

# FISH RIVER WATER SUPPLY ADMINISTRATION ACT.

Act No. 16, 1945.

George VI.  
No. 16, 1945.

AN Act to provide for the control and administration of certain works of water supply to be known as the Fish River Water Supply; to provide for the payment of contributions by certain councils towards the cost of constructing such works; to amend the Local Government Act, 1919; and for purposes connected therewith. [Assented to, 3rd April, 1945.]

BE it 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:—

## PART I.

### PRELIMINARY AND ADMINISTRATION.

Short title.

1. (1) This Act may be cited as the "Fish River Water Supply Administration Act, 1945."

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(2) This Act is divided into Parts as follows:— No. 16, 1945.

PART I.—PRELIMINARY AND ADMINISTRATION—SS. 1-5. Division into Parts.

PART II.—SUPPLY OF WATER—SS. 6-10.

PART III.—FINANCIAL—SS. 11-14.

PART IV.—CONTRIBUTIONS AND BORROWING BY COUNCILS—SS. 15-16.

PART V.—GENERAL—SS. 17-19.

SCHEDULES.

**2.** In this Act, unless the context or subject matter Definitions. otherwise indicates or requires—

“Administrator” means the Administrator of the Fish River Water Supply.

“Council” means a council within the meaning of the Local Government Act and includes a county council constituted under any Act.

“Local Government Act” means the Local Government Act, 1919, as amended by subsequent Acts.

“Prescribed” means prescribed by this Act or by the regulations.

“Regulations” means regulations made under this Act.

“Works” means the works of water supply mentioned in the First Schedule to this Act and all additions, amplifications, improvements and extensions whatsoever to and of such works constructed before or after the commencement of this Act.

**3.** (1) This Act shall be administered for and on behalf of the Crown by the Administrator, who shall be the Minister for Public Works, and who shall have and may exercise and perform the powers, authorities, duties and functions by this Act conferred or imposed on the Administrator. Administration. cf. Act No. 3, 1942, s. 5.

(2) In case of the absence from whatever cause of the Administrator, the Executive Councillor for the time being exercising the powers and performing the official duties and responsible for the obligations appertaining or annexed to the office of Minister for Public Works shall have and may exercise and perform the powers, authorities, duties and functions of the Administrator.

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(3) The Administrator may, with the consent of the Minister of the Department concerned, by writing under his hand, delegate to the Under Secretary of the Department of Public Works or to the person for the time being acting in his place or to any other officer of the Public Service any of the powers, authorities, duties and functions conferred or imposed upon him by this Act other than this power of delegation.

(4) The Administrator shall, for the purposes of this Act, be a corporation sole with perpetual succession and a seal of office under the name of "The Administrator of the Fish River Water Supply" and in that name may sue and be sued.

Works controlled by the Administrator.

4. The works shall be controlled and administered by the Administrator.

Care and management of certain parts of the works.  
cf. Act No. 36, 1941, s. 5.

5. (1) Upon the completion or the partial completion of such part of the works as is used for or in connection with the reticulation of the supply of water to a council, or for or in connection with the supply of water to any person upon premises situated within the area of a council, or at any time thereafter, the Governor may by proclamation published in the Gazette charge such council with the care and management of any such part of the works as is mentioned in the proclamation.

(2) The part of the works mentioned in any proclamation published pursuant to subsection one of this section shall be deemed to be works with the care and management of which the council is charged under Part XIV of the Local Government Act, and the provisions of that Part of that Act, other than the provisions relating to the notification and repayment of the capital debt, shall mutatis mutandis apply to and in respect of any such part of the works.

(3) Each such council shall make and levy rates and charges under the Local Government Act, to return an amount sufficient to meet all sums which become due to the Administrator for water supplied or under any contract made between the Administrator and such council and to meet such of the costs of administration of the council as may be prescribed.

(4) The limitations contained in sections one hundred and twenty-nine and one hundred and thirty of the Local Government Act as to the amount of rates shall

shall not apply to or in respect of any water supply local rate made and levied in pursuance of subsection three of this section. **No. 16, 1945.**

(5) For the purposes of making and levying any such rate, a water pipe being part of any works with the care and management of which the council is, by or under this Act, charged, shall be deemed to be a water pipe of the council.

(6) (a) Where before the publication of any proclamation pursuant to subsection one of this section, the Administrator had entered into contracts with any persons to supply water from the works to any premises within the area of the council, the Governor may, by the proclamation charging the council with the care and management of the part of the works from which the supply is made, or by a subsequent proclamation published in the Gazette, transfer to the council as from a date specified in the proclamation, all the rights and liabilities of the Administrator under such contracts or any specified contracts or all such contracts other than specified contracts.

(b) On and from the date so specified the following provisions shall have effect:—

- (i) all contracts so transferred shall be deemed to be contracts entered into by the council;
- (ii) any securities given to or by the Administrator in relation to any contract so transferred and in force immediately before the specified date shall be deemed to be securities given to or by the council;
- (iii) the council may enforce and realise any such security as if such security were existing in favour of the council.

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**PART II.**

**SUPPLY OF WATER.**

**6.** The Administrator may supply water from the works to any person who enters into a contract with him to accept a supply of water. Any such contract may contain such terms and conditions as the Administrator thinks fit. Administra-  
tor may  
supply  
water.  
Act No. 36,  
1941, s. 6.

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Supply for  
railway  
purposes.  
Act No. 36,  
1941, s. 7.

7. For the purpose of supplying the Commissioner for Railways or any other person with water pursuant to this Act, the Administrator may at all times use and repair any portion of the works notwithstanding that a council may be charged with the care and management thereof.

Power of  
council to  
enter into  
contracts.  
*Ibid.* s. 8.

8. Any council may enter into a contract with the Administrator for the supply of water to such council upon such terms and conditions as may be agreed upon.

Council not  
to supply out-  
side area with-  
out consent.  
*Ibid.* s. 9.

9. A council which is taking a supply of water from the Administrator shall not, except with the consent of the Administrator, supply water to any person upon premises situated outside the area of such council.

No compen-  
sation for  
failure of  
supply.  
cf. Act No.  
59, 1915,  
s. 15; Act  
No. 36, 1941,  
s. 10.

10. (1) The Administrator shall not under any circumstances be liable to make any payments in compensation or for damages should the water supplied be at any time unfit for dietetic or industrial purposes, nor for total or partial failure or cessation of the supply arising from any cause whatsoever.

(2) The Administrator shall at all times be entitled to discontinue the supply to a council or other person whenever he deems it necessary in the interests of public health or for the purpose of ensuring a proper supply.

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### PART III.

#### FINANCIAL.

Capital  
debt.

11. (1) The Governor may at any time by proclamation published in the Gazette declare that the capital debt in respect of the Fish River Water Supply shall, as at a date to be specified in the proclamation, be such amount as is specified in the proclamation. Such proclamation shall specify what part (if any) of such capital debt shall and what part (if any) thereof shall not bear interest.

(2) The Minister shall, as soon as practicable after the thirty-first day of December immediately following the declaration of the capital debt pursuant to subsection one of this section, determine the amount by which

which the capital debt should be increased or decreased by reason of expenditure or receipts during the period commencing on the date as at which the capital debt was declared and ending on the said thirty-first day of December. Thereafter the Minister shall as soon as practicable after the thirty-first day of December in each succeeding year, determine the amount by which the capital debt should be increased or decreased by reason of expenditure or receipts during the period of twelve months immediately preceding. No. 16, 1945.

The Minister shall notify in the Gazette the amount of such increase or decrease and shall in such notification state that the amount is to be added to or taken from that part of the capital debt which bears interest or that part of the capital debt which does not bear interest or that the amount is to be apportioned between such parts. Upon publication of such notification, the capital debt shall be deemed to be altered accordingly, and such alteration shall take effect as from the date specified in the notification.

**12.** (1) An account shall be kept in the Special Deposits Account in the Treasury to be called the "Fish River Water Supply Working Account," in this Act referred to as the "Working Account."

Allocation  
of moneys.  
cf. Act No.  
36, 1941,  
s. 12; Act  
No. 3, 1942,  
s. 13.

(2) (a) There shall be credited to the Working Account all revenue received by the Administrator in pursuance of this Act and such amounts as may from time to time be appropriated by Parliament for the purpose.

(b) There shall be debited to the Working Account the following charges, in the order set out hereunder:—

*Firstly*, the cost of administration, operation, repair and minor renewal of the works by the Administrator;

*Secondly*, interest on the interest-bearing part of the capital debt declared pursuant to section eleven of this Act for any year at a rate or rates to be determined by the Colonial Treasurer, but not exceeding the average rate payable during such year by the Government for loan moneys and exchange at a rate or rates to be determined

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by the Colonial Treasurer, the amount of which interest and exchange shall be credited to the Consolidated Revenue Fund;

*Thirdly*, contributions to the Renewal Reserve Account;

*Fourthly*, such contributions (if any) to a sinking fund as the Colonial Treasurer may direct.

(c) Any balance shall be applied in reduction of the capital debt or towards the cost of constructing the works or otherwise for any purpose connected with the administration of this Act as the Minister may direct.

The Minister shall notify in the Gazette the amount of any such reduction in the capital debt, and shall, in such notification, state that such reduction is to be made from that part of the capital debt which bears interest or from that part of the capital debt which does not bear interest, or that such reduction is to be apportioned between such parts. Upon publication of such notification, the capital debt shall be deemed to be altered accordingly and such alteration shall take effect as from the date specified in the notification.

Renewal  
Reserve  
Account.  
cf. Act No.  
36, 1941,  
s. 13; Act  
No. 3, 1942,  
s. 14.

**13.** (1) An account shall be kept in the Special Deposits Account in the Treasury to be called the "Fish River Water Supply Renewal Reserve Account," in this Act referred to as the "Renewal Reserve Account."

(2) There shall be credited to the Renewal Reserve Account as soon as practicable after the thirty-first day of December, one thousand nine hundred and forty-five, and after the same day in each succeeding year such sum as the Colonial Treasurer may approve.

(3) The Renewal Reserve Account shall be credited half-yearly with interest on the uninvested daily credit balance of the Renewal Reserve Account at such rate as the Colonial Treasurer may from time to time direct.

(4) The Minister may invest the whole or part of the balance at credit of the Renewal Reserve Account in Commonwealth Government securities or on fixed deposit with the Colonial Treasurer and interest accruing from such investments or such deposit shall be regularly added to the Renewal Reserve Account.

(5)

(5) The Renewal Reserve Account shall be drawn upon only for purposes of investment or re-investment or for renewing or replacing capital assets: No. 16, 1945.

Provided that the Minister may, with the approval of the Colonial Treasurer and subject to such conditions of repayment as the Colonial Treasurer may direct, authorize the expenditure of any balance at credit of the Renewal Reserve Account (which shall be deemed to include any amounts invested pursuant to subsection four of this section) towards extending the works. Interest on any such expenditure shall be debited to the Working Account and credited to the Renewal Reserve Account at such rate as the Colonial Treasurer may approve but not exceeding four per centum per annum.

(6) If the Minister considers the amount at credit of the Working Account insufficient to meet the contributions referred to in subsection two of this section, having regard to the charges referred to in subsection two of section twelve of this Act, such contribution or portion thereof may be allowed to remain a charge on the Working Account.

14. When in any year the revenue received by the Administrator is insufficient to meet the charges referred to in subsection two of section twelve of this Act, the Colonial Treasurer may, out of moneys provided by Parliament, pay to the Working Account the amount of such deficiency.

Payments  
by Colonial  
Treasurer.  
cf. Act No.  
36, 1941,  
s. 14; Act  
No. 3, 1942,  
s. 15.

Any moneys so paid to the Working Account shall, after payment of the charges referred to in subsection two of section twelve of this Act, be repaid to the Colonial Treasurer out of any balance remaining in the Working Account with interest at such rate (but not exceeding four per centum per annum) and at such times and by such instalments as the Colonial Treasurer may determine.

## PART IV.

## CONTRIBUTIONS AND BORROWING BY COUNCILS.

Councils to contribute to cost of works.

**15.** The Lithgow Municipal Council, the Blaxland Shire Council and the Oberon Shire Council shall pay to the Minister for Public Works on demand the respective amounts set out in the Second Schedule to this Act and such additional amounts as such councils may agree to pay to the Minister for Public Works in respect of constructing the works. Such amounts shall be applied by the said Minister towards the cost of constructing the works.

Councils may raise loans.

**16.** (1) For the purpose of making the payments required by section fifteen of this Act the Lithgow Municipal Council and the Oberon Shire Council may borrow by way of ordinary loan under the provisions of the Local Government Act the respective amounts to be paid by such councils in pursuance of that section.

(2) For the purpose of making the payment required by section fifteen of this Act the Blaxland Shire Council—

- (a) shall apply the sum of fifty-five thousand pounds borrowed in accordance with the Governor's approval of the twenty-first day of June, one thousand nine hundred and thirty-eight, for the purpose of the erection, construction and carrying out of works of water supply and works connected therewith, in part payment of the amount to be paid by the said council in pursuance of that section; and
- (b) may borrow by way of ordinary loan under the provisions of the Local Government Act the balance of the amount to be paid by the said council in pursuance of that section.

(3) The provisions of the Local Government Act, applicable to ordinary loans, shall mutatis mutandis apply to and in respect of any borrowing by a council under this section: Provided that the Governor may notwithstanding any restrictions imposed by the Local Government Act or any other Act upon the granting of approval to loans for works of water supply, approve of a loan for any of the purposes of this section.

(4)

(4) (a) Any loan raised by a council under the provisions of this section shall be deemed to be a loan raised for the purpose of the erection, construction and carrying out of works of water supply of that council and upon payment of the amount of such loan to the Minister for Public Works such loan shall be deemed to have been applied by the council for such purpose. The provisions of the Local Government Act shall apply to and in respect of such loan in all respects as if such loan had been applied by the council for the purpose of the erection, construction and carrying out of such works. No. 16, 1945.

(b) (i) Upon payment of the sum of fifty-five thousand pounds raised in accordance with the Governor's approval of the twenty-first day of June, one thousand nine hundred and thirty-eight, to the Minister for Public Works in accordance with the provisions of paragraph (a) of subsection two of this section, the said loan of fifty-five thousand pounds shall be deemed to have been applied by the Blaxland Shire Council for the purpose of the erection, construction and carrying out of works of water supply of that council. The provisions of the Local Government Act shall apply to and in respect of such loan in all respects as if such loan had been applied by the council for the purpose of the erection, construction and carrying out of such works.

(ii) No action suit or other proceeding whatsoever shall be commenced prosecuted or maintained against the Blaxland Shire Council or any member thereof in respect of the failure of that council to proceed with the erection, construction or carrying out of the works for the purpose of which the said loan of fifty-five thousand pounds was raised.

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**PART V.**

**GENERAL.**

**17.** (1) In the event of a council making default for a period of three months in the payment of any amount due to the Crown or to the Administrator pursuant to this Act, or under a contract made with such council pursuant Default by  
a council.  
cf. Act No.  
36, 1941,  
s. 15.

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**No. 16, 1945.** pursuant to this Act, the Governor may by proclamation published in the Gazette divest the council of the care and management of any portion of the works and vest the same in the Administrator.

(2) In the event of a council making default as aforesaid and such default continuing for a period of **three months** after written notice requiring the council to remedy the same has been given to the council by the Administrator, then and in any such case such default shall be deemed to be a default within the meaning of section three hundred and seventy-six of the Local Government Act, and a receiver may be appointed accordingly by the Supreme Court on the application of the Administrator, and such receiver shall have the powers and duties of a receiver appointed by virtue of that section.

Vesting of care and management of works in Administrator.  
cf. Act No. 36, 1941, s. 16.

**18.** (1) The Governor may by proclamation published in the Gazette vest in the Administrator the care and management of any portion of the works.

(2) The Administrator shall, in respect of any works the care and management of which are vested in him pursuant to this Act, have all the powers of making, levying and collecting rates and charges as are conferred upon a council under the Local Government Act.

(3) The limitations contained in sections one hundred and twenty-nine and one hundred and thirty of the Local Government Act, as to the amount of rates, shall not apply to or in respect of any water supply local rate made and levied in pursuance of this section.

(4) For the purpose of making and levying any such rate, a water pipe being portion of the works the care and management of which are vested in the Administrator, shall be deemed to be a water pipe of the Administrator.

**Regulations.** **19.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out the provisions of this Act.

(2)

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- (2) The regulations shall— No. 16, 1945.
- (a) be published in the Gazette;
  - (b) take effect from the date of such publication or from a later date to be specified in the regulations; and
  - (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then 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.

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### FIRST SCHEDULE.

Sec. 2.

Works of water supply for Glen Davis National Oil Company and Glen Davis township, Lithgow, Portland, Wallerawang, Lidsdale and Oberon, comprising the construction of a concrete dam on Fish River Creek at Oberon, construction of a gravitation main, construction of concrete reservoirs, laying of reticulation systems and installation of a pumping station at Oberon, together with all works incidental thereto and in connection therewith.

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### SECOND SCHEDULE.

Sec. 15.

Lithgow Municipal Council	.. ..	£102,000
Blaxland Shire Council	.. ..	£60,350
Oberon Shire Council	.. ..	£5,150

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MAIN