clean, or otherwise treat, and, if thought necessary by the Commissioner, destroy and dispose of any trees, plants, vines, fruits, fruit cases, packages, weeds, growths, or refuse on such land, which in the opinion of the Commissioner are likely to convey, harbour, or spread disease, or are otherwise noxious.

Power to  
make  
advances, &c.

**29.** The Commissioner may at any time, or from time to time, subject to such conditions as are prescribed, or as are approved by the Minister, make advances to occupiers of land within the Area. Subject to the regulations such conditions shall attach to the land, and the non-performance or breach of any such conditions shall, in the case of a holding, render the holding liable to be forfeited.

Power to  
remit rent,  
&c.

**30.** In any case where the Minister, upon a recommendation in writing by the Commissioner, is satisfied that the circumstances so warrant, he may remit or postpone either wholly or in part the payment by an occupier of any rent or charges for water or interest thereon or any payments in respect of advances, for which such occupier is indebted to the Crown or Commissioner.

Notice of  
transfer of  
land or  
subdivision.

**31.** Whenever any person sells any land within the Area, he shall give notice in writing of such sale to the Commissioner, specifying the name and address of the purchaser.

Whenever a person who is the owner of land within the Area subdivides the same, he shall forthwith give notice in writing, accompanied with a plan of subdivision, to the Commissioner; and whenever any such person sells any such subdivided land, he shall give like notice, specifying the name and address of the purchaser.

Any person liable for any moneys under this Act who fails to give notice as aforesaid shall continue to be liable for all moneys which may accrue due after the sale, in the same manner as if he were still the owner thereof.

Free search  
in office of  
Registrar of  
Titles and  
Supreme  
Court  
Registry.

**32.** (1.) Every Registrar of Titles shall permit the secretary or an authorised officer, free of charge, to make searches of, and to make copies of or extracts from, any books, plans, and documents registered in the registry relating to land situated within the Area.

(2.) The secretary or an authorised officer shall be entitled at all reasonable times, free of charge, to inspect any record in the office of the Registrar of the Supreme Court for the purpose of

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ascertaining the names of corporations and joint stock companies, or trustees in estates or trusts, and of executors and administrators in estates, and make and take all such copies of or extracts from such record as he may deem necessary.

**33.** (1.) Where water or power is supplied to any land or premises, and the owner of such land or premises is not the person supplied with such water or power, he shall nevertheless be liable to pay to the Commissioner in respect of such supply the minimum amount, if any, fixed by the Commissioner or under any agreement as payable for such supply; and such amount shall be deemed to be a debt due by him. Remedies for moneys due.

(2.) Money due in respect of water or power supplied to any land or premises or in respect of any fittings or other chattels supplied by the Commissioner to any land, or in respect of works executed by the Commissioner on any land or premises, shall, to the extent to which an owner is liable and without prejudice to any other rights of the Commissioner, be deemed to be a debt by the owner of the land or premises for the time being, notwithstanding that he was not the owner at the time when the money became due; and shall also be a debt due by the person primarily liable to pay the money under this Act.

**34.** Whenever by this Act the Commissioner is empowered to give to any owner or occupier of land or premises notice requiring him within any specified time to carry out or provide any works, matters, or things on or in connection with the land or premises, and such owner or occupier has not within the limited time complied with such notice (or, if he may request the Commissioner to comply therewith on his behalf, has not duly made such request), then the Commissioner may, subsequently to or in lieu of taking any proceedings against such owner or occupier for such non-compliance, enter upon the land or premises and carry out and provide, on behalf of and at the expense of such owner or occupier, the works, matters, or things in which he has made default. Commissioner may act for person in default.

**35.** When two or more persons are or may be directed by the Commissioner to do or join in doing any act, or to pay or join in paying any sum of money, or when the Commissioner may permit two or more persons to join in doing any act or paying any sum of money, the Commissioner may, if he thinks fit, apportion the matter to be done or the sum of money to be paid between such persons in such manner as the Commissioner considers just. Apportionment of joint liability.

**36.** Any compensation payable by the Commissioner to any person (except by reason of the taking of land under and subject to the Public Works Land Resumption Act) shall be such sum as may be agreed upon by and between the parties, or as, in the case of dispute, may be fixed by a police magistrate upon summons. Compensation in case of damage.

Every police magistrate shall have jurisdiction to hear and determine the matter of such dispute, and to grant such costs as, in his opinion, are just and reasonable.

Any party may appeal to the Supreme Court from the whole or any part of an order of a police magistrate under this section.



Every such appeal shall be by way of rehearing, and shall be heard and determined in the same manner, including the right to a jury, as if the matter of such dispute had been the subject-matter of an action in such Court.

Expenses recoverable in any court.

**37.** (1.) In addition to any other remedy provided by this Act, expenses recoverable by the Commissioner from any person shall be recoverable in any court of competent jurisdiction.

Future owners liable.

(2.) Expenses recoverable by the Commissioner from any owner of land shall be recoverable, together with interest as prescribed, at any future time from any owner of the land.

Expenses include compensation.

(3.) Expenses recoverable by the Commissioner in respect of the execution of works for or on behalf of any person shall include the amount of any compensation paid by the Commissioner in respect of such works.

Powers of trustees and agents.

**38.** (1.) Any trustee being owner of any land may apply any of the funds under his control in defraying any charges, costs, and expenses necessarily or properly incurred by him under this Act as such owner.

(2.) Any agent may deduct from any moneys held by him for his principal all charges, costs, and expenses necessarily or properly incurred and paid by him under this Act as owner within the meaning of this Act of any land for which he is the agent of such principal, or he may in any court of competent jurisdiction recover from such principal the amount so incurred and paid.

Revenue, how applied.

**39.** All moneys received or recovered by or on behalf of the Commissioner shall be carried to the account of the proper fund of the Area concerned, and such fund shall, without any further or other appropriation by Parliament, be applied—

- (a) In the payment of any instalments due in respect of any loan advanced by the Treasurer under this Act;
- (b) In the construction, maintenance, renewal, management, and control of the works of the undertaking, including all preliminary and incidental expenses, and in the conduct of the business of the Commissioner in relation thereto (including payments to reserve fund or sinking fund, if any), and otherwise for the purposes of this Act, including any sum due under an agreement lawfully made for the purposes of this Act and any sum recovered against the Commissioner by process of law and any sum which by any order made or purporting to be made under this Act the Commissioner is directed to pay by way of compensation, or otherwise.

Any unexpended balance may be applied, if the Treasurer so permits, in reduction of any sums owing to the Treasurer under this Act.

Discharge of Commissioner.

**40.** (1.) The receipt given by any person to the Commissioner for any moneys paid under this Act shall be an absolute discharge to the Commissioner; but nothing herein shall prejudice or affect the right of any person claiming to be entitled to receive any such money to recover the same from the person to whom the Commissioner has paid the same.

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(2.) In the event of any doubt or dispute as to the person legally entitled to receive any moneys payable under this Act, the Commissioner may pay the same into the Supreme Court to abide the orders of that Court.

Disputes by claimants.

**41.** (1.) If any employee is dismissed or is suspended, or resigns, or dies, absconds, or absents himself, and if he or his wife, widow, or any of his family or representatives refuses or neglects after seven days' notice in writing, to deliver to the Commissioner or his agent any property as herein defined in the possession or custody of such employee at the occurrence of any such event as aforesaid, then any justice of the peace, upon application by the Commissioner or his agent, may order any member of the police force with proper assistance to enter and take possession of such property, and deliver the same to the Commissioner or his agent, and, if necessary, to remove any person.

Delivery of matters in possession of employee at removal.

(2.) Every employee shall from time to time, when required by the Commissioner, make and deliver to him or to his agent, a true account in writing under his hand of all moneys received by him on behalf of the Commissioner.

Employees to account on demand.

Such account shall state how and to whom and for what purpose such moneys have been disposed of.

Together with such account, he shall deliver the vouchers and receipts for such payments.

He shall pay to the Commissioner or to his agent all moneys which appear to be owing from him upon the balance of such account.

If he fails to render such account, or to deliver all such vouchers and receipts in his possession or power, or to pay the balance thereof when required, or if for three days after being required he fails to deliver to the Commissioner or his agent all property in his possession or power, then, upon a complaint made as for a breach of duty, a court of petty sessions may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such employee, and make such other orders as appear to the court to be just.

If it appears, either upon his confession or upon evidence or upon inspection of the account, that any moneys which should be paid over to the Commissioner are in his hands or owing by him, such court may order him to pay the same.

If he refuses to make such account in writing, or to produce and deliver to such court the vouchers and receipts relating thereto, or to deliver up any property, the court may commit him to prison, there to remain until he has complied with such order.

(3.) If any employee or agent having in his possession or power any property as herein defined—

Insolvency, &amp;c., of employee.

- (a) Becomes insolvent; or
- (b) Makes an assignment for the benefit of his creditors; or
- (c) Has any execution, attachment, or other process issued against his land, goods, chattels, or effects,

the Commissioner may apply to such employee or agent, or his assignee or trustee, or to the sheriff or other person executing such

process, or to his executors or administrators, or to any other person having legal right, as the case may be, and may demand that all such property be paid over or delivered up to the Commissioner or such person as he may appoint.

The party so applied to and having the same shall on such demand deliver over to the Commissioner, or to such person as aforesaid, all such property, and shall pay out of the estate, assets, or effects of such employee or agent all moneys due by him to the Commissioner before any other of the debts of the said employee or agent are paid or satisfied, and before the money directed to be levied by such process as aforesaid is paid over to the party issuing the same. All assets, land, goods, chattels, estate, and effects of such employee or agent shall be bound to the payment and discharge thereof accordingly.

When  
warrant may  
issue.

(4.) If the Commissioner or his agent makes oath that he has good reason to believe, upon grounds to be stated in his deposition, and does believe, that it is the intention of any employee or agent to abscond or that he has absconded, any justice of the peace may, if he thinks fit, issue a warrant in the first instance for the bringing of such employee or agent before such justice or court as aforesaid.

Meaning of  
"property."

(5.) For the purposes of this section, the term "property" includes any building or any part thereof or any appurtenance thereof, or any books, papers, securities, documents, or property whatsoever relating to the execution of this Act or the business of the Commissioner or belonging to the Commissioner.

Sureties not  
to be  
discharged.

(6.) No such proceeding against or dealing with any such employee or agent shall deprive the Commissioner of any remedy which he might otherwise have against such employee or agent or any surety.

Refusing to  
give up  
possession of  
works.

**42.** Any person having charge of any works of the Commissioner who refuses, on lawful demand, to give up peaceable and quiet possession of the same to any person entitled to possession, shall be liable to a penalty not exceeding one hundred pounds.

Diverting  
water, or  
diminishing  
supply or  
injuring it.

**43.** Any person who, without the authority of the Commissioner, and within any water reserve or catchment area under the control of the Commissioner or within the Area or such lesser area as may be defined by the Governor in Council by Order in Council—

(a) Takes, diverts, or intercepts water from any stream or source of supply; or

(b) Does any act whereby any such water is or is likely to be diverted or diminished in quantity, or injured in quality or purity;

and does not, on being required by notice from the Commissioner, immediately restore everything to the state in which it was before such Act, shall be liable to a daily penalty not exceeding five pounds for every day during which the water is taken, diverted, intercepted, diminished, or injured after such notice.

Obstructing  
flow, &c.

**44.** Every owner or occupier of land intersected or bounded by any stream or watercourse, or through or near to which any channel or drain is cut by the Commissioner or any person by his authority, who unlawfully obstructs or in any manner unlawfully

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interferes with the water or flow of water therein, shall be liable to a penalty not exceeding fifty pounds, and in addition to a daily penalty not exceeding five pounds for each day on which the offence is committed after notice by the Commissioner.

**45.** Any person who does not comply with the order of the Commissioner or an authorised officer to execute any work which under this Act the Commissioner or any such officer is authorised to direct shall be liable to a penalty not exceeding twenty pounds, and in addition to a daily penalty not exceeding forty shillings for every day on which such non-compliance continues after conviction.

Non-compliance with orders.

**46.** Where anything is by this Act, or by any direction, order, or notice made under the authority of this Act, directed to be done or forbidden to be done, or where any authority is given to the Commissioner or any of his officers to direct or to forbid anything to be done, and such act so directed to be done remains undone, or such act so forbidden to be done is done, in every such case the person making default as to such direction and prohibition respectively shall be guilty \*or an offence against this Act.

Violation of Act an offence.

\*[*Sic.* in Gazette, semble "of".]

**47.** (1.) Any person guilty of an offence against this Act for which no penalty is specifically provided shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings for each day on which such offence is continued after notice by the Commissioner.

General penalty.

(2.) All penalties incurred under this Act may be recovered in a summary way on the complaint of the secretary or an authorised officer under the provisions of †*"The Justices Acts, 1886 to 1909."*

Penalties recovered summarily.

(3.) Every penalty imposed by this Act in respect of any offence may be recovered from the person actually committing the offence, or from the person in whose employment he is and on whose behalf or for whose benefit he is acting, or (where under this Act it is the duty of any person to abstain from any act, or where any person has lawfully the authority to prevent any act or default) from the person wilfully permitting any act or default, or from all or some of such persons; and for the purposes of this Act all such persons shall be deemed to have done the act or made the omission complained of or caused the same to be done or made.

Who are liable for offences.

**48.** (1.) Any penalty imposed upon or recovered from any person under this Act shall be without prejudice to the right of the Commissioner to recover from such person—

Saving of other proceedings.

- (a) Any sum for damage sustained by him through such person's act or default;
- (b) The expenses incurred by him in remedying any such damage;
- (c) The value of any water wasted, misused, or unduly consumed, or unlawfully diverted, intercepted, or taken by such person.

All such sums may, at the option of the Commissioner or his prosecuting officer, be recovered in the same proceeding by which the penalty is sought to be recovered, or in another proceeding by complaint or action.

† 50 Vic. No. 17 and Amending Acts, *supra*, pages 1132 *et seq.*

(2.) The payment of any such penalty shall not bar or affect the right of the Commissioner to bring any action or to take any proceeding against such person or any other person liable.

(3.) The Commissioner may, if in his opinion summary proceedings would afford an inadequate remedy, cause any proceedings to be taken against any person in the Supreme Court to enforce the abatement or prohibition of any nuisance or to enforce compliance with any order made under this Act, or for the recovery of any penalties or expenses from or for the punishment of any persons offending against this Act.

## PART II.

### *Subject matter for Regulations.*

- Employees ;  
inspection.**      **1.** The duties, discipline, conduct, and regulation of employees ; inspections of works, machinery, and services by employees and authorised officers ; prescribing the payment of reasonable fees for inspections and other services by employees ; prohibiting and punishing the obstruction of or interference with persons in the carrying out of their functions under this Act.
- Forms.**            **2.** Forms of books, documents, notices, instruments, applications, and agreements, writings, and the conditions, stipulations, reservations, and exceptions that shall be inserted or that shall be implied in contracts, agreements, leases, and other instruments ; the giving of notices.
- Evidence.**        **3.** The mode of proof of matters required to be proved under or for the purposes of this Act, and for facilitating such proof.
- Mode of  
execution.**        **4.** The manner of doing, constructing, or performing any act, work, or thing under or for the purposes of this Act, and the time when or within which it shall be done, constructed, or performed.
- Materials of  
works, &c**          **5.** Requiring any work, matter, or thing to be executed, constructed, or done of such materials, within such time, or in such manner as may be directed or approved, whether generally or for any class of cases or in any particular case, by the Minister or Commissioner or any authorised officer or other person ; requiring works to be executed or constructed only by qualified persons.
- Permits ;  
fees.**              **6.** The issue of permits to or with respect to persons and property ; prescribing the payment of reasonable permit fees.
- Delegation of  
authority**         **7.** Leaving any matter or thing to be from time to time determined, applied, dispensed with, prohibited, or regulated by the Commissioner or by any authorised officer either generally or for any classes of cases, or in any particular case.
- Managing  
works.**            **8.** The due management and use of the water and other property of the Commissioner, and of any water under his jurisdiction, and the construction, maintenance, extension, cleansing, repair, and management of the works.

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- 9.** The construction, size, nature, description, strength and materials, and the mode of arrangement, disposition, custody, alteration, removal, connection, disconnection, and repair of channels, machinery, pipes, and fittings; the time of executing and the notice to be given for such works or things and the superintending thereof; making good displaced ground; preventing or restricting distraint or taking in execution of any such machinery, pipes, or fittings; prohibiting and punishing the placing or use of unauthorised channels, machinery, pipes, and fittings. Prescribing materials, fittings, &c.
- 10.** Authorising the Commissioner, or any authorised officer, to pull down, remove, destroy, or alter any work, structure, material, or thing erected or being in breach of this Act, and to recover all expenses incurred in so doing; prescribing that the exercise of this authority shall not relieve any person from liability to any penalty incurred by reason of such breach. Removal, &c., of unlawful works, &c.
- 11.** Protecting the water, the works, surveys, fittings, and other property of the Commissioner, and every part thereof, from trespass, diversion, defilement, obstruction, damage, and injury. Protecting the water and works.
- 12.** Preventing and removing nuisances on lands and works vested in or under the control of the Commissioner. Nuisances.
- 13.** Regulating fencing; and the erection of structures as to height, design, building materials, building line, and sanitation, and other matters. Fences and structures.
- 14.** The regulation or prevention of the erection of any structure of calico or canvas or other inflammable material, and the removal and disposal of any structure used as a dwelling-place which, in the opinion of the Commissioner, is unfit for human habitation. Flimsy structures.
- 15.** The prevention, treatment, and eradication of diseases in trees, vines, plants, fruit, seed, stock, poultry, or other animals or things, and the exclusion from the Area of any trees, vines, plants, fruits, fruit cases, packages, seeds, stock, poultry, or other animals or things which, in the opinion of the Commissioner, would be likely to harbour or spread disease. Diseases in plants, stock, &c.
- 16.** Prohibiting or regulating the introduction into, the destruction within, and removal from the Area of any plant, grass, seed, or any part thereof, which the Commissioner considers to be injurious or which may be declared to be a noxious plant; prescribing and regulating the destruction of noxious plants on roads, or reserves, or lands vested in or under the control of the Commissioner, and enforcing such destruction by occupiers of land fronting such roads, reserves, or lands. Noxious plants.
- 17.** The suppression and destruction of noxious animals. Noxious animals.
- 18.** Notwithstanding the provisions of any other Act, regulating the introduction or consignment into the Area of meat or the flesh of any animal, and the slaughtering within the Area of any animal. Meat; slaughtering.
- 19.** Preventing stock from straying on roads or reserves or lands vested in or under the control of the Commissioner. Straying stock.

Entire  
stock.

**20.** Prescribing and regulating the registration of entire stock in the Area, and prohibiting the introduction into or retention in the Area of any such stock which, after report by an authorised officer, the Commissioner deems to be inferior; prescribing registration fees.

**21.** Prescribing and regulating the furnishing by occupiers of returns giving—

(i.) The numbers and description of their stock; and

(ii.) The area of their cultivated land, description of the trees, vines, crops, and the cultivation thereon, and the yields per acre from the same.

Catchment  
areas, &c.

**22.** The preservation of the catchment areas and water reserves against injury, trespass, and pollution; prohibiting the doing or continuance of anything likely to cause pollution thereof or of the water supply thereon.

Irrigation  
holdings.

**23.** The opening of land for disposal as irrigation holdings; the tenure on which such lands shall be held; applications for such land; qualifications and disqualifications of applicants; dealing with applications; rentals, and other charges; penalties for default; forfeitures; abandonment; improvements; conditions and covenants on which such lands shall be held according to the tenure thereof; empowering the Commissioner, after notice given as prescribed, to perform and observe at the cost and expense of the occupier of any holding, any contracts between the Commissioner and him under which the occupier is in default in respect of the maintenance, care, repair, or insurance of any improvements, goods, or chattels provided, effected, or supplied, for or in connection with such holding, and to recover such costs and expenses with interest thereon from such occupier; and generally the dealing with and disposal of such lands.

Demonstra-  
tion farms,  
&c.

**24.** Establishing and regulating the working, management, and control of demonstration farms and experiment stations.

Improve-  
ments.

**25.** The construction of improvements on holdings; fixing prices or charges for the acquirement or use of improvements effected by or under the authority of the Commissioner.

Local  
services

**26.** Regulating lighting, storm-water or other drainage, sanitary, sewerage, and garbage systems, the suppression of nuisances, the removal and disposal of garbage, nightsoil, filth, and refuse, and the fixing, recovery, and collection by the Commissioner of charges for the rendering of services in relation to all or any of these.

Traffic.

**27.** Regulating traffic on roads within the Area and on tramways maintained by the Commissioner; fixing rates for the carriage of passengers, goods, live stock, or material on such tramways.

Supply of  
water or  
power.

**28.** The supply, transmission, and distribution of water or power; cutting off such supply in certain specified cases; providing for the cutting off of the supply as a cumulative remedy for moneys due; the method of measuring water rights and quantities of water; the quantity of water or power which consumers are entitled to receive; determining the time, order, and manner of delivery of water or power.

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- 29.** The conditions on which water may be used by consumers for domestic purposes, watering stock, or other purposes. Domestic purposes, stock, &c.
- 30.** The supply of water under pressure and the terms and conditions of such supply. Water under pressure.
- 31.** Preventing any person from allowing any other person not having agreed to be supplied by the Commissioner to use water or power, and preventing such person from using the same. Misuse.
- 32.** To meet the contingency of any insufficiency or threatened insufficiency in the general water supply. Insufficiency.
- 33.** Fixing the scale of charges to be paid for water or power supplied to consumers, including if deemed desirable the fixing of a minimum amount to be paid in every case; prescribing the conditions upon which the water or power shall be supplied; providing if deemed desirable for a reduction in the price of water or power supplied in excess of a specified quantity; fixing different charges for water or power according to the purposes for which it is supplied; determining the time at which charges for water or power are to be payable, whether in advance or otherwise; providing for the levy of charges and other moneys whatsoever due to the Commissioner by distress and sale of goods and chattels. Charges.
- 34.** With respect to holdings—  
 Fixing the price for water-rights; altering such price where the consumer subdivides the holding or surrenders or disposes of part thereof or obtains an increase in area of the holding or an increase in the irrigable lands thereof; declaring that water rights are a fixed charge on the land, and providing for the enforcement of such charges; prescribing quantities and times of supply of water in pursuance of water rights; the allotment from time to time of additional water rights; prescribing the procedure in and in connection with the disposal by agreement of additional water rights; the times when payments in respect of such charges shall be made; any other matters relating to the supply of water pursuant to water rights. Water rights.
- 35.** Regulating and controlling the exercise of rights for the purpose of securing the transmission of water in part or wholly supplied from any works of the Commissioner to owners or occupiers of land adjoining the banks of any stream who may have purchased or who may hereafter purchase water from such works, and to all other purchasers of water from such works, without any diversion of interference by any intermediate owner or occupier of lands adjoining such banks: Provided that such regulations shall be so framed as to preserve the rights of such intermediate owners or occupiers to so much water as they would have been entitled to but for the existence of the works of the Commissioner. Riparian owners.
- 36.** Preventing and remedying the waste, misuse, undue or unauthorised consumption, pollution, or contamination of water, contained in or supplied from the reservoirs or works or otherwise Waste, &c., of water or power.



under the control of the Commissioner, and the waste, misuse, or undue or unauthorised consumption of power.

**Penalties.** **37.** Imposing a penalty for any breach of any regulation, and imposing different penalties in case of successive breaches. But no such penalty shall exceed fifty pounds.

**Daily penalties.** Imposing a daily penalty for any breach of any regulation, But no such penalty shall exceed five pounds per day.

**Expenses.** **38.** Providing that in addition to a penalty any expense incurred by the Commissioner in consequence of a breach of any regulation, or in the execution of work directed by this Act to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work.

**Interest.** **39.** Prescribing that moneys payable to the Commissioner under this Act shall carry interest if not duly paid; fixing the rate of such interest.

**Charge on land for moneys due.** **40.** Providing as an additional remedy that any moneys due to the Commissioner under this Act for water or power or any other thing supplied to or provided in relation to any land or for any costs and expenses incurred by the Commissioner and repayable by the owner or occupier of any land, together with all interest as prescribed on such moneys, costs, and expenses, shall be a charge on such land, and for the enforcement of such charges by sale, forfeiture, or otherwise of such land.

**Generally.** **41.** Generally for carrying into effect the purposes of this Act in respect of any matter not herein provided for or insufficiently provided for, and as to which the Governor in Council, by Order, permits regulations to be made.

13 Geo. V.  
No. 20.  
THE WATER  
POWER ACT  
OF 1922.

**An Act to make better provision for the Utilization of Water for the purpose of generating and providing Electrical Energy and Water Power, and for purposes incidental thereto and consequent thereon.**

[ASSENTED TO 14TH OCTOBER, 1922.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

**Short title.** **1.** This Act may be cited as "*The Water Power Act of 1922.*"