

**NEW SOUTH WALES—QUEENSLAND
BORDER RIVERS ACT.**

Act No. 10, 1947.

An Act to ratify an Agreement entered into between the Premiers of the States of New South Wales and Queensland respecting the construction of certain works on parts of those portions of the Severn, Dumaresq, Macintyre, and Barwon Rivers which constitute part of the boundary between the States of New South Wales and Queensland for the furtherance of water conservation, water supply, and irrigation in the said States; and for other purposes; and for purposes connected therewith. [Assented to, 28th March, 1947.]

George VI.
No. 10, 1947.

WHEREAS

New South Wales—Queensland Border Rivers Act.

No. 10, 1947. **W**HEREAS the Premiers of the States of New South Wales and Queensland have entered into the Agreement, a copy of which is set out in the Schedule to this Act, subject to ratification by the Parliaments of the said States: And whereas it is desirable to ratify and to provide for carrying out the said Agreement: **Be** it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PRELIMINARY.

Short title.

1. This Act may be cited as the "New South Wales-Queensland Border Rivers Act, 1947."

Commencement.

2. This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Act to bind the Crown.

3. This Act shall bind the Crown.

Interpretation.
Act No. 8,
1915, s. 4.
11 Geo. VI
No. 16
(Q'ld.), s. 4.

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

"Carrier rivers" means the parts of the Severn, Dumaresq, Macintyre and Barwon Rivers constituting part of the boundary between the States of New South Wales and Queensland and located between the site on the Dumaresq River of the Dam referred to in the Agreement as the "Dumaresq Dam" and the point on the Barwon River downstream of Mungindi where the Barwon River reaches the twenty-ninth parallel of south latitude.

"Constructing Authority" means the Contracting Government by which any works under this Act are constructed, or to be constructed, or any authority constituted or appointed for the purpose of such construction.

"Contracting Government" means a Government which is a party to the Agreement.

"Controlling Authority" where used in reference to the State of New South Wales means the Water Conservation

Conservation and Irrigation Commission No. 10, 1947.
authorised by this Act to exercise the powers
and fulfil the obligations by the Agreement
conferred or imposed upon a Controlling
Authority.

- “Diversion” includes abstraction, impounding and appropriation of water that diminishes or retards the volume of flow of a river.
- “Dumaresq Storage” means the storage basin given by the Dam on the Dumaresq River referred to in the Agreement as the “Dumaresq Dam.”
- “Government Gazette” means the Government Gazette of the State of New South Wales or Queensland (as the case may require).
- “Governor” where used in reference to a State means Governor with the advice of the Executive Council of that State and shall include the person for the time being lawfully administering the Government of that State.
- “Land” includes Crown lands and buildings, messuages, tenements, and hereditaments of any tenure, and any easement, right, or privilege in, over or affecting any land.
- “Maintenance” includes repairs and improvements.
- “Purposes of this Act” includes purposes of the Agreement.
- “Prescribed” means prescribed by this Act or by regulations pursuant to this Act.
- “Proclamation” means proclamation by the Governor of the State of New South Wales or Queensland published in the Government Gazette of that State.
- “River” and “Tributary” respectively include any affluent, effluent, creek, anabranch, or extension of, and any lake or lagoon connected with, the river or tributary.
- “The Agreement” means the Agreement, a copy of which is set out in the Schedule.

“The

New South Wales—Queensland Border Rivers Act.

- No. 10, 1947.** “The Commission” means the Dumaresq-Barwon Border Rivers Commission appointed for the purposes of this Act.
- “The Schedule” means the Schedule to this Act.
- “Under this Act” includes under the Agreement.

RATIFICATION OF THE AGREEMENT.

Ratification of Agreement.
Act No. 8,
1915, s. 4.

- 5.** Subject to this Act the Agreement, a copy of which is set out in the Schedule, is hereby ratified and approved.

POWERS AND DUTIES OF THE COMMISSION.

Regulations made by the Commission.
Act No. 8,
1915, s. 6.
11 Geo. VI
No. 16
(Q^{ld.}), s. 6.

- 6.** (1) The Commission may make regulations—
- (a) for or relating to—
- (i) the times and places of its meetings;
 - (ii) the conduct of its proceedings;
 - (iii) the duties and the control, supervision, and guidance of its officers and servants, and the time and mode in which they shall account to the Commission for all moneys received by them on its behalf or account;
 - (iv) the mode of making and the management and carrying out of contracts of the Commission;
- (b) prescribing what business shall be deemed formal for the purposes of the Agreement;
- (c) prescribing a penalty not exceeding fifty pounds for a breach of any such regulations.

(2) Every regulation under this section, on being published in the Government Gazette of each of the States of New South Wales and Queensland, shall take effect from the date of the last of such publications, or from a later date specified in the regulation.

(3) In addition, regulations under paragraphs (b) and (c) of subsection one of this section shall be laid before both Houses of Parliament of the State of New South Wales and before the Legislative Assembly of the State of Queensland within fourteen sitting days after the

the

the date of the latest publication thereof as aforesaid if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session. If either House of Parliament of the State of New South Wales or the Legislative Assembly of the State of Queensland passes a resolution (of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House or Legislative Assembly, as the case may be), disallowing such regulations or any part thereof such regulations or part shall thereupon cease to have effect.

7. The regulations of the Commission made and to take effect pursuant to this Act shall have the force of law.

No. 10, 1947.
To have force of law.
Act No. 8, 1915, s. 7.
11 Geo. VI No. 16 (Q'ld.), s. 7.

8. The production of a document purporting to be a copy of any such regulation, and to be signed by a Commissioner or the Secretary of the Commission, or of a Government Gazette in which such regulation was published, shall be prima facie evidence that such regulation was made and is in force.

Evidence of regulation.
Act No. 8, 1915, s. 8.
11 Geo. VI No. 16 (Q'ld.), s. 8.

9. For the purposes of this Act the Commission and any person authorised by the Commission may enter any lands and shall have free access to all works.

Entry on land by Commission.
Act No. 8, 1915, s. 9.
11 Geo. VI No. 16 (Q'ld.), s. 9.

10. The Commission or a Commissioner may be compelled, by mandamus or other writ issuing from the Supreme Court of either of the States of New South Wales or Queensland, or, so far as the High Court of Australia has been or may be invested with jurisdiction in the matter, from the High Court of Australia, to perform any of the duties of the Commission or the Commissioner, as the case may be, under this Act.

Writ to enforce performance of duty of Commission.
Act No. 8, 1915, s. 10.
11 Geo. VI No. 16 (Q'ld.), s. 10.

11. Subject to this Act and the Agreement, the orders, determinations, decisions, and declarations of the Commission made in the exercise of its powers and discharge of its duties, shall bind the Government and all persons

Orders of the Commission to bind.
Act No. 8, 1915, s. 11.
11 Geo. VI No. 16 (Q'ld.), s. 11.

No. 10, 1947. persons and corporations; and may be made a rule or order of the Supreme Court and shall be enforceable accordingly.

Evidence of records of Commission.
Act No. 8, 1915, s. 12.
11 Geo. VI No. 16 (Q'ld.), s. 12.

12. Every minute or record of the proceedings of the Commission, if signed by the Commissioners, or a copy thereof certified as correct under the hand of a Commissioner or the Secretary of the Commission, shall be presumed to be correct until the contrary is proved.

Saving of rights of State officers.
Act No. 8, 1915, s. 13.
11 Geo. VI No. 16 (Q'ld.), s. 13.

13. The existing and accruing rights of a person in the public service or in the employment of any authority constituted by or under any Act shall not be affected by reason of his being appointed a Commissioner or being appointed or employed as an officer or servant by the Commission; and service as a Commissioner or as such officer or servant shall count as service in the public service of New South Wales or in the employment of any such authority.

Construction and maintenance of works and acquisition of land.

Construction etc. of works in New South Wales.

14. (1) The construction, maintenance, operation and control, pursuant to this Act and the Agreement, of the works required by such Agreement to be constructed by New South Wales shall be carried out by the Water Conservation and Irrigation Commission.

(2) (a) Subject to this Act and the Agreement the construction in New South Wales of the works required by such Agreement to be constructed by New South Wales is hereby authorised; and any such work shall be deemed to be an authorised work within the meaning of the Public Works Act, 1912, as amended by subsequent Acts; and the provisions of the said Act, as so amended, sections thirty-four, thirty-five, thirty-six and thirty-seven excepted, shall apply to and in respect of any such work.

(b) For the purposes of such construction the Water Conservation and Irrigation Commission shall be the constructing authority within the meaning of the Public Works Act, 1912, as amended by subsequent Acts.

(3)

(3) (a) Subject to this Act and the Agreement ^{No. 10, 1947.} the construction in New South Wales of the works required by such Agreement to be constructed by Queensland is hereby authorised; and any such work shall be deemed to be an authorised work within the meaning of the Public Works Act, 1912, as amended by subsequent Acts; and the provisions of the said Act, as so amended, sections thirty-four, thirty-five, thirty-six and thirty-seven excepted, shall apply to and in respect of any such work. ^{cf. Act No. 24, 1934, s. 2.}

(b) In respect of the construction of the works referred to in paragraph (a) of this subsection the State of Queensland or any authority or person thereto authorised by it shall be the constructing authority within the meaning of the Public Works Act, 1912, as amended by subsequent Acts.

(c) The Governor may resume, acquire or appropriate, subject to the provisions of the Public Works Act, 1912, as amended by subsequent Acts, any land required in New South Wales for or incidental to the works authorised by this subsection and for that purpose the Water Conservation and Irrigation Commission shall have all the powers of a constructing authority under the said Act as so amended.

(d) The State of Queensland or any authority or person thereto authorised by it may, in respect of the maintenance, operation and control of works constructed under this subsection or taken over under sub-clause two of clause seventeen of the Agreement, do in the State of New South Wales all such acts, matters and things as are necessary in or for the purposes of the maintenance, operation and control of such works.

(4) (a) In constructing any works authorised by this section a constructing authority shall enter into such contracts and take all such necessary steps for the proper execution thereof as such authority may think proper.

(b) Without prejudice to the generality of paragraph (a) of this subsection the provisions of section

No. 10, 1947. section thirty-eight of the Public Works Act, 1912, as amended by subsequent Acts, shall apply to and in respect of any contracts referred to in that paragraph.

(c) For the purposes of this section but not otherwise the following amendments shall be made in the Public Works Act, 1912, as amended by subsequent Acts, that is to say:—

- (i) section ninety-eight is amended by inserting in subsection three before the words “public works” the words “authorised works or”;
- (ii) section one hundred and twenty-six is amended by inserting at the end of subsection two the following proviso:—

Provided that such interest shall not be paid for any period during which delay in fixing the amount of compensation or in completing title has been caused without reasonable excuse by the act or default of the person to whom such compensation is payable.

Disposal of
superfluous
land.

15. Notwithstanding any provision to the contrary contained in the Public Works Act, 1912, as amended by subsequent Acts, any purchase or other money arising from the sale or leasing of any lands acquired for the purpose of the construction, maintenance, operation and control of works pursuant to this Act and the Agreement shall be credited to the funds of the Commission.

Labour
conditions.
cf. Act
No. 24, 1934,
s. 5.
11 Geo. VI
No. 16
(Qld.),
s. 16 (4).

16. Notwithstanding anything contained in any Act relating to industrial arbitration or in any award or agreement made thereunder or pursuant thereto, it shall be lawful for the State of Queensland, or any authority or person thereto authorised by it, in constructing, maintaining, operating, or controlling in the State of New South Wales any work required to be constructed, maintained, operated, or controlled by it under this Act and the Agreement, to observe the same conditions and pay the same wages as would prevail if such construction, maintenance, operation or control were being undertaken in the State of Queensland.

COMPENSATION

COMPENSATION FOR DAMAGE BY WORKS.

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17. No action, claim, or other proceeding for compensation for damage occasioned by the construction or maintenance of works under this Act shall be maintainable unless—

Notice to be given in action for compensation.

Act No. 8, 1915, s. 19. 11 Geo. VI No. 16 (Q'ld.), s. 18.

- (a) notice in writing stating the nature and extent of the damage complained of has been furnished to the constructing authority within six months after the damage in respect of which the notice is given has been occasioned; and
- (b) after giving the notice the person claiming compensation proceeds without unreasonable delay to obtain such compensation.

18. In determining whether any and what compensation for such damage is to be made, the court shall in each case have regard to and is hereby empowered and directed to apply the following principles:—

Rules to be applied in determining compensation.

Act No. 8, 1915, s. 20. 11 Geo. VI No. 16. (Q'ld.), s. 19.

No compensation shall be awarded save in respect of some item set forth in the notice in writing stating the nature and extent of the injury complained of furnished to the constructing authority as hereinbefore provided.

No compensation shall be awarded for any diminution or deterioration of the supply of water to which any person may be entitled, unless such diminution or deterioration is such as to deprive the claimant of a supply of water previously legally enjoyed by him, and unless such diminution or deterioration is the direct and will be the permanent result of the completed works.

No compensation shall be made for the taking or diverting of any water which the constructing authority is empowered by or under this Act to take or divert either permanently or temporarily, from any river, creek, stream, or watercourse, lake, lagoon, swamp or marsh.

There shall be considered in reduction of all claims for compensation for injury, whether, by reason of the execution of any works under this Act, any, and if so what, enhancement in value of any property of

the

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the claimant, wherever situate, has been directly or indirectly caused, and whether any, and if so what, immediate or proximate benefit has been gained by or become available to such claimant by reason of the construction or use of such works; and a deduction shall be made accordingly from the amount which, but for this provision, would have been paid or payable as compensation.

The measure of damages shall in all cases be the direct pecuniary injury to the claimant by the loss of something of substantial benefit accrued or accruing, and shall not include remote, indirect, or speculative damages.

Where the injury complained of appears to be of a permanent or continuing character, or likely to be repeated, a sum may be awarded which the court may declare to be a compensation for all injury, loss or damage sustained in respect of the matter complained of to the date of the bringing of the action, and also for all future injury, loss, or damage, in respect of the same matter; and after such award no further compensation shall be made in respect of any such future injury, loss, or damage.

Stay of proceedings until completion of works. Act No. 8, 1915, s. 21. 11 Geo. VI, No. 16 (Q'ld.), s. 20.

19. If compensation is sought to be recovered for any such injury alleged to be the result of the execution of works which at the time of the alleged injury and of the claim to compensation in respect thereof are incomplete, it shall be lawful for any judge of the Supreme Court, upon an application by the constructing authority, made without action, and either by summons or by motion upon notice to the claimant for compensation, to make an order directing that the proceedings upon the claim for compensation shall be stayed until the completion of such works or for such period to be stated in the order as the judge may consider sufficient for the completion of such works, and the proceedings to recover such compensation shall be stayed accordingly; but at the expiration of the stay limited in such order the claimant shall be at liberty to resume his proceedings for the recovery of such compensation without commencing any fresh proceedings.

CONTROLLING

CONTROLLING AUTHORITY FOR NEW SOUTH WALES.

No. 10, 1947.

20. The Water Conservation and Irrigation Commission is hereby authorised in relation to the State of New South Wales to exercise the powers and fulfil the obligations by the Agreement conferred or imposed upon a Controlling Authority.

Water Conservation and Irrigation Commission to be Controlling Authority for N.S.W.

CONTROLLING AUTHORITY MAY RESTRICT DIVERSIONS OF WATER.

21. (1) Notwithstanding any provision contained in any Act or the terms of any license, permit, authority or approval granted to divert water from the Dumaresq Storage or the Carrier Rivers the Controlling Authority shall have power to direct the holder of any license, permit, authority or approval to cease or reduce any diversions of water from the Dumaresq Storage and the Carrier Rivers to such extent and for such time or times as may by the Controlling Authority be considered necessary—

Controlling Authority may restrict diversions of water.

- (a) to enable it to give effect to any direction issued to it by the Commission under clause thirty-eight of the Agreement; or
- (b) if the Controlling Authority is of the opinion that the quantity of water being diverted into the State of New South Wales is or is likely to be in excess of the share of the water discharged from the Dumaresq Storage available for the use of such State under the Agreement.

(2) In the event of the holder of any license, permit, authority or approval failing to comply with any direction given by the Controlling Authority under subsection one of this section, the Controlling Authority may give such holder notice by registered letter addressed to the holder at his address last known to the Controlling Authority that after the expiration of the period specified in the notice it is the intention of the Controlling Authority to cancel or suspend the license, permit, authority or approval.

At the expiration of the period specified in the notice the license, permit, authority or approval shall be cancelled or suspended as stated in the notice unless the Controlling

No. 10, 1947. Controlling Authority shall have annulled or withdrawn the notice in the meantime.

(3) Every holder of a license, permit, authority or approval who diverts water from the Dumaresq Storage or the Carrier Rivers when the license, permit, authority or approval has been cancelled or suspended by the Controlling Authority under the provisions of subsection two of this section shall, upon conviction, be liable for the first offence to a penalty not exceeding twenty pounds, and for a subsequent offence to a penalty not exceeding one hundred pounds, or where the offence is a continuing one, to a penalty not exceeding five pounds for every day during which the offence is continued.

REGULATIONS MADE BY GOVERNOR.

Regulations made by Governor. Act No. 8, 1915, s. 26. 11 Geo. VI No. 16 (Q'ld.), s. 22.

22. (1) The Governor may, for carrying out any of the purposes of this Act for which the Commission is not empowered to make regulations, make regulations and provide a penalty not exceeding fifty pounds for any breach thereof.

(2) All such regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of such publication, or from a later date specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(3) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

APPOINTMENT OF COMMISSIONER AND DEPUTY COMMISSIONER.

Appointment of Commissioner and Deputy Commissioner. Act. No. 8, 1915, s. 27. cf. 11 Geo. VI No. 16 (Q'ld.), s. 23.

23. The Governor may, under this Act, appoint a Commissioner and a Deputy Commissioner, who shall respectively be paid such salaries as he shall determine.

MISCELLANEOUS.

MISCELLANEOUS.

No. 10, 1947.

24. Nothing in the Water Act, 1912, as amended by subsequent Acts, shall affect the exercise of any powers conferred by the Agreement or by this Act, and the first mentioned Act shall be read subject to the Agreement.

Water Act to be read subject to the Agreement.

Act No. 8, 1915, s. 28.
cf. 11 Geo. VI No. 16 (Q'ld.), s. 24.

25. Every person who unlawfully and maliciously destroys or damages, or attempts to destroy or damage, any works or portion of works under this Act shall in addition to any penalty provided by regulations under this Act be liable on conviction to imprisonment with hard labour for any term not exceeding ten years.

Penalty for injuring works.

Act No. 8, 1915, s. 29.
11 Geo. VI No. 16 (Q'ld.), s. 25.

26. A document signed by and purporting to contain the decision of an arbitrator appointed under the provisions of the Agreement shall be evidence of such decision.

Evidence of arbitrator's decision.

Act No. 8, 1915, s. 30.
11 Geo. VI No. 16 (Q'ld.), s. 26.

27. No rates, taxes, or charges whatsoever (whether local government or not) shall be imposed, made, or levied, in respect of any works under this Act, or in respect of any land or other property held by any Contracting Government or constructing authority for the purposes of such works.

Exemption from rates and taxes.

Act No. 8, 1915, s. 30.
11 Geo. VI No. 16 (Q'ld.), s. 27.

28. All penalties for offences against or breaches of any regulations made under this Act may be recovered in a summary way before a stipendiary or police magistrate or any two justices of the peace in petty sessions.

Recovery of penalties.

Act No. 8, 1915, s. 32.

29. All reports, statements, and estimates received under this Act by the Governor shall be laid before both Houses of Parliament without delay.

Reports to be laid before Parliament.

Act No. 8, 1915, s. 33.
11 Geo. VI No. 16 (Q'ld.), s. 29.

SCHEDULE.

THE AGREEMENT.

AGREEMENT made the twenty-seventh day of November One thousand nine hundred and forty-six BETWEEN THE STATE OF NEW SOUTH WALES (hereinafter called "New South Wales") of the one part AND THE STATE OF QUEENSLAND (hereinafter called "Queensland") of the other part WHEREAS it is desirable that certain works be constructed on parts of those portions of the Severn Dumaresq Macintyre and Barwon Rivers which constitute part of

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the

**New South Wales—Queensland Border Rivers
Act.**

No. 10, 1947. the boundary between the States of New South Wales and Queensland for the furtherance of water conservation water supply and irrigation in the said States and for other purposes NOW IT IS HEREBY AGREED as follows:—

PART I.

RATIFICATION AND ENFORCEMENT.

- Ratification.** 1. This Agreement is subject to ratification by the Parliaments of the States of New South Wales and Queensland and shall come into effect when so ratified.
- Submission to Parliaments.** 2. Each of the parties hereto shall take every practicable step to have this Agreement ratified by its Parliament as soon as possible.
- Contracting parties to provide for enforcement of Agreement and Act.** 3. Each of the parties hereto so far as its jurisdiction extends and so far as may be necessary shall provide for or secure the execution and enforcement of the provisions of this Agreement and any Acts ratifying the same.

PART II.

THE COMMISSION.

- Appointment.** 4. As soon as practicable after this Agreement comes into effect a Commission to be called "The Dumaresq-Barwon Border Rivers Commission" (hereinafter called "the Commission") shall be appointed for the purposes of this Agreement and of the Acts ratifying the same and shall be charged with the duty of giving effect to this Agreement and the said Acts.
- Constitution.** 5. The Commission shall consist of three Commissioners of whom one shall be appointed by the Governor of New South Wales one by the Governor of Queensland and one not being a person in the service of the Government of either of the parties hereto (who shall be the Chairman of the Commission) shall be appointed by the Premiers of New South Wales and Queensland and in the event of such Premiers being unable at any time to agree upon the appointment of a Chairman then such appointment shall be made by the Chief Justice of New South Wales or the Chief Justice of Queensland (such two Chief Justices to act on alternate occasions) from a panel of names submitted by the two Premiers each of whom shall submit an equal number of names not exceeding two the selection on the first occasion to be made by the Chief Justice of New South Wales. Each Commissioner shall be appointed for a term not exceeding five years and shall be eligible for reappointment.
- Meetings and business.** 6. (1) Each meeting of the Commission shall be convened by the Chairman or Deputy Chairman and be held at a time and place fixed by the Chairman or Deputy Chairman.

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(2) For the transaction of business other than business which the Commission may have prescribed as formal the three Commissioners shall be a quorum and the concurrence of all of them shall be necessary. **No. 10, 1947.**

(3) When any matter (not being business which the Commission may have prescribed as formal) requires a decision by the Commission and it is for whatever reason impossible to secure at two consecutive meetings of the Commission the quorum required by the preceding subclause (2) or if a difference of opinion arise among the Commissioners on any question not being a question prescribed as formal business such matter (if so required by the Premier of New South Wales or the Premier of Queensland) or such question (unless the Commissioners concur within two months after submission by a Commissioner of a resolution thereon) shall as hereinafter provided be referred for decision to an arbitrator who shall be appointed by the Premiers of New South Wales and Queensland.

Either of such Premiers may give to the other written notice to concur in the appointment of an arbitrator and to refer such matter or question to such arbitrator for decision.

If the appointment be not made within two months after the giving of such notice the Chief Justice of the Supreme Court of Tasmania or other the person for the time being discharging the duties of that office may at the request of the Premier by whom such notice shall have been given appoint an arbitrator who shall have the like powers to act in the reference and to decide the matter or question as if he had been appointed by the Premiers of New South Wales and Queensland.

The decision of an arbitrator appointed to decide such matter or question shall be binding on the Commission and the parties hereto and shall have effect as if the same were a determination of the Commission.

(4) The Commission shall not prescribe as formal any business in which the interests of the parties hereto are dissimilar. For the transaction of business which the Commission may have prescribed as formal two Commissioners shall be a quorum and if at any meeting of the Commission at which two Commissioners only are present such Commissioners differ in opinion upon any matter (being business which the Commission may have prescribed as formal) the determination of such matter shall be postponed until all the Commissioners are present and if necessary the provisions of subclause (3) of this Clause which are applicable in the event of its being for whatever reason impossible to secure at two consecutive meetings of the Commission the quorum required by subclause (2) of this Clause shall apply.

7. Subject to the provisions of this Agreement the Commissioners shall have equal powers and each Commissioner appointed by a Governor shall be paid such salary fees or allowance and such expenses as that Governor shall determine and the Chairman shall be paid

such

**Powers and
salaries.**

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No. 10, 1947. such salary fees or allowance and such expenses as may be agreed upon by the Premiers of New South Wales and Queensland.

**Vacation
of office.**

8. (1) A Commissioner shall be deemed to have vacated his office—

(a) if he becomes bankrupt compounds with his creditors or makes an assignment of his salary fees allowance or estate for their benefit;

(b) if he is absent from two consecutive ordinary meetings of the Commission without leave obtained from the Commission in that behalf;

(c) if he resigns his office by writing under his hand addressed in the case of a Commissioner other than the Chairman to the Governor of the State whose Governor appointed him and addressed in the case of a Chairman to the Premiers of New South Wales and Queensland;

(d) if he is removed from office as hereinafter provided.

(2) The Governor of a State may for any cause which appears to him sufficient remove from office a Commissioner appointed by the Governor of that State.

(3) The Premiers of New South Wales and Queensland may for any cause which appears to them sufficient remove a Chairman from office.

(4) On any vacancy occurring in the office of Chairman during the term of such Chairman a person shall be appointed to the vacant office in the manner provided by Clause 5 for the appointment of a Chairman and on any vacancy occurring in the office of a Commissioner (other than the Chairman) during the term of such Commissioner the Governor of the State whose Governor appointed the Commissioner whose office is vacant shall appoint a person to the vacant office and in any of such cases the person appointed to fill the vacant office shall subject to this Agreement hold office for the unexpired portion of the term of the vacant office.

**Deputy
Commis-
sioners.**

9. (1) In case of the illness or absence of a Chairman a person may in the manner provided in Clause 5 for the appointment of a Chairman be appointed to act as Deputy Chairman during such illness or absence and in case of the illness or absence of a Commissioner other than the Chairman the Governor of the State by whose Governor he was appointed may appoint a person to act as Deputy Commissioner during such illness or absence.

(2) Every such Deputy shall while so acting have all the powers and perform all the duties and be entitled to the indemnities of the Chairman or Commissioner in whose stead he so acts.

(3) Any Deputy appointed by a Governor shall be paid such salary fees or allowance and such expenses as that Governor shall determine and any Deputy Chairman shall be paid such salary fees or allowance and such expenses as may be agreed upon by the Premiers of New South Wales and Queensland.

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10. Each of the parties hereto shall indemnify the Commissioner appointed as Chairman and the Commissioner appointed by its own Governor in respect of any act done by him and of any losses costs or damages incurred by him in the bona fide execution of the powers vested in the Commission by or under this Agreement or any Act ratifying the same.

No. 10, 1947.
Indemnities.

11. The Commission may from time to time appoint and employ a Secretary and such other officers and servants as it thinks fit and may remove or dismiss them. PROVIDED HOWEVER that the Commission may in lieu of so appointing and employing a Secretary arrange for a person employed by either of the parties hereto or by any Authority constituted by either of the parties hereto to act as Secretary to the Commission in which case such salary fees or allowance and such expenses as may be approved by the Commission and agreed upon by the State or Authority concerned may be paid to such person.

Appoint-
ment of
Secretary
and officers.

12. The services of persons employed by either of the parties hereto or by any Authority constituted by either of the parties hereto may and as far as practicable shall be utilised by the Commission for the purposes of carrying out any work or services to be carried out or performed by the Commission pursuant to this Agreement and the Commission may arrange with the State or Authority concerned as the case may be for the utilisation of the services of any of such persons for such purposes and for payment for the work or services carried out or performed by any of such persons for the Commission and the services of any of such persons may be utilised in part by the Commission and in part by a party hereto or Authority constituted by a party hereto.

Employment
of Officers
in Public
Service.

13. The Commission shall cause proper minutes or records of all its proceedings to be kept.

Records of
proceedings.

14. It shall be the duty of the Commission to arrange for and carry on an effective and uniform system of making and recording continuous gaugings of—

Gaugings.

- (a) the flow of water in the Dumaresq River at a place downstream of and as close as practicable to the Dumaresq Dam referred to in Clause 16 and at such other places (being not less than three in number) as the Commission may deem necessary along the Carrier Rivers;
- (b) such of the rivers which are tributary to or effluent from the Carrier Rivers as the Commission deems necessary to determine the volume of inflow from such tributary rivers into the Carrier Rivers and the volume of outflow by such effluent rivers from the Carrier Rivers;
- (c) all diversions whether natural or artificial or partly natural and partly artificial from the Carrier Rivers;

and to arrange for the construction maintenance operation and control of such gauging stations as may be necessary for the making and recording of the gaugings mentioned in this Clause. Each of the

parties

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No. 10, 1947. parties hereto shall through its Controlling Authority but at the cost and expense of the Commission make and record such of the said gaugings as it may be directed by the Commission to make and record and shall supply to the Commission from time to time all such particulars as the Commission may require of the gaugings made and recorded by such party including (if the Commission so requires) particulars daily of the rate of inflow from such tributary rivers into the Carrier Rivers.

Certain powers and duties of Commission.

15. Subject to the provisions of this Agreement the Commission—

(a) may from time to time so far as may be necessary for giving effect to this Agreement declare the quantities of and times for and means of verification of—

(i) all deliveries of water from the Dumaresq Storage referred to in Clause 16; and

(ii) the discharge of water past each of the other works referred to in that Clause;

and in so declaring such quantities and times shall have regard to the quantities and times most suitable and convenient for the purposes of this Agreement and to the requirements of each of the parties hereto at different points along the Carrier Rivers and all such declarations shall be observed by the parties hereto respectively;

(b) shall before the First day of October in each year prepare and forward to each of the parties hereto a report as to—

(i) its proceedings during the twelve months ended on the Thirtieth day of June then last past;

(ii) the operations carried on by it or under its directions or orders and particularly the deliveries and discharges of water during such period;

(iii) the names salaries or wages fees allowances expenses positions and duties of officers or persons employed by it during such period; and

(iv) its administration generally during the said period.

PART III.

WORKS TO BE CONSTRUCTED AND WORKS TO BE TAKEN OVER.

Works to be constructed.

16. (1) The works to be constructed under this Agreement comprise:—

(a) a Dam (hereinafter referred to as “the Dumaresq Dam”) on the Dumaresq River at a site to be selected by the Commission such Dam to give a storage basin (hereinafter referred to as “the Dumaresq Storage”) with a capacity as large as is reasonably practicable;

(b)

- (b) such weirs (additional to those referred to in paragraphs **No. 10, 1947.** (a) and (b) of subclause (2) of this Clause) on the Carrier Rivers (such additional weirs being hereinafter referred to as "the New Weirs") as may be found necessary to meet the requirements of irrigation along those Rivers (including diversions of water by gravitation for irrigation) such New Weirs to be not less than six and not more than twelve in number (inclusive of the weirs referred to in paragraph (b) of subclause (2) of this Clause but exclusive of the Goondiwindi Weir and the Mungindi Weir referred to in paragraph (a) of subclause (2) of this Clause) the locations of the New Weirs to be determined by the Commission within a period of seven years from the ratification of this Agreement by the Parliaments of New South Wales and Queensland;
- (c) regulators in effluents from the Carrier Rivers (hereinafter called "the Regulators") up to four in number to provide for the control of the flow in the Carrier Rivers during periods of regulated flow;

(2) the works to be taken over as hereinafter in this Agreement provided comprise:

- (a) the existing Weir in the Macintyre River near the town of Goondiwindi (herein referred to as "the Goondiwindi Weir") and the existing Weir in the Barwon River near the town of Mungindi (herein referred to as "the Mungindi Weir");
- (b) any other weirs on the Carrier Rivers the construction of which has been commenced or completed by either party hereto with the consent of the other party hereto before this Agreement comes into effect (hereinafter referred to as "any Weirs under construction").

17. (1) Subject to the provisions of this Agreement the Dumaresq Dam shall be constructed maintained and operated by and the Dumaresq Dam and the Dumaresq Storage shall be controlled by New South Wales. **Dumaresq Storage.**

(2) Subject to the provisions of this Agreement the New Weirs and the Regulators shall be constructed maintained operated and controlled by Queensland which shall also take over maintain operate and control the Goondiwindi Weir the Mungindi Weir and any Weirs under construction. **Weirs and Regulators.**

18. The labour required by each of the parties hereto for the construction maintenance operation and control of any work to be constructed maintained operated or controlled by it under this Agreement shall so far as may be practicable be drawn in equal numbers from the States of New South Wales and Queensland provided that in case of emergency labour may be obtained by either party from any available source. **Employment of Labour.**

19. Subject to the provisions of this Agreement each of the parties hereto shall as soon as practicable after this Agreement comes into effect commence the construction of the works which are to be **Commencement and completion of works.**

constructed

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No. 10, 1947. constructed by it as provided in Clause 17 and shall proceed with such construction without cessation (other than such as may be due to unavoidable causes) until such works are completed.

Preparation and submission of General Scheme, Designs etc.

20. Each of the parties hereto shall—

- (a) as soon as practicable carry out and complete investigations and surveys in respect of the works to be constructed by it under this Agreement;
- (b) as soon as practicable cause to be prepared and submitted to the Commission for its approval a general scheme in respect of the works to be constructed by it under this Agreement; and
- (c) before commencing the construction of any work cause to be prepared and submitted to the Commission for its approval designs and estimates of cost of such work.

Approval of General Scheme designs and estimates.

21. The Commission may approve of any such general scheme and of any such designs or estimates with or without alterations or additions or may from time to time refer the same for amendment to the party submitting the same and in considering the sites at which weirs are to be constructed the Commission shall as far as practicable have regard to the suitability of the sites for the purpose of affording convenient off-takes for irrigation requirements.

Approvals necessary prior to commencement of works.

22. (1) No work to be constructed under this Agreement shall be commenced until the Commission has approved of—

- (a) the general scheme embracing such work;
- (b) the designs and estimates in respect of such work; and
- (c) such work being commenced.

Works to be constructed in accord with approvals.

(2) Every work to be constructed under this Agreement shall be constructed in accordance with the general scheme embracing such work and the designs in respect of such work approved by the Commission.

Directions by Commission as to works.

23. The Commission shall have full power to give directions to secure the suitability durability and proper maintenance of works and the due observance of the provisions of this Agreement and in particular and without limiting the generality of the foregoing power to direct—

- (a) the commencement and order in point of time of the construction of works to be constructed under this Agreement;
- (b) the rate of progress of works whether of construction or of maintenance;
- (c) the method and extent of maintenance of works;
- (d) if necessary what works shall be regarded as works of construction and what works shall be regarded as works of maintenance;

and all such directions shall be carried out by the parties hereto respectively.

24. The Commission shall have full power to give directions with respect to the operation and control of the whole of the works referred to in Clause 16 and with respect to the conditions under which such works shall be operated and with respect to the control of the Dumaresq Storage and in particular and without limiting the generality of the foregoing power to give directions with respect to:—

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Directions by Commission as to operation and control of works and discharges of water.

(a) the storage or impounding of water by the works referred to in Clause 16 or any of them or by the Dumaresq Storage;

(b) the times for and rates of discharge or release of water from the Dumaresq Storage; and

(c) the times for and rates of discharge of water past each of the Weirs and Regulators referred to in Clause 16;

and all such directions shall be carried out by the parties hereto respectively.

25. A party hereto within whose State any of the works or any parts of the works referred to in Clause 16 are to be or are being or have been constructed or taken over or maintained or operated or controlled by the other party hereto or within whose State the Dumaresq Storage or any part thereof is to be controlled by the other party hereto shall grant to such other party or to such authority of such other party as may be authorised by such other party in that behalf all such powers licences and permissions over or with respect to the territory of the party first mentioned in this Clause as may be necessary for the construction maintenance operation or control of such works or for the control of the Dumaresq Storage or for the exercise or performance of the powers or duties conferred or imposed upon such other party by this Agreement and each of the parties hereto shall take such steps either by acquiring lands or interests in lands or otherwise as may be necessary to enable it to carry out the provisions of this Clause.

Parties hereto to facilitate construction.

PART IV.

FINANCE.

26. The estimated cost of the several works mentioned in subclause (1) of Clause 16 and the Dumaresq Storage is as follows:—

	Estimated cost of works.
(a) The Dumaresq Dam and the Dumaresq Storage	£1,000,000
(b) The New Weirs—12 at £10,000 each (Average)	120,000
(c) The Regulators—4 at £5,000 each (Average) ..	20,000
	£1,140,000

27. (1) The salary fees or allowance and expenses of each Commissioner or Deputy Commissioner (other than the Chairman of the Commission or his Deputy) shall be paid by the party by whose Governor he was appointed.

Allocation of costs.

(2)

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No. 10, 1947. (2) The following costs and expenses shall be borne by the parties hereto in equal shares:—

- (a) all costs and expenses of the Commission;
- (b) the salary fees or allowance and the expenses of each Chairman and Deputy Chairman;
- (c) all amounts which either of the parties hereto may become liable to pay under the indemnities agreed to be given by Clause 10;
- (d) all costs and expenses incurred in carrying out the provisions of Clause 14;
- (e) the costs and expenses incurred by each of the parties hereto in carrying out the provisions of Clauses 17, 20, 21 and 25;
- (f) the cost of any examination and audit made pursuant to Clause 31;
- (g) all amounts of compensation paid by either of the parties hereto or by any authority constituted by either of the parties hereto for any damage occasioned by or arising out of anything done by it under this Agreement but only if the amount of such compensation has been fixed by a Court of competent jurisdiction or has been approved by the Commission;
- (h) all amounts paid by either of the parties hereto or by any authority constituted by either of the parties hereto in respect of or incidental to the acquisition of lands or interests in land which it may become necessary to acquire for the purposes of this Agreement whether for compensation money interest damages costs charges or expenses or otherwise howsoever.

**Payment of
compensa-
tion for
Damage.**

**Estimates
of Expendi-
ture.**

28. (1) The Commission shall within six months after the date upon which this Agreement comes into effect prepare and submit to each of the parties hereto a detailed estimate of the amount of money required during the period commencing on the date of the submission of such estimate and ending on the Thirtieth day of June then next ensuing (hereinafter called "the first period") to meet all expenditure during such period in respect of the matters mentioned or referred to in paragraphs (a) to (h) inclusive of subclause (2) of Clause 27.

(2) The Commission shall in the month of March in each year commencing with the month of March immediately preceding the expiration of the first period prepare and submit to each of the parties hereto a detailed estimate of the amount of money required during the year commencing on the First day of July then next ensuing to meet all expenditure during that year in respect of the matters mentioned or referred to in paragraphs (a) to (h) inclusive of subclause (2) of Clause 27 PROVIDED ALWAYS that if this Agreement should not come into effect in sufficient time to permit of the preparation and submission by the Commission to each of the parties hereto in the month of March immediately preceding the expiration

of

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of the first period of a detailed estimate in accordance with the provisions of this subclause in respect of the period of one year next ensuing after the expiration of the first period then in such case such estimate in respect of such period of one year shall be prepared and submitted by the Commission to each of the parties hereto as soon as reasonably practicable after this Agreement comes into effect. **No. 10, 1947.**

(3) Each of the parties hereto shall after the submission to it of any such estimate as is mentioned in subclause (1) or subclause (2) of this Clause pay to the Commission one half of the amount of such estimate. The Commission at its option may in writing require such payment to be made either in one sum payable when directed by the Commission or by instalments of such amounts and payable at such times as the Commission shall from time to time direct PROVIDED ALWAYS that each of the parties hereto shall be allowed one calendar month at least from the submission to it of any request for a payment under this subclause within which to make such payment. PROVIDED FURTHER that the Commission shall not differentiate between the parties in respect of the times or the manner of the payment of their respective shares.

(4) If in the opinion of the Commission it is necessary in the first period or in any year commencing on the First day of July to meet in respect of any of the matters mentioned or referred to in paragraphs (a) to (h) inclusive of subclause (2) of Clause 27 any expenditure in excess of the amount set out in the estimate for that period or year the Commission shall prepare and submit to each of the parties hereto a detailed estimate of the amount of such excess expenditure and each of the parties hereto shall thereupon pay to the Commission one half of the amount of such excess.

(5) Every such estimate shall show the manner in which it is proposed to expend the amount of such estimate.

29. In accordance with the estimates provided for in the next preceding Clause of this Agreement the Commission shall **Payment by Commission to States.**

(a) in the first period pay to each of the parties hereto or to such authority or authorities constituted by such party as may be nominated by it to receive the same an amount sufficient to defray the expenditure of such party and its authorities during the first period in respect of the matters mentioned or referred to in paragraphs (c) to (h) inclusive of subclause (2) of Clause 27.

(b) in each year commencing on the First day of July thereafter pay to each of the parties hereto or to such authority or authorities constituted by such party as may be nominated by it to receive the same an amount sufficient to defray the expenditure of such party and its authorities during that year in respect of the matters mentioned or referred to in paragraphs (c) to (h) inclusive of subclause (2) of Clause 27;

and the amount to be paid by the Commission under this Clause to each of the parties hereto and/or its authorities in the first period or in any year commencing on the First day of July may be paid in

one

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- No. 10, 1947.** one sum or by instalments from time to time and in making such payments the Commission shall have regard as far as practicable to the moneys required from time to time to defray the expenditure of such party and/or its authorities during the first period or during such year commencing on the First day of July as the case may be in respect of the matters mentioned or referred to in paragraphs (c) to (h) inclusive of subclause (2) of Clause 27.
- Unexpended balances.** 30. Of the moneys paid to the Commission by the parties hereto pursuant to this Agreement such balances as remain unexpended on the Thirtieth day of June in any year shall be available for expenditure during the year commencing on the First day of July then next following.
- Audit and inspection of books.** 31. The books accounts and vouchers of the Commission shall be examined and audited at least once in every year by the Auditors-General of New South Wales and Queensland or such one of them as may be agreed upon from time to time by the Premiers of New South Wales and Queensland and a report of the result of any examination and audit under this Clause shall be furnished to each of the parties hereto by the person making the same. A certificate by the Auditor-General making any such examination and audit as to the cost thereof shall be final and conclusive and binding upon the parties hereto and the Commission.
- Commission to account.** 32. The Commission shall account to the parties hereto for all moneys received by the Commission under or for the purposes of this Agreement.

PART V.

DISTRIBUTION AND USE OF WATERS.

- Apportionment of water.** 33. The water discharged from the Dumaresq Storage whether by regulated flow or unregulated flow shall subject to the provisions of this Agreement be available for use by the parties hereto in equal shares **PROVIDED THAT:**
- (a) if at any time it be found that the amount of water available for use by either of the parties hereto under the foregoing provisions of this Clause is in excess of the requirements of that party the Premier of that party may agree with the Premier of the other party hereto that the excess or any part of the excess shall subject to the provisions of this Agreement be thereafter available for use by such other party hereto and the water so discharged from the Dumaresq Storage shall thereafter but subject always to the provisions of this Agreement be available for use by the parties hereto in altered shares accordingly and the capital cost of the Dumaresq Dam and Dumaresq Storage as theretofore borne by and between the parties hereto (whether pursuant to Clause 27 of this Agreement or pursuant to a previous Agreement between the parties made under this paragraph (a)) shall thereupon be adjusted between the parties hereto

so that the proportionate parts of such capital cost which shall be borne by the respective parties hereto shall be in the same proportion as the shares in which the water to be so discharged from the Dumaresq Storage is agreed to be thenceforth available to the said parties. The party hereto for whose use an additional quantity of water is by any such Agreement made available shall forthwith pay to the other party such sum as having regard to any previous adjustment of the said capital cost made under this paragraph (a) shall be requisite to give effect to the above provisions;

No. 10, 1947.

- (b) if in respect of any period of a year the amount of water available for use by either of the parties hereto under the foregoing provisions of this Clause or under any Agreement made pursuant to paragraph (a) of this Clause is not by the Controlling Authority of that party considered sufficient to meet the requirements of that party during that period and the Controlling Authority of the other party hereto is willing to relinquish during that period a portion of the share available for use by such other party under the foregoing provisions of this Clause or under any Agreement made pursuant to paragraph (a) of this Clause the Controlling Authority which is willing to relinquish a portion of the share available for use by its State may agree with the Controlling Authority of the party requiring the additional water that such portion shall during such period of a year be available for use by the party requiring the additional water and the water available for use by the parties hereto under this Agreement shall during such period of a year be available for use by them in altered shares accordingly but no such Agreement shall be made—

(i) unless the Commission is of the opinion that the quantity of water available in the Dumaresq Storage is such as to permit of the altered arrangement; and

(ii) except with the written consent of the Commission;

AND with respect to any and every such Agreement made pursuant to this paragraph (b) the party requiring the additional water shall pay to the other party a sum equal to the difference between five (5) per centum of the proportion of the capital cost of the Dumaresq Dam and the Dumaresq Storage corresponding with the proportion of the water discharged from the Dumaresq Storage as aforesaid to which the party requiring the additional water would have been entitled but for the Agreement made pursuant to this paragraph (b) and five (5) per centum of the proportion of such capital cost corresponding with the increased proportion of water so discharged to which such lastmentioned party becomes entitled under the Agreement made pursuant to this paragraph (b).

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No. 10, 1947. For the purposes of this Clause a certificate of the Chairman or Deputy Chairman of the Commission as to the amount of the capital cost of the Dumaresq Dam and the Dumaresq Storage shall be final and conclusive and binding upon the parties hereto.

**Rights of
States to
use water.**

34. Each of the parties hereto may utilise the water which it is entitled to divert or use under or in pursuance of this Agreement for such purpose or purposes as it may deem fit and (subject to the provisions of this Agreement) may divert or authorise the diversion from the Carrier Rivers of whatever water it is entitled to take or divert from the Carrier Rivers at whatever point or points and by whatever means it may desire.

**Diversions
upstream of
Dumaresq
Storage.**

35. Any water diverted—

- (a) by the Controlling Authority of a State; or
- (b) under or pursuant to any license permit authority or approval;

from the Dumaresq River upstream of the Dumaresq Storage or from any of the tributaries of the Dumaresq River upstream of that storage or from the Dumaresq Storage itself shall be regarded as part of the share of the State in which it is used or in which the lands to which it is applied are located and all such diversions shall be dealt with in the same manner as diversions from the Carrier Rivers.

**Losses of
Water.**

36. The Commission in conjunction with the Controlling Authorities of the two States shall take such action as may be necessary to ascertain or assess the quantities of water lost whilst flowing in or passing down or being in the Carrier Rivers and whilst impounded by the weirs and regulators referred to in Clause 16 and the losses so ascertained or assessed are to be taken into account in respect of the division of the available flows having regard always to the points of diversion from the Carrier Rivers and the impoundings at the said weirs and regulators and such losses shall also be taken into account in respect of any waters passed into the Carrier Rivers from the tributaries to the same.

**Determina-
tion of
regulated
flow.**

37. The Controlling Authority of each State shall from time to time as and when required by the Commission supply to the Commission in respect of each year commencing on the First day of July particulars of the flow or discharge from the Dumaresq Storage estimated by it to be required by its State during each calendar month of that year and the Commission having regard to—

- (a) the particulars from time to time supplied to it by the Controlling Authority of each State pursuant to this Clause;
- (b) what the Commission anticipates the requirements of the two States will be during succeeding months;
- (c) the quantity of water diverted or used by each of the States during the two consecutive calendar months immediately preceding the month in which the determination hereinafter in this Clause referred to is made;

(d)

- (d) the quantity of water for the time being stored in the **No. 10, 1947.**
Dumaresq Storage;
- (e) the period of the year;
- (f) prevailing weather conditions; and
- (g) such other considerations as may in the opinion of the
Commission affect the matter;

shall from time to time determine and direct at what rate or rates
water shall be released or discharged from the Dumaresq Storage.

38. (1) If and whenever the quantity of water held in the Dumaresq Storage is in the opinion of the Commission not more than sufficient to meet the requirements for domestic and stock watering purposes town and railway water supplies and other public purposes normally met from the Dumaresq Storage and the Carrier Rivers the Commission may by directions issued to the Controlling Authorities of the two States direct that all or any diversions of water for any other purposes shall until further notice cease or be reduced to such extent as may be specified by the Commission.

Diversions
may be
restricted
in certain
circum-
stances.

(2) If and whenever the quantity of water held in the Dumaresq Storage is in the opinion of the Commission insufficient to meet the requirements for domestic and stock watering purposes town and railway water supplies and other public purposes normally met from the Dumaresq Storage and the Carrier Rivers the Commission may by directions issued to the Controlling Authorities of the two States direct that diversions for all or any of such purposes shall until further notice cease or be reduced to such extent as may be specified by the Commission.

(3) If and whenever the Commission is of the opinion that the diversions of water by the Controlling Authority of a State or under or pursuant to licences permits authorities or approvals to divert water granted in that State have resulted or will result in the share of water to which that State is for the time being entitled under this Agreement or under any Agreement made pursuant to Clause 33 being exceeded the Commission may by a direction issued to the Controlling Authority of that State direct that such diversions shall until further notice be reduced to such extent as may be specified by the Commission.

(4) The Controlling Authority of each State shall take all such steps as may be necessary to give effect to every direction issued to it under this Clause and in particular and without limiting the generality of the foregoing provision of this subclause the Controlling Authority of each State shall issue such directions to the holders of licences permits authorities and approvals to divert water granted in its State or some of such holders as may be necessary to give effect to every direction issued to such Controlling Authority under this Clause.

Enforcing
directions to
cease or
reduce
diversions.

(5) Each Controlling Authority shall also in the event of the holder of any licence permit authority or approval (granted in its State) to divert water from the Dumaresq Storage and/or from the
Carrier

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No. 10, 1947. Carrier Rivers failing to comply with a direction by such Controlling Authority to cease or to reduce or to limit or to restrict diversions from the Dumaresq Storage and/or the Carrier Rivers (whether such direction shall have been issued pursuant to or because of any direction of the Commission to such Controlling Authority or because of the fact that the quantity of water being diverted by or into its State was or was considered by such Controlling Authority likely to be in excess of the share of the water discharged from the Dumaresq Storage available for the use by that State) cancel or suspend such licence permit authority or approval.

(6) Each of the parties hereto shall clothe its Controlling Authority with the powers necessary to enable such Controlling Authority to fulfil its obligations under this Clause but this subclause shall not be construed to limit or affect the right of a State to confer or impose on its Controlling Authority any rights powers and duties (not inconsistent with this Agreement) as that State may think fit.

Height of
water in
and flow of
water past
Weirs and
Regulators.

39. (1) The Commission may from time to time determine the maximum height to which water may be held upstream of each of the Weirs and Regulators referred to in Clause 16—and all such determinations shall be observed by Queensland.

(2) The Commission having regard to—

- (a) the requirements along the full length of the Carrier Rivers;
- (b) the diversions from the part of the Carrier Rivers upstream of each Weir and each Regulator; and
- (c) losses of water along the Carrier Rivers and whilst impounded by the Weirs and Regulators referred to in Clause 16;

may direct what proportions of the regulated flow shall be allowed to pass each Weir and each Regulator referred to in Clause 16 and all such directions shall be carried out by Queensland.

Delivery of
water into
New South
Wales
below
Carrier
Rivers.

40. Any flow of water which the Controlling Authority for the State of New South Wales may from time to time request the Commission to deliver to the part of the Barwon River downstream of the point on the Barwon River downstream of Mungindi where that river reaches the 29th parallel of south latitude whether it comprise all or any part of its share of the regulated flow from the Dumaresq Storage or water discharged from New South Wales tributaries to the Carrier Rivers (either from natural flows in such tributaries or regulated flows from any conserving works or storages on such tributaries) shall subject to the losses of water in transmission in the Carrier Rivers be permitted to pass the point on the Barwon River downstream of Mungindi where that river reaches the 29th parallel of south latitude.

Surplus
water.

41. Any water which flows to and passes the point on the Barwon River downstream of Mungindi where the Barwon River reaches the 29th parallel of south latitude shall be then beyond the control of the Commission and the only part of such water which shall be

taken

taken into account in arriving at the respective shares of water to be made available for use by the parties hereto under this Agreement shall be that part of New South Wales's share of the regulated flow from the Dumaresq Storage which is permitted to pass the said point at the request of New South Wales under Clause 40. **No. 10, 1947.**

42. Each of the parties hereto shall have full right and liberty as it may deem fit to conserve and to divert and use or authorise the diversion and use of the waters of all rivers within its territory tributary to the Carrier Rivers downstream of the Dumaresq Dam and may cause the whole or any part of such waters to flow into and along the Carrier Rivers or partly along the same and subject to losses being taken into account as provided by Clause 36 may divert and use or authorise the diversion and use for any purpose and at any place from the Carrier Rivers of a quantity of water equivalent to the quantity of water caused to flow into the Carrier Rivers as aforesaid and the waters so diverted or authorised to be diverted shall in no way be regarded as part of the water to be shared between the parties hereto under the terms of this Agreement. **Waters of Tributaries downstream of Dumaresq Storage.**

PART VI.

LICENCES AND PERMITS.

43. The Controlling Authority of each State may divert and use or permit diversions and use of water from the Carrier Rivers and from the Dumaresq River upstream of the Dumaresq Storage and from the tributaries of the Dumaresq River upstream of that Storage and from the Dumaresq Storage itself but only in accordance with the provisions of the Acts and Regulations in that behalf from time to time in force in that State. **Diversions to be authorised in accordance with State law.**

44. The Controlling Authority of each State—

(a) shall within six months after this Agreement comes into effect supply to the Commission a return containing such particulars as the Commission may require of all licences permits authorities or approvals to divert water from the Border Rivers and from any tributaries of the Dumaresq River and in force in its State at the end of the calendar month immediately preceding the calendar month during which such return is supplied; **Returns to be supplied of existing and future rights to divert and of cancellations of rights.**

(b) shall during each calendar month following the calendar month during which the return referred to in the preceding Storage shall be approved of by the Commission supply to following the month in which the site of the Dumaresq paragraph (a) is supplied up to and including the month the Commission a return containing such particulars as the Commission may require of all additional licences permits authorities or approvals to divert water from the Border Rivers and from the tributaries of the Dumaresq River and granted in its State during the preceding calendar month;

(c)

No. 10, 1947.

- (c) shall during each calendar month following the calendar month during which the last of the returns referred to in the preceding paragraph (b) is required by that paragraph to be supplied supply to the Commission a return containing such particulars as the Commission may require of all additional licences permits authorities or approvals to divert water from the Carrier Rivers and from the Dumaresq River upstream of the site of the Dumaresq Storage and from any tributaries of the Dumaresq River upstream of that site and from the Dumaresq Storage itself and granted in its State during the preceding calendar month;
- (d) shall within fourteen days of the cancellation or lapsing of any such licence permit authority or approval as is mentioned in paragraphs (a) (b) and (c) of this Clause notify the Commission of such cancellation or lapsing.

Returns to
be supplied
of Diver-
sions.

45. The Controlling Authority of each State shall from time to time as and when required by the Commission supply to the Commission returns containing such particulars as the Commission may require and covering such periods as may be stipulated by the Commission of the quantities of water diverted from the Carrier Rivers and from the Dumaresq River upstream of the site of the Dumaresq Storage and from any tributaries of the Dumaresq River upstream of that site and from the Dumaresq Storage itself by the Controlling Authority or under or pursuant to each licence permit authority or approval granted in its State.

 PART VII.

ELECTRICITY UNDERTAKING.

Generation
of Electri-
city.

46. Subject to the laws of a State relating to the generation and supply of electricity in that State the Commission may arrange with any Electricity Authority of either of the two States or with any Electricity Authorities of both States acting in conjunction for the utilisation of the water flowing or being discharged from or past any of the works referred to in Clause 16 for the purpose of generating electricity upon such terms and conditions as the Commission shall think proper: PROVIDED ALWAYS that it shall be a term of any such arrangement that the flow or discharge of water from or past the work or works concerned shall at all times be under the control of the Commission and that the electricity generated shall be available for use by the parties hereto in equal shares or in such other shares and proportions as may at any time or from time to time be agreed upon between the Premiers of New South Wales and Queensland and no arrangement shall be entered into which provides for or contemplates the flow or discharge of water from or past any work or works at any time in excess of the quantities or at greater rates than would be required for the purposes of and in conformity with this Agreement had no such arrangement been entered into.

 PART

PART VIII.

No. 10, 1947.

MISCELLANEOUS.

47. Each of the parties hereto shall from time to time as and when required by the Commission furnish to the Commission all such other information and particulars as the Commission may require for the purposes of this Agreement and as such party is able to furnish.

Furnishing
information
and
particulars.

48. Any opinion to be formed by the Commission under any provision of this Agreement may be formed by it on such materials as it may think sufficient and in such cases the Commission shall be deemed to be exercising merely administrative functions.

Opinions of
Commission.

49. The Act ratifying this Agreement by the Parliament of each State shall—

Special
provisions
to be
inserted in
Ratifying
Acts.

(a) provide that notwithstanding anything contained in any Act of Parliament of the enacting State relating to industrial arbitration or in any award or agreement made thereunder or pursuant thereto it shall be lawful for the other State in constructing maintaining operating or controlling in the enacting State any work required to be constructed maintained operated or controlled by such other State under this Agreement to observe the same conditions and pay the same wages as would prevail if such construction maintenance operation or control were being undertaken in such other State;

(b) contain provisions in or to the effect of the provisions contained in Sections 19, 20 and 21 of the River Murray Waters Act, 1915, of the State of New South Wales.

50. The marginal notes placed opposite the several Clauses of this Agreement and indicating or purporting to indicate the contents or objects of such Clauses respectively shall not be taken as part of this Agreement or in any manner affect the construction hereof or of any Clause or thing herein contained.

Marginal
notes.

PART IX.

INTERPRETATION.

51. In this Agreement save where inconsistent with the context:—

“Auditor-General” shall include the person acting as such for the time being.

“Border Rivers” means the parts of the Severn Dumaresq Macintyre and Barwon Rivers constituting part of the boundary between the States of New South Wales and Queensland.

“Carrier Rivers” means the parts of the Severn Dumaresq Macintyre and Barwon Rivers constituting part of the boundary between the States of New South Wales and Queensland and located between the site on the Dumaresq River of the Dam referred to in this Agreement as the

“Dumaresq

New South Wales—Queensland Border Rivers Act.

No. 10, 1947.

“Dumaresq Dam” and the point on the Barwon River downstream of Mungindi where the Barwon River reaches the 29th parallel of south latitude.

“Chief Justice” includes the person for the time being acting as such.

“Controlling Authority” where used in reference to a State means any Government Department or Authority of that State which under the laws of that State is authorised or required to exercise the powers and fulfil the obligations by this Agreement conferred or imposed upon a Controlling Authority.

“Diversion” includes abstraction impounding and appropriation of water that diminishes or retards the volume of flow of a river.

“Governor” where used in reference to a State means Governor with the advice of the Executive Council of that State and shall include the person for the time being lawfully administering the Government of that State.

“Land” includes Crown Lands and buildings messuages tenements and hereditaments of any tenure and any easement right or privilege in over or affecting any land.

“Maintenance” includes repairs and improvements.

“Person” includes a corporation.

“Premier” includes the Minister of the State for the time being acting as such.

“River” and “Tributary” respectively include any affluent effluent creek anabranch or extension of and any lake or lagoon connected with the river or tributary.

IN WITNESS WHEREOF the Premiers of the States of New South Wales and Queensland have hereunto set their hands and seals the day and year first above written.

SIGNED SEALED AND DELIVERED
BY THE HONOURABLE
WILLIAM JOHN McKELL the
Premier of the State of New South
Wales for and on behalf of that State
(but so as not to incur any personal
liability) in the presence of—

(L.S.)

W. J. McKELL.

J. W. FERGUSON.

SIGNED SEALED AND DELIVERED
BY THE HONOURABLE EDWARD
MICHAEL HANLON the Premier
of the State of Queensland for and
on behalf of that State (but so as not
to incur any personal liability) in the
presence of—

(L.S.)

E. M. HANLON.

THOS. G. HOPE.

SOIL