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# GEORGII V REGIS.

A.D. 1912.

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## No. 1108.

An Act to further amend the Irrigation and Reclaimed Lands Acts, and for other purposes.

[*Assented to, December 19th, 1912.*]

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

**1.** (1) This Act may be cited alone as "The Irrigation and Reclaimed Lands Act Further Amendment Act, 1912." Short titles.

(2) "The Irrigation and Reclaimed Lands Acts, 1908 to 1910," and this Act may be cited together as "The Irrigation and Reclaimed Lands Acts, 1908 to 1912."

**2.** This Act is incorporated with and shall be read as one Act with "The Irrigation and Reclaimed Lands Act, 1908," and all Acts incorporated therewith. Incorporation with other Acts.

**3.** The definition of "Commissioner" in section 3 of "The Irrigation and Reclaimed Lands Act, 1908" is repealed and the following definition is hereby substituted therefor— Amendment of definition of "Commissioner."

"Commissioner" means the Minister of the Crown to whom the administration of this Act is for the time being committed by the Governor.

### *Water Supply.*

**4.** Section 14 of "The Irrigation and Reclaimed Lands Act, 1908," is hereby amended so as to read as follows:— Amendment of sec. 14 of Act No. 953 of 1908.

14. The Commissioner, upon an irrigation area being proclaimed, may from time to time purchase pumping machinery Erection of appliances for storage and distribution of water.

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machinery and erect the same thereon, construct irrigation works and channels, tanks, and catchment and storage dams and reservoirs, and acquire provide and maintain appliances and facilities for supplying and distributing water to the lessees, owners, or occupiers of blocks, township allotments, factory sites and other lands within, adjacent, or near to the irrigation area, for irrigation, domestic, factory, and other purposes.

Amendment of sec. 26  
of Act No. 953 of  
1908.

**5.** Section 26 of "The Irrigation and Reclaimed Lands Act, 1908," is hereby amended so as to read as follows:—

Commissioner may  
distribute water.

26. Upon the construction, wholly or in part, of the works upon an irrigation area and until the constitution of a Board therefor, the Commissioner may supply water—

(a) To the owners, lessees, and occupiers of blocks, township allotments, factory sites, and other lands within the irrigation area, at such rates, in such quantities, for such periods, and upon and subject to such terms and conditions as are prescribed:

(b) To owners, lessees, and occupiers of lands adjacent to the irrigation area, at such rates, in such quantities, for such periods, and upon and subject to such terms and conditions as are agreed upon.

Minimum water rate.

**6.** (1) The Commissioner may, as soon as a water supply is available for the whole or any portion of an irrigation area, declare on all or any lands within such irrigation area to which, or to any portion of which, water can in his opinion be supplied by him, a general water rate for the supply of water.

(2) Such rate may be an annual rate, and shall be of such amount in the Pound of the unimproved value of the land (as defined by the Taxation Acts of the State for the time being in force), as may be necessary to recoup the proportion of interest on cost of works and of the maintenance and management thereof as the Commissioner determines to be properly debitable in respect of the service rendered by the works: Provided that the minimum annual rate in respect of any one piece of land shall not be less than One Pound.

(3) Notice of every water rate declared by the Commissioner shall be published in the *Government Gazette*, and shall state the name of the irrigation area in respect of the lands in which such rate is declared, the amount in the Pound of such rate, the period for which such rate is made and the time and place where the rate is payable.

(4) All water rates shall be due and payable by and recoverable from the owners and occupiers of the lands upon which the same are respectively declared, and shall, until payment, be a continual charge

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charge upon such lands, and no statute of limitations shall affect any action or other proceedings which may be brought for the recovery or enforcement of such rates. And the Commissioner shall have the like powers of distress and sale in cases where rates are unpaid as are conferred upon the Commissioner of Waterworks by "The Waterworks Act, 1882."

No. 269 of 1882.

7. (1) The Commissioner shall cause a book to be kept by the officer in charge of an irrigation area to be called the Water Rate Assessment Book which shall contain the following particulars as to such area:—

Water Rate  
Assessment Book to  
be kept.

- (a) The names of the several owners and occupiers of the rateable land assessed, so far as known;
- (b) Short descriptions of, or references to the rateable lands;
- (c) The unimproved value of such lands, adopting the assessment for land tax purposes for the time being in force, with such adjustments as may be necessary where the rateable land does not include the whole of the land included in the land tax assessment.

(2) No person shall be entitled to appeal against the valuation of his land appearing in the assessment book, but if the valuation is reduced for any reason by the Commissioner of Taxes the assessment book shall be amended accordingly.

8. The Commissioner may supply water by measure to any person for such period upon such conditions and at such charges as the Commissioner from time to time determines. When the Commissioner supplies water to any person outside an irrigation area, the person so supplied shall pay therefor such charges as are agreed upon, and such charges may be recovered by the Commissioner, or by any person authorised by him in writing, by action of debt in any court of competent jurisdiction.

Power of Com-  
missioner to supply  
water by measure.

9. (1) If at any time the supply of water at the disposal of the Commissioner is insufficient, in the opinion of the Commissioner, to afford the quantities to which all persons having claims thereto would if the supply were sufficient be respectively entitled, it shall be competent for the Commissioner to deliver to such persons such quantities of water as are then at his disposal in reduced proportions, according to the quantities which such persons would have respectively been entitled to receive if there been sufficient water available; and the charges to such persons may be reduced accordingly.

Commissioner may  
proportionately  
reduce supply of  
water.

(2) In the arrangement of the reduced proportions, the Commissioner may, if he thinks fit, assign greater proportionate quantities to the occupiers or owners of lands planted with fruit trees, vines, or other like plants than to the occupiers or owners of lands planted or sown with plants cultivated for a single year's crop only.

Preference to  
orchards and vine-  
yards.

10. In

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Commissioner may regulate supply of water in event of drought, &c.

**10.** In the event of the supply of water available for any irrigation area falling short at any time of the quantity necessary to supply all the claims upon the Commissioner for water, in sufficient quantity to be of practical service, it shall be lawful for the Commissioner, whenever and as often as he is satisfied of the actual or approaching insufficiency of such supply, from time to time to make alter and repeal orders which shall regulate the order of priority in which the quantities with which the various irrigation areas, bodies, and persons so entitled to water shall be entitled to be supplied.

No damages recoverable by lessees on shortage of supply of water.

**11.** Notwithstanding anything contained in this Act or in any lease or agreement, neither the Commissioner nor any Board shall be liable to any penalty or damages for not supplying water to any person if the want of such supply arises from drought, low river, influx of salt water, or the pollution of water, or from any other unavoidable cause or accident.

*Powers of Commissioner for Effecting Improvements.*

No further advances under Act 953 of 1908.

**12.** (1) No further advances shall be made by the Commissioner pursuant to sections 78, 79, 80, 81 and 82 of "The Irrigation and Reclaimed Lands Act, 1908," out of the Lessees of Reclaimed Lands Loan Fund, but the moneys for the time being standing to the credit of the said fund may be used for all or any of the purposes of sections 13 and 14 of this Act.

Amendment of section 75.

(2) Section 75 of "The Irrigation and Reclaimed Lands Act, 1908," is amended by adding at the end of subsection (a) thereof the following passage, namely:—"or for the purposes of sections 13 and 14 of 'The Irrigation and Reclaimed Lands Act Further Amendment Act, 1912.'"

Commissioner may expend moneys in certain improvements.

**13.** (1) The Commissioner upon the application, in the prescribed form, of any lessee in an irrigation area, and upon the recommendation of the Director of Irrigation and Reclamation Works, may expend a sum not exceeding Fifteen Pounds per acre of the irrigable land in such lessee's block in making the following improvements or any of them, namely:—Fencing, clearing, and grading such lessee's block, and constructing channels thereon and connecting such channels with the nearest main channel.

Deposit to be paid by lessee.

(2) The Commissioner shall not commence work on any block until the lessee has paid a deposit equal to not less than fifteen per centum of the Commissioner's estimate of the cost of carrying out such improvements, and has entered into an agreement with the Commissioner, in the prescribed form, agreeing to repay in manner prescribed all moneys expended by the Commissioner in making and carrying out such improvements, and to secure the repayment thereof by executing a first mortgage to the Commissioner or his nominee over such block.

Commissioner may effect improvements before leases.

**14.** (1) The Commissioner may, upon an irrigation area being proclaimed, improve such area or any portion or portions thereof by  
fencing,

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fencing, clearing, grading, and channelling, and in effecting such other improvements as he thinks fit.

(2) No lease shall be granted of any portion so improved unless the proposed lessee has paid, by way of premium for such lease, a sum equal to not less than fifteen per centum of such proportion of the amount expended by the Commissioner in improving such area as, in the opinion of the Commissioner, is attributable to the land to be comprised in such lease, and has executed a mortgage to the Commissioner in the prescribed form to secure the payment of the balance of the said proportion of the amount so expended.

15. All moneys received by the Commissioner as deposits or premiums or in repayment, wholly or in part, of moneys advanced or expended by him pursuant to sections 13 and 14 of this Act, shall be paid to the credit of the Lessees of Reclaimed Lands Loan Fund and form part thereof. Moneys received as interest shall be paid to the Treasurer in aid of the general revenue of the State.

Principal moneys repaid to form part of Fund. Interest to be paid into Revenue.

*Miscellaneous Matters.*

16. (1) Notwithstanding the provisions of section 22 of "The Irrigation and Reclaimed Lands Act, 1908," as enacted by section 5 of "The Irrigation and Reclaimed Lands Act Further Amendment Act, 1910," persons who, in the opinion of the Commissioner, are *bona fide* carrying on business in partnership as agriculturists, dairymen, or gardeners on land within an irrigation area, may together hold more than fifty acres, but not more than one hundred and fifty acres, of irrigable or reclaimed land in such irrigation area: Provided that the area of such land shall in no case exceed the equivalent of fifty acres to each person in such partnership.

Blocks may be held by partners.

(2) In any such case as mentioned in subsection (1) of this section, if the number of partners is not more than three, only one of such partners may be required to personally reside on the land held by the partners, and if the number is more than three, only two of such partners may be required so to reside.

17. Section 10 of "The Irrigation and Reclaimed Lands Act Further Amendment Act, 1910," is hereby repealed and the following section is enacted in lieu thereof, namely:--

Repeal of Section 10 of Act 1022 of 1910.

10. (1) The Commissioner may, from time to time and at all times, do such acts and things as may be necessary or convenient for the exercise of any power or authority vested in or conferred upon him by, or for the purposes of carrying out the objects and purposes of, "The Irrigation and Reclaimed Lands Acts, 1908 to 1912."

General powers of Commissioner for the purposes of the Acts.

(2) Without limiting the operation of subsection (1) of this section, it is hereby declared that, after an irrigation area has been proclaimed, the Commissioner shall have and may exercise within such area, *mutatis mutandis* all the

Commissioner to have powers of District Council.

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powers and authorities of a District Council under "The District Councils Act, 1887," and the Acts incorporated therewith or repealing or amending the same, and also all the powers and authorities which a Board might exercise.

Certain powers not exercisable where Board is in existence.

(3) The powers and authorities conferred upon the Commissioner by subsection (2) of this section, shall not be exercisable by the Commissioner within an irrigation area in respect of which a Board is constituted and in existence, and if an irrigation area is situated within the boundaries of any District Council District, the Commissioner shall not, in respect of such area, have the powers and authorities of a District Council.

Director of Irrigation and Reclamation Works to be a member of the Land Board for the purposes of these Acts.

**18.** For the purposes of "The Irrigation and Reclaimed Lands Acts, 1908 to 1912," or any of those Acts, the Director of Irrigation and Reclamation Works shall be an additional member of the Land Board and, for those purposes, shall have all the powers and duties of a member of the said Board.

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

DAY H. BOSANQUET, Governor.