



ANNO DECIMO SEPTIMO

# GEORGII V REGIS.

## A.D. 1926.

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### No. 1781.

An Act to make further and better provision for the Drainage of the South-East and for Purposes incidental thereto and connected therewith.

*[Assented to, December 22nd, 1926.]*

**B**E it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :—

#### PART I.

#### PART I.

#### PRELIMINARY.

1. This Act may be cited as the "South-Eastern Drainage Act, 1926," and shall come into operation on a day to be fixed by proclamation.

Short title and commencement.

2. This Act is incorporated with the Compulsory Acquisition of Land Act, 1925, and that Act and this Act shall be read as one Act.

Incorporation of Compulsory Acquisition of Land Act.

3. This Act is divided into Parts, as follows :—

Division of Act.

PART I.—Preliminary.

PART II.—Administration.

PART III.—Construction and maintenance of drains.

DIVISION I.—Construction of drains on petition of landholders :

DIVISION II.—Maintenance of drains and the drainage rate :

## PART I.

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DIVISION III.—Recovery of rates and general provisions applicable to rates :

DIVISION IV.—General provisions relating to the construction and maintenance of drains.

PART IV.—Provisions relating to repayment of part of the cost of the Scheme Drains.

PART V.—Miscellaneous provisions.

Repeal.

4. The Acts mentioned in the First Schedule are hereby repealed.

Definitions.

5. (1) In this Act, unless the context otherwise requires, or some other meaning is clearly intended—

“Chairman” means the Chairman of the Commission :

“Commission” means the Irrigation Commission constituted by the Irrigation Act, 1922, and renamed by this Act the Irrigation and Drainage Commission :

“Commissioner” means a member of the Commission :

“Drains” means all drains (including scheme drains and petition drains) at any time, whether before or after the commencement of this Act, constructed by the Crown or any person on behalf of the Crown in the South-East irrespective of whether the whole or any part of the cost thereof has been paid by some person other than the Crown, and any river, stream, creek, canal, channel, conductor, watercourse, drain, ditch, and outfall of water declared by proclamation to be a drain for the purposes of this Act :

“Drainage works” means all walls, banks, tunnels, bridges, culverts, crossings, fords, dams, weirs, falls, races, by-washes, sluices, hatches, locks, fences, irrigation works, or works of construction on or belonging to or connected with the drains or any of them :

“Landholder” means the owner of any freehold estate in land, the holder of land under agreement with the Crown for the sale of such land upon credit, the lessee of land held under perpetual lease from the Crown, and as to Crown lands unleased or leased on other than perpetual lease, the Commissioner of Crown Lands :

“Petition drains” means all drains constructed by the Crown on the request of landholders pursuant to the South-Eastern Drainage Amendment Act, 1900, or on the petition of landholders pursuant to the South-Eastern Drainage Act Amendment Act, 1908, or this Act :

“Scheme drains” means the drains constructed pursuant to the South-Eastern Drainage Scheme Acts, 1908 and 1910 :

“South-East”

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## PART I.

“South-East” means the whole of the hundreds of Duffield, Landseer, Peacock, Marcollat, Lacepede, Murrabinna, Minecrow, Woolumbool, Glen Roy, Lochaber, Mount Benson, Bowaka, Townsend, Ross, Conmurra, Joyce, Spence, Naracoorte, Robertson, Waterhouse, Bray, Smith, Fox, Coles, Killanoola, Comaum, Lake George, Symon, Kennion, Short, Monbulla, Penola, Riddoch, Grey, Nangwarry, Young, and Mingbool, and portions of the county of Cardwell and of the hundreds of Rivoli Bay and Mount Muirhead, bounded as set forth in the Second Schedule.

(2) The Governor may by proclamation from time to time include any additional lands in the South-East as defined for the time being or may exclude any lands therefrom.

(3) No proclamation shall be made under this section unless a resolution of both Houses of Parliament has first been passed approving of the making of such proclamation and of the terms thereof.

## PART II.

## PART II.

## ADMINISTRATION.

6. The Irrigation Commission constituted by the Irrigation Act, 1922, shall hereafter be known as the Irrigation and Drainage Commission, and all references in any other Act or in any document whatever to the Irrigation Commission shall be deemed to be references to that Commission as renamed by this section.

Change of name of Irrigation Commission.

7. (1) The Commission is hereby charged with the duty of carrying this Act into effect.

Duty of Commission to administer Act.

(2) All the powers conferred by this Act upon the Commission shall be exercised when, where, and in such manner as the Commission thinks fit, unless otherwise expressly provided.

(3) The moneys required to be expended for the purposes of this Act shall be expended by the Commission subject to the control of the Minister.

(4) The Commission shall be responsible to the Governor for the discharge of its powers, duties, and functions under this Act.

8. (1) All drains and drainage works within the South-East shall be vested in and under the care, control, and management of the Commission.

Control of drains by Commission and transfer of property, rights, &c.

(2) All property, both real and personal, which at the commencement of this Act is vested in the South-Eastern Drainage Assessment Board, or which is vested in any Minister of the Crown exclusively

exclusively for the purposes of or in connection with the drains or drainage works is hereby transferred to and vested in the Commission.

(3) All the powers, immunities, rights, interests, titles, privileges, functions, authorities, obligations, liabilities, and duties of the South-Eastern Drainage Assessment Board or of any Minister of the Crown arising whether before or after the commencement of this Act under any of the Acts repealed by this Act or under any document or instrument in force under or in connection with the said Acts at the commencement of this Act are hereby transferred to the Commission.

Consequential amendments of documents and instruments.

9. In any deed, lease, licence, agreement, permit, transfer, mortgage, or other document or instrument of any kind whatsoever in force or subsisting at the commencement of this Act which concerns or affects any of the property, matters, or things transferred by the next preceding section to the Commission, all references to the South-Eastern Drainage Assessment Board or to the Commissioner of Public Works or other Minister of the Crown shall, so far as they affect any property, matter, or thing so transferred, be read and construed as references to the Commission.

Works in course of construction to be completed by Commission.

10. The construction of any drains or drainage works which at the commencement of this Act are in course of construction in the South-East by or on behalf of any Minister of the Crown or by or on behalf of the South-Eastern Drainage Assessment Board, may be continued and carried on by or on behalf of the Commission; and all moneys appropriated by Parliament for the construction of any such works and unexpended at the commencement of this Act shall be expended by the Commission subject to the provisions of this Act.

Powers of Commission as to inquiries.

11. In addition to and without prejudice to other powers vested in it, the Commission shall, for the purpose of obtaining information to assist the Commission in carrying out its powers, functions, and duties under this Act, and in formulating schemes for extending agriculture and closer settlement in the South-East, have the following powers, that is to say:—

- (1) The members of the Commission and each of them may by themselves, or by any person appointed by them for the purpose, enter upon and inspect any land, building, or place, and inspect any goods and other things, the entry upon or inspection of which appears to them or him to be requisite:
- (2) They may require, by summons under the hand of the Chairman, the attendance of all such persons as they think fit to call before them, and may require answers or returns to such inquiries as they think fit to make:
- (3) They may by notice in writing, signed as aforesaid, require and compel the production of any books, papers, or documents:

(4) They

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- (4) They may inspect any books, papers, and documents produced before them, and retain them for such reasonable periods as they think fit, and may make copies of such matters therein as are relevant, or take extracts of such matters :
- (5) They may examine witnesses on oath, affirmation, or declaration, which may be administered by any member of the Commission.

## 12. (1) If any person—

Powers of Commission in respect of witnesses.

- (a) who has been personally served with a summons to attend before the Commission, and whose expenses, as provided in subsection (2) hereof, have been paid or tendered to him, neglects to attend in obedience to such summons ; or
- (b) wilfully insults the Commission, or any member thereof ; or
- (c) misbehaves himself before the Commission ; or
- (d) interrupts the proceedings of the Commission ; or
- (e) being called or examined as a witness before the Commission, refuses to be sworn, or to affirm or declare, or refuses or neglects to produce any books, papers, or documents mentioned in a notice under the next preceding section personally served upon him, or prevaricates in his evidence ; or refuses to answer any lawful question,

such person shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding Fifty Pounds.

(2) Every person required by the Commission, under the powers conferred by this Act, to attend before it, shall be allowed such expenses as would be allowed to a witness attending on subpoena before the Supreme Court, and in case of dispute as to the amount to be allowed, the same shall be referred to the Master of the Supreme Court, who, on request under the hand of the Chairman, shall ascertain and certify the proper amount of such expenses.

13. (1) Every person who has been duly summoned to attend before the Commission shall appear and report himself from day to day unless excused by the Chairman, or until he is released from further attendance by the Chairman.

Duty of witness to continue in attendance.

(2) If any person fails to so report himself he shall be deemed to have neglected to attend before the Commission in obedience to his summons, and shall be punishable accordingly.

14. Any person who, upon oath, affirmation, or declaration taken or made under this Act, wilfully and corruptly gives any false evidence before the Commission shall be guilty of perjury, and may be imprisoned, with or without hard labor, for any term not exceeding four years.

Punishment for false evidence.

15. The

Ancillary powers  
of Commission.**15.** The Commission may in its corporate name—

- I. purchase, take, receive, accept, hold, acquire, and possess lands, tenements, and hereditaments in fee simple, or for any less estate or for any term of years or otherwise, and goods and chattels, and may grant, sell, convey, transfer, demise, assign, or otherwise dispose of the same ;
- II. arbitrate or sue, implead, and answer and be sued, impleaded and answered in all Courts and before all Judges, Magistrates, Justices, and arbitrators whomsoever, in all actions, pleas, suits, disputes, causes, and matters whatsoever ; and
- III. do and exercise all such further acts and powers as it is by this Act authorised to do and exercise, or as may be necessary or convenient for the doing or exercising of any of such acts or powers, or for carrying into execution any of the objects or purposes of this Act.

## Contracts for works.

**16.** (1) The Commission, by its corporate name, may enter into contracts with any person for the execution of any works directed by this Act or any other Act to be executed by the Commission, or which the Commission may think proper to do or to direct to be done under or by virtue of the powers conferred upon the Commission by this Act, or for the supply of any goods or things whatsoever necessary for enabling the Commission to carry the purposes of this Act into execution, in such manner and for such sum of money, and under such stipulations, conditions, and restrictions as the Commission thinks proper : Provided that no contract made by the Commission, the consideration for which exceeds Two Thousand Pounds, shall have any force or effect unless sanctioned by the Minister.

(2) Every such contract may, if the Commission thinks fit, specify the person to whose satisfaction the same is to be completed, and the mode of determining any dispute which may arise concerning or in consequence of such contract.

Mode of entering  
into contracts.

**17.** (1) The powers hereby granted to the Commission to make contracts may be exercised as follows :—

- I. Any contract which, if made between private persons, would be by law required to be in writing and under seal, the Commission may make in writing in its corporate name under its common seal, and in like manner may vary or discharge the same :
- II. Any contract which, if made between private persons, would be by law required to be in writing and signed by the parties thereto, the Commission may make in writing in its corporate name signed by any two Commissioners, and in like manner may vary or discharge the same :

III. Any

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III. Any contract which, if made between private persons, would be by law valid although made by parol only and not reduced into writing, the Commissioners or any two of them (of whom the Chairman shall be one), acting by direction and on behalf of the Commission, may make by parol only without writing, and in like manner may vary or discharge the same.

(2) All contracts so made and duly executed by the parties thereto respectively shall be effectual in law and binding on the Commission and all others parties thereto, their successors, assigns, heirs, executors, or administrators (as the case may be).

(3) In case of default in the execution of any such contract either by the Commission or by any other party thereto, such actions or suits may be instituted, either by or against the Commission in its corporate name or by or against the other parties failing in the execution thereof, and such damages and costs recovered, as might be instituted and recovered had the like contract been made between private persons.

18. It shall be lawful for the Commission from time to time to compound and agree with any person who has entered into any contract transferred by this Act to the Commission, or who has entered into any contract with the Commission, or against whom any action or suit is brought for any penalty contained in any such contract or in any bond or other security for the performance thereof, or for or on account of any breach or non-performance of any such contract, bond, or security, for such sum of money or other recompense as the Commission may think proper.

Power of Commission to compound for breaches of contracts.

19. (1) The Commission shall keep such proper books of account as the Commission deems necessary or as the Governor may direct, and all moneys payable to the Commission under or pursuant to this Act shall be collected and received for and on account of the General Revenue.

Books and accounting.

(2) The accounts of the Commission shall, once at least in every year, and also whenever so directed by the Governor, be audited by the Auditor-General.

(3) The provisions of any Act now or hereafter in force for the collection and payment of the public moneys and the audit of the public accounts shall apply to and in respect of the moneys and books of account of the Commission.

20. (1) As soon as may be after the thirtieth day of June in each year the Commission shall cause to be prepared a report, statement, and estimates, as follows:—

Annual report

- i. Report of its proceedings during the financial year then next preceding, setting forth the contracts entered into, works carried on or completed, and transactions generally of the Commission during the year :

II. A

- II. A statement of the moneys received and disbursed by the Commission during the year, setting forth the matters in respect of which they have been received and the purposes for which they have been disbursed, and showing in regard to each of such matters and purposes the balance of receipts and disbursements brought forward from the previous year, and the balances at the end of the financial year dealt with in such statement :
- III. The report of the Auditor-General on the accounts of the Commission :
- IV. Any other annual report or statement required by this Act to be prepared or presented by the Commission :
- V. A report, statement, estimate, or balance-sheet as to such other matters as may be directed by the Minister.

(2) Such annual report, statement, and estimates shall be laid before both Houses of Parliament in the month of October in each year if Parliament is then sitting, and if Parliament is not then sitting, then within fourteen days after the commencement of the next session thereof.

**Officers.**

**21.** (1) The Commission may appoint such officers and servants as may be necessary for the purposes of this Act.

(2) All persons appointed under subsection (1) hereof shall be subject to and entitled to all the advantages given to officers of the Public Service under the Public Service Act, 1916, but that Act shall not apply with respect to the appointment or control of the said persons, and the Commission shall with respect to such persons have all the powers of the Public Service Commissioner under the Public Service Act, 1916.

(3) All persons appointed under subsection (1) shall, subject to the provisions of this section, be deemed to be officers of the Public Service as defined by the Public Service Act, 1916.

(4) The Commission shall not, without the consent of the Minister, appoint or promote any person appointed under subsection (1) hereof to any office the annual salary of which is more than Two Hundred and Fifty Pounds.

**Appointment at daily or weekly wages by Commission.**

**22.** The Commission may, subject to any direction of the Minister as to rates of wages, appoint at daily or weekly wages such persons as it deems proper for the purposes of the powers, duties, and functions of the Commission, and may dismiss such persons.

**Commission to control employees.**

**23.** All officers, servants, and other persons, whilst employed for the purposes of this Act, shall, subject to the provisions of the Public Service Act Amendment Act (No. 2), 1925, be under the sole direction and control of the Commission.

**24.** Before



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**24.** Before any officer or other person appointed under this Act who is to be entrusted with the custody of money enters upon the duties of his office or employment, the Commission shall take from him such security as the Commission deems sufficient for the faithful execution thereof.

Giving of security by officers.

**25.** (1) If any dispute arises or is about to arise between the Commission and any officer or department of the Government of the State with respect to—

Disputes.

(a) any property, real or personal, vested in the Commission ;

(b) any power, immunity, right, interest, title, privilege, function, obligation, liability, or duty transferred by this Act, or any question whether any such matter or thing is so transferred or not ;

(c) any power, duty, or function conferred or imposed upon the Commission by this Act, or the exercise or discharge of or failure to exercise or discharge the same ; or

(d) any other matter or thing arising under this Act,

the Governor shall determine such dispute in such manner as he thinks fit.

(2) For the purpose of making any such determination the Governor may appoint any officer to make such investigation and report as the Governor may direct, and the Governor, in making such determination, may act upon such report.

(3) The determination of the Governor shall be final and binding upon all the parties to the dispute and upon all other officers and Departments of the Government of the State.

## PART III.

## PART III.

## CONSTRUCTION AND MAINTENANCE OF DRAINS.

## DIVISION I.—CONSTRUCTION OF DRAINS ON PETITION OF LANDHOLDERS.

## DIVISION I.

**26.** A petition may be presented to the Commission by landholders requesting that a drain or drains (hereafter in this Division called "the drain") indicated in the petition be constructed.

Petition for drain.

**27.** Such petition shall be in the form in the Third Schedule hereto, and each signature thereto shall be witnessed by some person who shall make a declaration before a Justice of the Peace in the form at the end of the said Third Schedule ; and any person wilfully making any false statement in such declaration shall be guilty of a misdemeanor, and shall be liable, on conviction, to imprisonment with hard labor for any term not exceeding two years.

Form of petition.

**28.** The Commission shall forthwith upon receiving a petition—

Preliminary inquiry.

(a) ascertain what lands will, in its opinion, be benefited by the drain :

(b) prepare an estimate of the cost of constructing the drain.

**29.** (1) If

Commission's  
approval.

**29.** (1) If the Commission after due inquiry considers that it is expedient to construct the drain, it may by notice in the *Gazette* declare—

- (a) That it approves of the construction of the drain ;
- (b) What lands in its opinion will be benefited by the drain ;  
and
- (c) the estimated cost of constructing the drain.

(2) The Commission's declaration shall be conclusive as to what lands will be benefited by the drain.

Commission to  
decide whether  
petitioners are  
majority of land-  
holders and hold  
three-fourths in  
value of benefited  
lands.

**30.** (1) Unless within one month of the publication of the Commission's declaration in the *Gazette*, a substantial number of the petitioners, by notice in writing received by the Commission, withdraw the petition, the Commission shall decide whether or not the petitioners are a majority of the landholders of the lands which will be benefited by the drain, and whether or not the value of the lands of which they are the landholders is at least three-fourths of the value of all the lands which will be benefited by the drain. A "substantial number" means a number considered by the Commission to be substantial.

(2) In this section "value" means—

- I. as to lands assessed for the purposes of land tax, the unimproved value of such lands as so assessed :
- II. as to lands not so assessed, the unimproved value of such lands as assessed by the Commission.

(3) Upon deciding as in subsection (1) of this section mentioned, the Commission shall publish its decision by notice in the *Gazette*, and such notice shall be conclusive as to the accuracy of such decision.

Construction of  
drain.

**31.** If the Commission decides that the petitioners are a majority of the landholders of the lands which will be benefited by the drain, and that the value of the lands of which they are the landholders is at least three-fourths of the value of the lands which will be benefited by the drain, the Commission shall, after the publication of its decision in the *Gazette*, proceed with the construction of the drain out of moneys provided by Parliament for the purpose of constructing drains :

Provided that before the construction of any such drain is proceeded with the Commission shall supply to one of the petitioners, to be nominated for the purpose by a majority of the petitioners, a plan and specification of the proposed works to be undertaken, together with an estimate of the cost thereof :

Provided also that so soon as tenders shall have been received for the proposed works copies of all tenders and the amounts thereof shall be similarly supplied to the person nominated by the petitioners.

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If within twenty-one days from the receipt of the tenders by the petitioners' nominee a majority of the petitioners shall signify to the Commission that they do not desire the works to be proceeded with, the Commission shall not accept any tender for the proposed works. The costs of the preparation of plans and calling for tenders shall be borne by the petitioners.

**32.** (1) The cost of constructing the drain shall be deemed to be an advance by the Commission to all the landholders of the lands which will be benefited by the drain, and such advance shall be repaid to the Commission by such landholders, with interest thereon at the current rate per centum per annum, in the proportions to be ascertained as hereinafter mentioned.

Cost to be paid by  
landholders.

(2) The current rate per centum means the rate certified by the Treasurer by notice in the *Gazette* as the average rate of interest payable by the Government on loans raised by the Government during the period of the construction of the drain.

**33.** When the construction of the drain is completed the Commission shall, by notice in the *Gazette*, notify the date of completion of the drain and the cost of construction thereof, and such notice shall be conclusive as to such matters, notwithstanding that the cost as so notified differs from any previous estimate of the cost.

Final report.

**34.** (1) The Commission shall, within three years after the date of completion of the drain, make a preliminary apportionment of the cost of the construction thereof amongst all the landholders of the lands benefited by the drain, as declared by the Commission's declaration:

Preliminary  
apportionment of  
the cost.

(2) The Commission shall, by notice published in the *Gazette*, set forth the preliminary apportionment. Such notice may be in the form in the Fourth Schedule hereto. The *Gazette* containing such notice shall be conclusive as to such apportionment.

(3) Any apportionment made under this section after the expiration of three years from the date of completion of the drain shall be as valid for all purposes as if it had been made before the expiration of such term: Provided that the Commission may, if in its opinion the delay in making the apportionment has resulted in hardship to any landholder thereby affected, postpone for such period as the Commission thinks fit the date from which such landholder is to commence payment of the amount of the proportion of the cost of construction apportioned to him.

**35.** Any landholder may, within two months after the publication of the notice of preliminary apportionment, object to the amount of the cost apportioned to him by such apportionment. The objection shall be made by notice served on the Commission, and may be in the form in the Fifth Schedule hereto.

Objection to the  
apportionment.**36.** (1) Every

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Determination of  
objection.

**36.** (1) Every objection shall be considered by the Commission at a time fixed by notice given to the objector, not being less than seven days after the giving of such notice, and at a place fixed by such notice: Provided that the consideration of any objection may be adjourned from time to time and from place to place as the Commission deems convenient.

(2) The objector may attend any meeting of the Commission held to consider his objection, and may produce such evidence as the Commission deems relevant.

(3) The Commission may make any inquiries it deems necessary, and inform itself in such manner as it deems fit for the purpose of determining the objection, and shall not be bound to observe any rules of evidence or procedure.

(4) The Commission shall consider every objection and determine the same as it finds to be fair and equitable, and may confirm or increase or decrease the amount of the cost apportioned to the objector, and may, if the amount is confirmed or increased, order the objector to pay the costs occasioned by the objection.

(5) The determination of the Commission shall be final, and not subject to any appeal or to be questioned in any way.

Adjustment of  
apportionment.

**37.** If upon the consideration of any objection to the preliminary apportionment the amount apportioned to any landholder is altered, the Commission shall adjust the amounts apportioned to other landholders as may be found necessary.

Final apportion-  
ment.

**38.** The Commission shall forthwith, after the time for objecting has expired, if no objection is pending, or if any objection is pending, then forthwith after the determination of all objections, make its final apportionment of the cost of the construction of the drain, and fix the yearly instalments to be paid by each landholder to the Commission, and the date upon which the first instalment is to be paid.

Notice of appor-  
tionment.

**39.** (1) The Commission shall publish in the *Gazette* a notice setting forth the final apportionment, the yearly instalments, and the date upon which the first instalments are to be paid.

(2) Such notice may be in the form in the Sixth Schedule hereto, and shall be conclusive evidence of all matters set forth therein, and of the validity thereof.

Repayment of cost  
of construction.

**40.** (1) The amount of the proportion of the cost of construction apportioned to any landholder shall be a debt due from such landholder to the Commission, and shall be a first charge upon the land of such landholder which is benefited by the drain, and shall be paid by such landholder to the Commission, with interest thereon at the current rate (as fixed by notice under section 32) per centum per annum, in forty-two equal yearly instalments. The amount of the annual instalment for every One Hundred Pounds payable by a  
landholder

landholder in respect of the proportion of the cost of construction apportioned to him shall be fixed by notice published by the Commission in the *Gazette* at the time of publication of the notice of the final apportionment.

(2) The first of such instalments shall become due on the first day after the expiration of five years from the date of the completion of the drain, and one of such instalments shall fall due on the same day in each year thereafter until the whole debt has been paid: Provided that any landholder may at any time pay the balance of the amount charged on his land, with any interest then due, whereupon his liability and the charge upon his land shall cease.

(3) Interest at the rate of Five Pounds per centum per annum shall be paid on the amount of any instalment which remains unpaid for more than six months after the same falls due.

(4) In computing the amounts of the yearly instalments the interest for the first five years shall be added to the amount of the proportion of the cost of construction, but no interest shall be charged upon the interest for such five years.

(5) The charge upon the land may be enforced by the Commission as if it were a mortgagee under The Real Property Act, 1886.

**41.** (1) Where any land charged as in the next preceding section mentioned is subject to a lease to any person other than the landholder of such land, the lessee under that lease shall pay to the landholder during the currency of such lease such proportion of each annual instalment payable by the landholder as may be agreed between them.

Lessees to pay  
proportion of cost  
to landholder.

(2) In default of agreement, the amount of the proportion to be paid by the lessee shall be settled by the Commission on the application of either the landholder or the lessee.

(3) Such application shall be made by notice given to the other party and the Commission.

(4) The application shall be heard by the Commission at a time fixed by notice given to both parties, not being less than seven days after the giving, and at a place fixed by such notice: Provided that the hearing may be adjourned from time to time and from place to place as the Commission deems convenient.

(5) The Commission may inform itself in such manner as it deems fit for determining the proportion to be paid by the lessee, and shall not be bound to observe any rules of evidence or procedure.

(6) The Commission shall determine the matter as it deems fair and equitable, and may order either party to pay the costs of the application, not exceeding Five Pounds.

(7) The determination of the Commission shall be final, and not subject to any appeal or to be questioned in any way.

**42.** (1) Where

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DIVISION I.*South-Eastern Drainage Act.—1926.*

Provision for apportionment of cost of drain where land charged is subdivided.

**42.** (1) Where after notice of final apportionment any land included in such notice belonging to one and the same landholder is subdivided (whether as the result of a sale or otherwise), and becomes vested in two or more different landholders, the Commission shall further apportion between such landholders, the amount by such notice apportioned to such landholder in respect of such land, and fix the yearly instalments to be paid by each of such landholders to the Commission and the date upon which the first instalment is to be paid: Provided that in making such apportionment the Commission shall take into account the total amount of the instalments (if any) already paid by such landholder.

(2) The Commission shall publish in the *Gazette* a notice setting forth such apportionment, the yearly instalments, and the date upon which the first instalments are to be paid, and such notice shall be conclusive evidence of all matters set forth therein, and of the validity thereof.

(3) The provisions of this Division relating to payment by landholders of the amount of cost apportioned to them, to the payment of part of that cost by lessees to landholders, and to the recovery of such cost, shall apply, *mutatis mutandis*, to and in respect of any amount apportioned under the authority of this section in the same manner as to an amount apportioned to a landholder in the first instance under this Division.

(4) This section shall apply in the case of any one or more further subdivisions beyond that referred to in subsection (1) hereof.

Recovery by distress.

**43.** In addition and without prejudice to any other remedy, the Commission may recover any instalment due to it from any landholder, which remains unpaid for three months after the same has become due, by distress and sale of any goods and chattels on any land upon which the debt due from the landholder to the Commission is charged, or such instalment may be recovered in any Court of competent jurisdiction by action in the name of the Commission from the landholder of such land for the time being, and no statute of limitations shall affect any such action.

## DIVISION II.

## DIVISION II.—MAINTENANCE OF DRAINS AND THE DRAINAGE RATE.

Duty of Commission to maintain drains.

**44.** It shall be the duty of the Commission to maintain the drains and drainage works at all times in a proper state of efficiency, and from time to time as may be necessary to cleanse and repair them.

Financial provision.

**45.** (1) The cost of cleansing and repairing the drains and drainage works, and of maintaining them in a proper state of efficiency, and all other expenses connected with the care, control, and management of the drains and drainage works shall be defrayed out of moneys provided by Parliament for the purpose.

(2) The moneys derived from the drainage rate hereinafter mentioned shall be paid to the Treasurer of the State, and form part of

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of the General Revenue thereof, and shall be credited to the repayment of moneys provided by Parliament for the purposes of subsection (1) hereof.

**46.** In order to raise an annual sum sufficient to pay—

Drainage rate.

(a) the cost of cleansing and repairing the drains and drainage works and maintaining them in a proper state of efficiency; and

(b) the other expenses connected with the care, control, and management of the drains and drainage works,

the Commission shall declare an annual rate (hereinafter called the drainage rate) as hereinafter mentioned.

**47.** For the purpose of the drainage rate, the Commission shall classify all the lands in the South-East into divisions according to the value of the benefit received by those lands from the drains and drainage works.

Arrangement of  
South-East into  
divisions.

**48.** Unless the Commission otherwise determines as provided in the next succeeding section the following provisions shall apply with respect to the divisions and the rates therein—

Basis of classifica-  
tion into divisions.

(1) The first division shall contain the lands on which, in the Commission's opinion the highest rate ought to be levied.

(2) The second division shall contain the lands on which in the Commission's opinion a rate equal to one-half the rate payable on lands in the first division ought to be levied; and the third division shall contain the lands on which in the Commission's opinion a rate equal to one-half the rate payable on lands in the second division ought to be levied.

(3) The Commission may create additional divisions, each of which divisions shall contain land on which a rate equal to one-half the rate on the land in the previous division ought to be levied.

(4) The last division shall contain the land (if any) which in the Commission's opinion receives no benefit whether direct or indirect from the drains or drainage works, and on which no rates ought to be levied.

**49.** For the purpose of the classification the Commission may determine that the rates in the divisions into which the lands in the South-East are to be classified shall be graduated on a different scale to that set forth in the next preceding section: Provided that in any case the Commission shall, before the commencement of the classification give notice in the *Gazette* of the ratios, being uniform ratios or otherwise as the Commission thinks fit, which the rates in the various divisions are intended to bear to each other.

Power for Com-  
mission to vary  
ratio of rates in  
divisions.

**50.** For

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Power of Commission to employ persons in classifying.

**50.** For the purpose of making the classification aforesaid the Commission may employ fit and proper persons to examine and report on any lands.

Preliminary classification list.

**51.** When the Commission has completed its classification it shall prepare a list called the "preliminary classification list," showing the classification of all lands in the South-East, and the list shall be signed by the Chairman.

Notice to landholders of classification.

**52.** The Commission shall give notice to each individual landholder of the division or divisions into which his land or any part thereof is classified in the preliminary classification list, and shall also cause the preliminary classification list to be published in the *Gazette*.

Appeals against classification.

**53.** (1) Any landholder who thinks himself aggrieved by the preliminary classification of any of his land may appeal against the preliminary classification on any of the grounds following, but no others:—

(a) that any land of the appellant is placed in the wrong division:

(b) that the land of any other landholder is wrongly excluded from the division in which the appellant's land is placed.

(2) Notice of appeal setting forth the grounds of appeal, with particulars of all lands affected, shall be given to the Commission and the Clerk of the Local Court nearest the appellant's land within one month from the publication in the *Gazette* of the preliminary classification list.

(3) All the appeals shall be heard by a Local Court consisting of a Special Magistrate appointed for the purpose by the Governor.

(4) The Special Magistrate so appointed shall fix a convenient time and place for hearing each appeal and shall give not less than seven days' notice to each appellant of such time and place.

(5) When all the appeals have been heard the Special Magistrate shall, if necessary, cause the classification list to be amended in such manner as he thinks fit, and shall sign the amended list and forward it to the Commission.

(6) The determination of the Special Magistrate shall be final and without appeal.

(7) The Special Magistrate may make any order as to the costs of an appeal which he deems just.

(8) No notice of appeal under this section shall be invalid for want of form, but it shall be sufficient if such notice clearly and reasonably states the purpose thereof.

Amended classification list.

**54.** After all the appeals have been heard, or if no appeals have been made, upon the expiration of the time for appealing, the Commission shall publish the classification list in the *Gazette* with the



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the amendments, if any, made by the Special Magistrate, and the *Gazette* containing that list shall be conclusive evidence of the final classification of all lands therein mentioned. The list so published is hereinafter called "the final classification list."

55. (1) The Commission may declare on all lands shown in the final classification list, except those in the last division, an annual drainage rate, which shall be a differential rate according to the division in which the lands are placed.

Declaration of  
construction rate.

(2) The drainage rate shall be declared on the basis of the unimproved value of the rated land according to the assessment in force for the time being which is used for the purpose of State land tax. If the unimproved value of the land is not assessed for that purpose, then the drainage rate shall be levied upon the unimproved value of the land as assessed by the Commission. When the land is not separately assessed for the purpose of State land tax, but is part of a larger area which is so assessed, the unimproved value of the part shall be deemed to be such proportion of the value at which the larger area is assessed as the Commission deems to be fairly attributable to the part.

(3) The drainage rate on lands in the second division shall be one-half of the drainage rate on lands in the first division, and the drainage rate on lands in the third division shall be one-half of the drainage rate on lands in the second division, and so on if there are additional divisions: Provided that if the Commission has determined that the drainage rates in the various divisions shall be graduated on any other scale, then the drainage rates in such divisions shall be in accordance with that scale.

(4) The land in the last division shall not be ratable.

56. Within fourteen days of the declaration of any drainage rate the Commission shall publish in the *Gazette* notice of the amounts thereof.

Notice of rate in  
*Gazette*.

57. (1) The final classification list may be altered at any time by the Commission.

Alteration and  
revision of classifica-  
tion list.

(2) The Commission shall cause notice of any alteration of the final classification list to be published in the *Gazette*, and any landholder affected by such alteration may appeal within one month from the date of such publication on the grounds and in the manner provided in this Division for appeals against the preliminary classification list, and any such appeal shall be disposed of in like manner as an appeal against the preliminary classification list.

(3) Upon the conclusion of all appeals against any alteration, or if no appeal has been made, upon the expiration of the time fixed for appeal, the Commission shall publish in the *Gazette* a final notice of the alteration, and the final classification list shall be deemed altered accordingly.

(4) The

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(4) The Commission may, in the manner prescribed by this Division, whenever it thinks proper, prepare a new classification of the lands in the South-East, in substitution for any existing classification, and upon publication in the *Gazette* of the final classification list showing such new classification the existing final classification list shall cease to be in operation, but any liabilities to pay rates incurred before such publication shall not be affected thereby.

Liability of landholders and exemption of non-ratable property.

**58.** The drainage rates shall be payable by the landholders of the lands on which they are declared: Provided that no drainage rates shall be levied in respect of land which is not ratable property as defined in the District Councils Act, 1914.

Rates when recoverable.

**59.** All drainage rates shall become due and payable when they are declared; but no rates shall be recoverable from any person until after the expiration of twenty-one days from the time when a notice in writing from some officer of the Commission has been given to such person, informing him of the amount of the rates payable by him and in respect of what property the same are payable.

Provisions for rating prior to classification.

**60.** Until the classification of the South-East is completed and drainage rates are declared pursuant to the provisions of this Act, the Commission may declare and levy an annual drainage rate in the manner provided by the South-Eastern Drainage Act Amendment Act, 1908, and the amendments thereof, and for the purpose of such rates the Commission may use any assessment in force under those Acts, and shall have all the powers, rights, and authorities which the South-Eastern Drainage Assessment Board had under the Acts hereby repealed, and all the provisions of those Acts shall apply, *mutatis mutandis*, in respect of the rates so declared.

Recovery of drainage rates.

**61.** Drainage rates may be recovered in the manner provided in Division III. of this Part.

## DIVISION III.

## DIVISION III.—RECOVERY OF RATES AND GENERAL PROVISIONS APPLICABLE TO RATES.

Definition.

**62.** In this Division the term rates includes drainage rates and instalments of rates declared under Part IV. of this Act.

Recovery of rates.

**63.** (1) Rates may be recovered in the name or on behalf of the Commission from any person liable to pay them—

- (a) by action in any Court of competent jurisdiction;
- (b) at any time within three years after they become due and payable in a summary way before any two or more justices; or
- (c) by distress, as provided in the next section.

(2) In any proceedings for the recovery of any rates a document purporting to be a certificate under the seal of the Commission stating any or all of the following matters, namely:—

(a) that any person is the landholder of any land:

(b) that

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(b) that any rates are due and owing in respect of any land :

(c) that any interest is due on any arrears of rates in respect of any land

shall be *prima facie* evidence of the matters so stated.

**64.** In addition, and without prejudice to any other remedy, the Commission may recover any rates due to it from any landholder which remain unpaid for six months after the same have become due, by distress and sale of any goods and chattels on any land in respect of which the rates are due from the landholder to the Commission.

Recovery by  
distress.

**65.** All rates shall be a first charge upon the land in respect of which they are due, and such charge may be enforced by the Commission as if it were a mortgagee under The Real Property Act, 1886.

Charging of rates  
on land.

**66.** (1) Where any land on which any rates are payable is subject to a lease to any person other than the landholder of such land, the lessee under such lease shall pay to the landholder during the currency of such lease such proportion of the rates payable annually by the landholder as may be agreed between them.

Lessees' liability to  
landholder for  
proportion of rates.

(2) In default of agreement, the amount of the proportion to be paid by the lessee shall be settled by the Commission on the application of either the landholder or the lessee.

(3) Such application shall be made by notice served on or sent by registered post to the other party and the Commission.

(4) The application shall be heard by the Commission at a time fixed by notice given to both parties, not being less than seven days after the giving of such notice, and at a place fixed by such notice: Provided that the hearing may be adjourned from time to time and from place to place as the Commission deems convenient.

(5) The Commission may inform itself in such manner as it deems fit for determining the proportion to be paid by the lessee, and shall not be bound to observe any rules of evidence or procedure.

(6) The Commission shall determine the matter as it deems fair and equitable, and may order either party to pay the costs of the application, not exceeding Five Pounds.

(7) The determination of the Commission shall be final, and not subject to any appeal or to be questioned in any way.

**67.** (1) Where after the declaration of any rates other than drainage rates, any land on which the rates are declared belonging to one and the same landholder is subdivided (whether as the result of a sale or otherwise), and becomes vested in two or more different landholders, the Commission shall apportion between such landholders the amount payable in respect of the rates upon such land, and fix the amount of rates to be paid by each of such landholders to the Commission and the date as from which such amounts are to be paid.

Provision for  
apportionment of  
rates where land  
subdivided.

(2) The

(2) The Commission shall publish in the *Gazette* a notice setting forth such apportionment, the amounts payable by each landholder, and the date as from which those amounts are to be paid, and such notice shall be conclusive evidence of all matters set forth therein, and of the validity thereof.

(3) The provisions of this Act relating to payment of rates by landholders to the liability of lessees to repay to landholders portion of the rates due in respect of leased land, and to the recovery of rates shall apply, *mutatis mutandis*, to and in respect of any amounts apportioned under the authority of this section in the same manner as they apply to the rates payable before the apportionment.

(4) This section shall apply in the case of any one or more further subdivisions beyond that referred to in subsection (1) hereof.

## DIVISION IV.

DIVISION IV.—GENERAL PROVISIONS RELATING TO THE  
CONSTRUCTION AND MAINTENANCE OF DRAINS.Property in water  
in drains.

**68.** All water flowing into, or being in any drains or drainage works, shall be and continue the absolute property of the Crown.

General powers of  
Commission.

**69.** (1) In addition to the powers conferred on the Commission by any other provision of this Act the Commission, its officers and servants, may, for the purpose of constructing any drains or drainage works authorised to be constructed or of carrying out any of its duties or functions under this Act with respect to any drains or drainage works—

- (a) enter into and upon any land whatsoever for the purpose of depositing spoil thereon, or of constructing, altering, or repairing any drain or drainage work, obtaining or carrying away therefrom materials for constructing, altering, or repairing any drain or drainage work, and for any other purpose connected with the administration of this Act ;
- (b) extend, lengthen, widen, strengthen, deepen, alter, divert, scour, or cleanse any drains or drainage works ;
- (c) alter or remove any drains or drainage works ;
- (d) dam, bar, and stop up with any weir or dam, any river, pool, stream, or watercourse ;
- (e) make any embankment against any lake, river, stream, or watercourse, and place on any land stones, piles, earth, soil, or other materials for the purposes of the drains or drainage works, or for the more effectual protection or defence of any land, or for the better conveying the waters from any land into the sea, or into any lake, stream, or watercourse, or gap, or outlet ;
- (f) erect any drainage work on any lake, stream, or watercourse for the purpose of keeping back a sufficiency of water for the use of cattle or sheep, or for the irrigation or warping of lands, where such irrigation or warping shall be wanted, and shall be a beneficial manurance to such lands ;
- (g) stop

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(g) stop up or divert any road, or remove any bridge, and make any new road or bridge ; and

(h) do all such things and execute all such works as may be necessary or convenient for the purposes of this Act.

(2) The powers conferred on the Commission by this section are in addition to and not in substitution for any powers which the Commission might exercise under the Compulsory Acquisition of Land Act, 1925.

**70.** (1) The Commission shall make compensation to all persons for any damage occasioned to them by the exercise of any of the powers aforesaid. Compensation for damage.

(2) If the amount of the compensation is not agreed between the owner or occupier and the Commission, it shall be determined in the same manner as disputed claims for compensation for land acquired are determined under the Compulsory Acquisition of Land Act, 1925.

**71.** The Commission may, with the consent of the Minister, for such considerations as it may think proper, sell and convey any of the lands which it has acquired under the provisions of this Act, and which are no longer required by the Commission. Power to sell lands not required.

**72.** The Commission may make such roads over any of the lands authorised to be taken, as it considers necessary for carrying into effect the purposes of this Act, and for communicating with and maintaining the drains and drainage works, and may repair, mend, and fence such roads, and use the same exclusively for the said purposes, or permit any person to make use of the same, upon such terms and conditions as the Commission thinks proper. Power to make roads.

**73.** (1) The owner or occupier of any land adjacent to any drain, or drainage work, may, with the written consent of the Commission, and for such period and in such manner as it may allow, divert any water in any such drain or drainage work into his land so that such water shall not be permanently retained on such land. Power to divert water from drain.

(2) Any person diverting water from any such drain or drainage work into his own land, or any other person's land without such consent, or for a longer period than that allowed, or in any other manner than that allowed as aforesaid shall be guilty of an offence, and shall be liable to a penalty of not less than Two Pounds nor more than Twenty Pounds, and a further penalty not exceeding Two Pounds for every day during which the offence is continued.

**74.** The Commission may impose a fee of the prescribed amount for the use of water diverted from any drain or drainage work, to be estimated either according to the quantity diverted or the time elapsing between such diversion and its redelivery to such drain or drainage work ; and such fee may be recovered by distress of the goods Power to impose fee.

goods and chattels of the person so using the same, or upon information before a Special Magistrate or two or more Justices in a summary way.

Liability of  
landholder for  
cost of fence.

**75.** (1) Where any fence or any part of a fence constructed by the Commission forms the boundary or part of the boundary of any land (in addition to land vested in or in possession of the Commission), the owner of such land shall be liable to pay to the Commission the cost of constructing such fence or part of a fence.

(2) The said cost shall be a debt due to the Commission by the owner of the land and may be recovered by the Commission in any Court of competent jurisdiction.

Penalty for obstruc-  
tions or nuisances.

**76.** Any person causing or permitting any obstruction in, or otherwise injuriously affecting any drain or drainage work, or causing any filthy or unwholesome water, or washings of manufactories or mines, or other foul or poisonous liquid to flow into any such drain or drainage work without the consent of the Commission first had and obtained, shall be guilty of an offence and shall be liable to a penalty not exceeding Twenty Pounds, and a further penalty not exceeding Two Pounds for every day during which the offence is continued.

Penalty for  
removing timber or  
materials.

**77.** Any person who, without the written consent of the Commission, cuts down or removes any timber, or excavates or removes gravel, sand, earth, or any other material in, adjacent to, or forming part of any drain, drainage work, or reserve adjoining any drain or drainage work shall be guilty of an offence and shall be liable to a penalty of not less than Two Pounds nor more than Twenty Pounds.

Penalty for cutting  
drain through road  
etc.

**78.** Any person who, without the licence in writing of the Commission, or contrary to any direction of the Commission—

(a) opens or cuts through any bank, roadway, or reserve adjacent to any drain or drainage work, which bank, roadway, or reserve is made out of materials excavated from any such drain ; or

(b) makes any drain or opening through any roadway or reserve, or portion of any roadway or reserve, at the side of or adjacent to any drain or drainage work without the licence in writing or contrary to the directions of the Commission,

shall be guilty of an offence and shall be liable to a penalty of not less than Two Pounds nor more than Twenty Pounds.

Penalty on building  
unauthorised  
bridges, &c.

**79.** (1) No person shall erect or make any bridge, culvert, or other work over, across, or along any drain or any road or reserve adjoining any drain or drainage work—

(a) without the licence in writing of the Commission ; or

(b) otherwise

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(b) otherwise than in accordance with the terms and conditions of such licence.

Any person guilty of any contravention of this subsection shall be guilty of an offence and shall be liable to a penalty not exceeding Fifty Pounds.

(2) If any person who has obtained a licence from the Commission, as mentioned in subsection (1) of this section, does not complete the bridge, culvert, or other work pursuant to and within the time limited by the licence, or fails to keep such bridge, culvert, or other work in good and substantial repair, the Commission may complete or repair the same and recover the cost of so doing from such person upon complaint in a summary way: Provided that no complaint shall be made unless the Commission has at least fourteen days previously given notice to such person stating the amount of the said cost and demanding payment thereof.

80. If the Commission is of opinion that, for the purpose of carrying out any drainage works in the South-East, it is necessary to rebuild or alter any existing bridge, culvert, or archway over any drain subject to its control, for the discharge of water under any public road, it shall be lawful for the Commission to take down, remove, or alter such bridge, culvert, or archway: Provided that the Commission shall (when in its opinion necessary) construct a temporary bridge, culvert, or archway in the place of that so to be taken down, removed, or altered, and support and maintain the same until the completion of the works necessary for the restoration to the public use of such bridge, culvert, or archway.

Power for Commission to remove or alter any insufficient bridges, etc.

81. The Commission, by any of its officers or servants, or by any other person, may impound any horses, bullocks, cows, sheep, goats, pigs, and all other cattle, great or small, trespassing in or upon any drains or drainage works, or on any roadway or reserve adjacent thereto, and such animals, or any of them, shall not be released until full payment of the poundage fees and damages fixed by the impounding law for the time being in existence, and by any scale made pursuant to this Act.

Animals trespassing on drains, &c.

82. In addition to all fines, penalties, fees, and damages by this Act imposed or authorised upon the breach of any of the provisions thereof, the Commission may sue for and recover any special or other damages for the breach of any of such provisions, or for any injury done to any drain or drainage works under its control.

Commission may recover special damages.

83. Any person who wilfully hinders or prevents any other person from carrying out or performing any work authorised or directed by the Commission shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding Twenty Pounds.

Penalty for hindering work.

84. Whenever the person legally liable shall neglect to perform any act required by this Division to be done the Commission may perform the same, after giving to such person or leaving at his last or usual

Commission may do certain acts, and charge to defaulting person.

usual place of abode or upon the land in respect of which such act is required to be done, fourteen days' notice in writing to do such act, and after the doing of such act the Commission may recover the costs, charges, and expenses thereof from the person so in default upon complaint in a summary way.

Maintenance of  
private drains.

**85.** (1) Where any private drain whether directly or indirectly is connected with or discharges into any of the drains or drainage works, and the whole or any part of such private drain passes through or forms the boundary or part of the boundary of any land, the occupier of such land shall be liable to maintain such private drain in a state of proper efficiency and repair and shall keep such drain clear of all debris and other impediments.

(2) Any person failing to comply with this section shall be guilty of an offence and liable to a penalty not exceeding Fifty Pounds.

(3) Where any occupier of land bounded by a private drain or part of a private drain has incurred expense in complying with this section he may recover half the expense so incurred in connection with such drain or part from the occupier of any adjoining land bounded by such drain or part.

(4) "Private drain" means any drain not being a drain within the meaning of that term as defined in section 5 of this Act.

## PART IV.

## PART IV.

PROVISIONS RELATING TO PAYMENT OF PART OF  
THE COST OF THE SCHEME DRAINS.

Exclusion of town  
lands from this Part.

**86.** In this Part "land" does not include any land situated within the boundary of any municipal corporation or town or township.

Extension of area  
liable for cost of  
scheme drains.

**87.** Notwithstanding anything to the contrary in any other Act one-half of the cost of the construction of the scheme drains shall be paid in the manner hereinafter in this Part provided by all the landholders for the time being of land within "the Drainage District" as defined in section 3 of the South-Eastern Drainage Scheme Act, 1908 (hereinafter called "the Drainage District").

Amount of liability  
fixed.

**88.** The said one-half of the cost of the construction of the scheme drains shall for all purposes be deemed to be the sum of One Hundred and Eighty Thousand Pounds: Provided that if the Commission, after due inquiry, is of opinion that the total value of the benefit received by the lands in the drainage district is less than One Hundred and Fifty Thousand Pounds, then the said half cost shall be deemed to be that less sum plus interest thereon at the rate of four per centum per annum from the date when the sum of Three Hundred Thousand Pounds originally voted by Parliament for the construction of the scheme drains was exhausted until the first day  
of



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of July, nineteen hundred and twenty-two, and all the provisions of this Part shall be read as if the amount of the half-cost as so computed had been inserted in lieu of the words "One Hundred and Eighty Thousand Pounds" wherever those words appear.

**89.** Forthwith after the commencement of this Act the Commission shall for the purpose of apportioning the said sum of One Hundred and Eighty Thousand Pounds between the landholders in "the Drainage District" divide the Drainage District into divisions. In so dividing the Drainage District the Commission shall have regard to the relative extent of the benefits derived by the lands in such District from the scheme drains.

Arrangement of Drainage District into divisions.

**90.** Unless the Commission otherwise determines as provided in the next section, the following provisions shall apply with respect to the divisions and the rates therein—

Basis of classification into divisions.

- (1) The first division shall contain the lands on which in the Commission's opinion the highest rate ought to be levied.
- (2) The second division shall contain the lands on which in the Commission's opinion a rate equal to one-half the rate payable on lands in the first division ought to be levied; and the third division shall contain the lands on which in the Commission's opinion a rate equal to one-half the rate payable on lands in the second division ought to be levied.
- (3) The Commission may create additional divisions, each of which divisions shall contain land on which a rate equal to one-half the rate on the land in the previous division ought to be levied.
- (4) The last division shall contain the land (if any) which in the Commission's opinion receives no benefit whether direct or indirect from the scheme drains and on which no rates ought to be levied.

**91.** For the purpose of the classification under this Part the Commission may determine that the rates in the divisions into which the lands in the Drainage District are to be classified shall be graduated on a different scale to that set forth in the next preceding section: Provided that in any case the Commission shall, before the commencement of the classification, give notice in the *Gazette* of the ratios, being uniform ratios or otherwise, as the Commission thinks fit, which the rates in the various divisions are intended to bear to each other.

Power for Commission to vary ratio of rates in divisions.

**92.** For the purpose of making the classification aforesaid the Commission may employ fit and proper persons to examine and report on any lands.

Power of Commission to employ persons in classifying.

**93.** When the Commission has completed its classification it shall prepare a list called the "Scheme Drains Classification List," showing the classification of all lands in the Drainage District, and the list shall be signed by the Chairman.

Scheme drains classification list.

**94.** The

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Notice to landholders of classification.

**94.** The Commission shall give notice to each individual landholder of the division or divisions into which his land or any part thereof is classified, and shall also cause the "Scheme Drains Classification List" to be published in the *Gazette*. The *Gazette* containing the said list shall be conclusive evidence of the classification of all lands mentioned in the said list.

Declaration of rate to cover landholders' proportion of cost.

**95.** (1) After the classification of the lands in the Drainage District has been published in the *Gazette*, as mentioned in the next preceding section, the Commission shall declare a differential rate on the lands in the Drainage District, according to the division in which the lands are placed.

(2) The rate shall be of such an amount in each division that the total amount due on the land in all the divisions will be One Hundred and Eighty Thousand Pounds.

(3) The rate on lands in the second division shall be one-half of the rate on lands in the first division, and the rate on lands in the third division shall be one-half of the rate on lands in the second division, and so on if there are more divisions than three: Provided that if the Commission has determined that the rates in the various divisions shall be graduated on any other scale, then the rates in the various divisions shall be in accordance with that scale.

(4) The rate shall be levied upon the unimproved value of the rated land according to the assessment of that value in force for the time being which is used for the purpose of State land tax, or if the unimproved value is not assessed for that purpose, then the construction rate shall be levied upon the unimproved value of the land as assessed by the Commission. If any land ratable under this Division is not separately assessed for the purpose of State land tax, but is part of a larger area which is so assessed, the unimproved value of the part shall be deemed to be such proportion of the value at which the larger area is assessed as the Commission deems to be fairly attributable to the part.

(5) The Commission shall cause notice of the amount of the rates declared under this Part to be published in the *Gazette*, and such notice shall be conclusive evidence of the amount of such rates.

Recovery of rates and interest.

**96.** (1) The rates due by each landholder shall be a debt due from him to the Commission, and shall be repaid by such landholder to the Commission, with interest thereon at the rate of four per centum per annum calculated as from the 1st day of July, one thousand nine hundred and twenty-two, in forty-two equal yearly instalments. For the purpose of computing the amount of the yearly instalments due under this section, so much of the interest on any rates as is due in respect of the period from the first day of July one thousand nine hundred and twenty-two until the first day of July next after the publication in the *Gazette* of the classification list, shall be added to the rates and shall be deemed to form part thereof.

(2) The amount of each yearly instalment payable in respect of every £100 of rates shall be calculated by the Commission and notice

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## PART IV.

notice thereof published in the *Gazette* at the time when notice of the amount of the rates is published. Such notice shall be conclusive evidence of the amount of such instalments.

(3) The first instalment shall become due on the first day of July next after the publication in the *Gazette* of the classification list, and thereafter each yearly instalment shall become due on the first day of July in each year: Provided that any landholder may at any time pay the balance of the instalments due on his land with any interest then due, whereupon his liability and the charge on his land shall cease.

(4) Interest at the rate of Four Pounds per centum per annum shall be paid on the amount of any instalment which remains unpaid for more than three months after the same falls due.

97. There shall be no appeal in respect of the classification of any land under this Part. No appeal.

98. Any moneys paid by any landholder before the commencement of this Act on account of instalments due pursuant to the South-Eastern Drainage Scheme Act, 1908, and the Acts incorporated therewith shall be deemed to have been paid to the Commission and shall be appropriated to the payment of instalments due under this Part: Provided that the Commission shall credit each landholder who has paid any such moneys with simple interest at the rate of four per centum per annum on all moneys so paid from the time of the payment of each instalment of such moneys until the time of the appropriation thereof to the payment of instalments under this Part: Provided also that the moneys paid under the said Acts shall be appropriated to payments of the successive instalments under this Part in the order of priority in which such moneys were paid under the said Acts: Provided also that where any such moneys have been paid by any person in respect of any land which is not within the drainage area, the moneys so paid shall be credited as aforesaid to the payment of the instalments (if any) due by such person under this Part in respect of any land of such person which is within the drainage area, but if no such instalments are due the said moneys shall be repaid to the landholder.

Appropriation of instalments already paid to payment of instalments under the Act.

## PART V.

## MISCELLANEOUS PROVISIONS.

## PART V.

99. All offences against this Act shall be disposed of summarily.

Summary procedure for offences.

100. (1) The Governor may make all such regulations as are necessary or convenient for carrying this Act into operation and without limiting the generality of this provision for all or any of the following purposes:—

Regulations.

(a) to ensure the proper maintenance and protection of the drains and drainage works:

(b) to ensure the proper maintenance, cleanliness, and freedom from obstruction of any private drains which discharge into the drains:

(c) for

## PART V.

*South-Eastern Drainage Act.—1926.*

- (c) for regulating the manner, times, and quantities in which water may be diverted from any drain or drainage work, and the person by whom and purposes for which water may be so diverted and the fees payable therefor :
- (d) for fixing the poundage fees payable by the owners of animals trespassing on the drains or drainage works or any land owned by or under the control of the Commission :
- (e) prescribing forms to be used for the purposes of this Act.

(2) Any regulation made under this section may fix penalties not exceeding Fifty Pounds for breach of the same or any other regulation.

Rights of Commissioner of Crown Lands in respect of right of purchase leases

**101.** (1) No person holding a lease of Crown lands with a right of purchase shall be entitled to complete the purchase unless he pays to the Commissioner of Crown Lands all amounts, together with simple interest thereon at Four Pounds per centum per annum, paid during the term of the said lease by the Commissioner of Crown Lands in respect of the said land under Part IV. of the South-Eastern Drainage Act Amendment Act, 1908, or under the South-Eastern Drainage Scheme Acts, 1908 and 1910, or under Division I. of Part III. or under Part IV. of this Act.

(2) If the said lease is a renewed lease pursuant to powers given by a prior lease with a right of purchase and a right of renewal, then the term of the lease mentioned in subsection (1) hereof shall, for the purposes of that subsection, be the total of the terms of the renewed lease and of the prior lease.

Notices and demands, how served.

**102.** The following provisions shall apply as to every notice required by this Act to be given to any person :—

- (1) Such notice shall be addressed to such person :
- (2) Such notice shall be deemed duly served or given if the same has been—
  - (a) given to such person personally ;
  - (b) left at his usual or last known place of abode ; or
  - (c) sent by post to such place of abode :
- (3) Any notice required to be given to the Commission shall be sent by post or delivered to the Commission at its office.
- (4) Where there is more than one owner or occupier of the same land, and this Act requires notice to be given to the owner or occupier of such land, service upon any one of them in manner aforesaid shall be deemed service upon all.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

TOM BRIDGES, Governor.

SCHEDULES.

*South-Eastern Drainage Act.—1926.*

## SCHEDULES.

## THE FIRST SCHEDULE.

## ACTS REPEALED.

| Number and Year of Act. | Title of Act.   |
|-------------------------|---|
| No. 104 of 1878 .       | The South-Eastern Drainage Act, 1878.                   |
| No. 629 of 1895 .       | The South-Eastern Drainage Act Amendment Act, 1895.     |
| No. 737 of 1900 .       | The South-Eastern Drainage Amendment Act, 1900.         |
| No. 962 of 1908 .       | The South-Eastern Drainage Act Amendment Act, 1908.     |
| No. 963 of 1908 .       | The South-Eastern Drainage Scheme Act, 1908.            |
| No. 989 of 1909 .       | The South Eastern Drainage Act Amendment Act, 1909.     |
| No. 1027 of 1910 .      | The South-Eastern Drainage Scheme Amendment Act, 1910.  |
| No. 1295 of 1917 .      | South-Eastern Drainage Act Further Amendment Act, 1917. |
| No. 1402 of 1919 .      | South-Eastern Drainage Act Further Amendment Act, 1919. |
| No. 1481 of 1921 .      | South-Eastern Drainage Act Further Amendment Act, 1921. |

## THE SECOND SCHEDULE.

## “South-Eastern Drainage Act, 1926.”

Portion of the County of Cardwell bounded as follows :—

Commencing at the north-west corner of the Hundred of Duffield; thence north-westerly along the coastline forming the western boundary of the Hundred of Neville to a point in line with the north boundary of block C, Hundred of Neville; thence east to the north-west corner of block C and along the north boundary of that block to the eastern boundary of the Hundred of Neville; thence continuing east, in the same straight line, for a distance of eleven miles; thence south to a point on the north boundary of the Hundred of Landseer, distant 174 chains 18 links east of the north-west corner of that hundred; thence west along the north boundaries of the Hundreds of Landseer and Duffield to the point of commencement.

Portion of the Hundred of Rivoli Bay bounded as follows :—

Commencing at the north-western corner of the Hundred of Rivoli Bay; thence east along the north boundary of the Hundred of Rivoli Bay to the north-east corner of that Hundred; thence south along the east boundary of the Hundred of Rivoli Bay to the north corner of section 17N; thence south-westerly along the north-western boundaries of sections 17N, 17S, 18, 19, 20, 21, 41, 117, 118, 125, and 126 to Mount Pisgah Trigonometrical Station at the north-western corner of the last mentioned section; thence along the boundary of the District of the District Council of Millicent to the coastline forming the south-western boundary of the Hundred of Rivoli Bay; thence along that boundary to the point of commencement.

Portion of the Hundred of Mount Muirhead bounded as follows :—

Commencing at the north-east corner of the Hundred of Mount Muirhead; thence south along the east boundary of that Hundred to the south corner of section 209; thence north-westerly along the south-western boundaries of sections 209, 211, 212, Stone Reserve, sections 218 and 292 to the north boundary of the Hundred of Mount Muirhead; thence east along that boundary to the point of commencement.

THE

*South-Eastern Drainage Act.—1926.*

THE THIRD SCHEDULE.

“South-Eastern Drainage Act, 1926.”

*Form of Petition to Construct Drain.*

To the Irrigation and Drainage Commission, Adelaide.

We, the undersigned, being a majority of landholders, and representing three-fourths in value of the land to be improved by the construction of the drain hereinafter mentioned, hereby request you to construct the drain following, namely [*describe drain*].

The following are the lands which will be benefited by such drain [*here set out sections or blocks and hundreds*].

And we each undertake to pay our proportion of the cost of the construction of such drain at the times and in the manner provided by the “South-Eastern Drainage Act, 1926.”

The full names, addresses, and occupations of each of us, and particulars of the lands to be benefited by the drain of which we are landholders, are set out below:—

| Christian and Surname in full. | Address. | Occupation. | Particulars of Land, giving Section Number and Hundred. | Signature. | Signature of Witness. |
|--------------------------------|----------|-------------|---|------------|-----------------------|
|                                |          |             |   |            |                       |

Dated the..... day of....., 19....

*Declaration by Witness.*

I solemnly and sincerely declare that the signatures to the above petition, opposite to which my name is signed, are the genuine signatures of the persons whose signatures they purport to be.

[*Signature of Witness*].....

Declared before me at ..... this..... day of ..... 19....

....., *Justice of the Peace.*

THE FOURTH SCHEDULE.

“South-Eastern Drainage Act, 1926.”

*Notice of Apportionment.*

The Irrigation and Drainage Commission has made a preliminary apportionment of the cost of construction of [*describe drain*] amongst the landholders of the lands benefited by such drain.

| Name of Landholder. | Section or Block and Hundred. | Amount of Apportionment. |
|---------------------|-------------------------------|--------------------------|
| John Smith.....     | 94, Grey.                     | £ s. d.<br>25 0 0        |
| William Jones.....  | 110, Grey.                    | 50 0 0                   |

Dated the..... day of....., 19....

..... } Members of the  
 ..... } Irrigation and Drainage  
 ..... } Commission.

THE

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THE FIFTH SCHEDULE.

“South-Eastern Drainage Act, 1926.”

*Notice of Objection.*

To the Irrigation and Drainage Commission, Adelaide.

Take notice that I object to the amount of the cost of [*here describe the drain by a name it is known by, or otherwise shortly and sufficient to identify it*] apportioned to me by the preliminary apportionment of the Irrigation and Drainage Commission, on the ground that such amount is too much.

Dated the..... day of....., 19....

[*Signature of objector*] .....

[*Address and occupation*] .....

THE SIXTH SCHEDULE.

“South-Eastern Drainage Act, 1926.”

*Notice of final apportionment of the cost of constructing the [describe drain].*

| Name of Landholder. | Section or Block and Hundred. | Proportion of Cost to be borne by Landholder. | Amount of Annual Instalments to be paid by each Landholder. | Date when First Instalment becomes Due. |
|---------------------|-------------------------------|---|---|---|
| John Smith .....    | 94, Grey.                     | £ s. d.<br>25 0 0                             | £ s. d.<br>1 8 7  | June 1st,<br>19....                     |
| William Jones ..... | 110, Grey.                    | 50 0 0  | 2 17 2  | June 1st,<br>19....                     |

Dated the..... day of....., 192....

..... }  
 ..... } Members of the  
 ..... } Irrigation and Drainage  
 ..... } Commission.