

IRRIGATION CORPORATIONS ACT 1994 No. 41

NEW SOUTH WALES



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IRRIGATION CORPORATIONS ACT 1994 No. 41

NEW SOUTH WALES



Act No. 41, 1994

An Act to reform management of irrigation systems in New South Wales;
to amend certain Acts; and for other purposes. [Assented to 2 June 1994]

The Legislature of New South Wales enacts:**PART 1—PRELIMINARY****Short title**

1. This Act may be cited as the Irrigation Corporations Act 1994.

Commencement

2 (1) This Act commences on a day or days to be appointed by proclamation.

(2) A proclamation is not effective to commence a provision of Section 6 or 19 unless it specifically mentions the provision.

Purposes of Act

3. The purposes of this Act are:
 - (a) to establish State owned corporations to manage certain existing irrigation scheme areas; and
 - (b) to enable those and other irrigation scheme areas to be owned and managed by corporations on behalf of the shareholders.

Definitions

- 4 (1) In this Act:

“**assets**” means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property (including money), and includes securities, choses in action and documents;

“**business undertaking**” of an irrigation scheme area means the assets, rights and liabilities of the Ministerial Corporation in or relating to the area, and includes:

- (a) Crown land or land of the Crown within the area that is vested in the Ministerial Corporation or the Lands Administration Ministerial Corporation and on which any works referred to in the Irrigation Act 1912 or the Water Act 1912 are located; or
- (b) any other Crown land or land of the Crown prescribed by the regulations; or
- (c) any leases, licences and permissive occupancies of channel reserves on Crown land or land of the Crown within the area;

“**class 1 irrigation corporation**” means a company named in both Schedule 1 to this Act and Schedule 1 to the SOC Act;

- “**class 2 irrigation corporation**” means a corporation named in Schedule 2 to this Act;
- “**company**” means a company limited by shares (not being a company limited both by shares and by guarantee);
- “**connected**”—see subsection (2);
- “**co-operative**” means a body registered under the Co-operatives Act 1992 as a co-operative and having a share capital;
- “**corporation**” means a company or a co-operative;
- “**eligible Ministers**” has the same meaning as in the SOC Act;
- “**exercise**” a function includes perform a duty;
- “**existing area of operations**” of:
- (a) a class 1 irrigation corporation—means the irrigation scheme area or areas mentioned in Schedule 1 opposite—the name of the corporation; or
 - (b) a class 2 irrigation corporation that is established, or proposed to be established, for the purpose of exercising functions that are principally a continuation of arrangements within an existing or former irrigation scheme area or areas—means that area or those areas;
- “**function**” includes a power, authority or duty;
- “**irrigation corporation**” means a class 1 irrigation corporation or a class 2 irrigation corporation;
- “**irrigation corporation licence**” means an irrigation corporation water management works licence granted under Division 3 of Part 4;
- “**irrigation scheme area**” means:
- (a) an irrigation area as defined in the Irrigation Act 1912 or the Area (or the irrigation area) as defined in the Wentworth Irrigation Act 1890; or
 - (b) a domestic and stock water supply and irrigation district, or a provisional domestic and stock water supply and irrigation district, constituted under Part 6 of the Water Act 1912;
- “**Lands Administration Ministerial Corporation**” means the Lands Administration Ministerial Corporation constituted by section 13 of the Crown Lands Act 1989;
- “**liabilities**” means liabilities, debts and obligations (whether present or future and whether vested or contingent);
- “**Ministerial Corporation**” means the Water Administration Ministerial Corporation constituted by the Water Administration Act 1986;

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“operating licence” means an operating licence granted under this Act;

“rights” means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent);

“SOC Act” means the State Owned Corporations Act 1989;

“subsidiary” means a corporation that is a subsidiary of a corporation as determined in accordance with the Corporations Law or any other applicable law;

“the State” includes the Crown in right of New South Wales and the Government of New South Wales;

“water entitlement” means an entitlement (as to quantity and not security) to receive water under the provisions of the Irrigation Act 1912, Part 6 of the Water Act 1912 or the Wentworth Irrigation Act 1890, or (except in the case of the Coleambally Irrigation Area) any contractual or administrative arrangement under or in connection with any of those provisions, in an irrigation scheme area;

“water management work” has the same meaning as in Division 3 of Part 4.

(2) For the purposes of this Act, if an irrigation corporation has an existing area of operations, the corporation is “connected” with the area of operations and the irrigation scheme area or areas comprised in it.

(3) A reference in this Act to the functions of the Ministerial Corporation extends to its functions however conferred or imposed, including functions conferred or imposed by or under any Act, regulation or other statutory instrument. This subsection is enacted for the avoidance of doubt.

PART 2—CLASS 1 IRRIGATION CORPORATIONS

Division 1—General provisions

Establishment of company as a class 1 irrigation corporation

5. A company mentioned in Schedule 1 to this Act becomes a class 1 irrigation corporation when its name is inserted in the SOC Act by section 6 of this Act.

Establishment of companies as SOCs

6. (1) The SOC Act is amended by inserting in Schedule 1 to that Act in alphabetical order the name of the company referred to in Schedule 1 (1) to this Act (Coleambally Irrigation Limited).

(2) The SOC Act is amended by inserting in Schedule 1 to that Act in alphabetical order the name of the company referred to in Schedule 1 (2) to this Act (Jemalong Wyldes Plains Irrigation Limited).

(3) The SOC Act is amended by inserting in Schedule 1 to that Act in alphabetical order the name of the company referred to in Schedule 1 (3) to this Act (Lower Murray Irrigation Areas Limited).

(4) The SOC Act is amended by inserting in Schedule 1 to that Act in alphabetical order the name of the company referred to in Schedule 1 (4) to this Act (Murray Irrigation Limited).

(5) The SOC Act is amended by inserting in Schedule 1 to that Act in alphabetical order the name of the company referred to in Schedule 1 (5) to this Act (Murrumbidgee Irrigation Limited).

Ongoing role of Ministerial Corporation

7. (1) The Ministerial Corporation is not capable of exercising its functions under the Irrigation Act 1912, the Wentworth Irrigation Act 1890 or Part 6 of the Water Act 1912 in or in relation to an irrigation scheme area for which there is a class 1 irrigation corporation.

(2) Without limiting subsection (1), the Ministerial Corporation is not capable of exercising any functions that are delegated by it to a class 1 irrigation corporation (whether those functions arise under the provisions referred to in subsection (1) or elsewhere) to the extent that the irrigation corporation has them.

(3) Neither the Ministerial Corporation nor the State is liable for anything arising from:

- (a) the non-exercise of powers that the Ministerial Corporation is by this section incapable of exercising; or
- (b) the exercise or non-exercise by a class 1 irrigation corporation of functions delegated to it by the Ministerial Corporation.

(4) This section does not affect:

- (a) any function of the Ministerial Corporation identified in or contemplated by an operating licence as being an ongoing function; or
- (b) any function of the Ministerial Corporation prescribed by the regulations as being an ongoing function; or
- (c) any function of the Ministerial Corporation relating to the alteration of the boundaries of an irrigation area or district.

Staff

8. (1) The Ministerial Corporation may, by order in writing, provide that such staff of the Department of Water Resources or such staff of the Ministerial Corporation employed under section 10 of the Water Administration Act 1986 (or both) ~~as~~ ~~are~~ employed in the existing area of operations of a class 1 irrigation corporation and are specified or described in the order ~~are~~ transferred to the service of the irrigation corporation.

(2) Any such staff are, for the purposes of Schedule 4 to the SOC Act, eligible employees, and that Schedule applies accordingly (to the exclusion of the definition of “eligible employee” in that Schedule).

Alteration, omission ~~to~~ addition of irrigation scheme areas

9. (1) If the boundaries of an irrigation scheme area referred to in Schedule 1 ~~are~~ altered, the reference to the area in Schedule 1 is taken to be a reference to the ~~area~~ ~~as~~ altered.

(2) The name of an irrigation scheme area referred to in Schedule 1 may be omitted at any time by proclamation. The name of an irrigation scheme area may be inserted in Schedule 1 at any time by proclamation.

Acquisition of land for purposes of this Act

10. (1) A class 1 irrigation corporation may acquire land (including an interest in land) for the purposes of this Act.

(2) Land that the irrigation corporation is authorised to acquire under this section may be acquired by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of this Act.

(3) The irrigation corporation may not give a proposed acquisition notice under the Land Acquisition (Just Term Compensation) Act 1991 without the approval of the Minister.

Division 2—Functions of class 1 irrigation corporations**Functions**

11. (1) A class 1 irrigation corporation has the functions conferred or imposed on it by or under this Act, in addition to any other functions that it has from time to time.

(2) The principal activity under this Act of a class 1 irrigation corporation is to exercise functions delegated to it under this Act.

(3) A class 1 irrigation corporation cannot exercise functions conferred or imposed by or under this Act unless it is authorised to do so by an operating licence.

Delegated functions

12 (1) The Ministerial Corporation may, by instrument in writing, delegate to a class 1 irrigation corporation all or any of its functions (other than this power or any other power of delegation) under the Irrigation Act 1912, the Wentworth Irrigation Act 1890 or Part 6 of the Water Act 1912 so far as they relate to the existing area of operations of the irrigation corporation.

(2) The irrigation corporation may subdelegate any of those functions, unless this is forbidden in the instrument of delegation to the irrigation corporation.

(3) The power of the Ministerial Corporation under this section to delegate functions extends to functions that it is by section 7 incapable of itself exercising.

(4) Nothing in this section affects section 7 (3) of the SOC Act.

Division 3—Transfer to Schedule 2

Application and interpretation of Division

13. (1) This Division applies to a class 1 irrigation corporation (referred to in this Division as a “**transferring corporation**”) if:

- (a) the corporation has applied to the Minister to have the provisions of this Division applied to it; and
- (b) the provisions of this Division have then been applied to the corporation by the Governor.

(2) Words and expressions used in this Division have the same meanings as they have in the SOC Act.

(3) In this Division:

“**appointed day**” for a transferring corporation means the day on which the proclamation inserting the name of the corporation in Schedule 2 takes effect;

“instrument” means an instrument (other than this Act) which creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court;

“transferring corporation” means a class 1 irrigation corporation referred to in subsection (1).

Negotiations and agreements for transfer to Schedule 2

14. (1) Negotiations may be conducted for the transfer of the issued shares in a transferring corporation to persons who are not eligible Ministers.

(2) The Ministers who are shareholders in the transferring corporation are authorised to enter into agreements for the transfer of the shares.

(3) Any negotiations or agreements may be conducted or entered into before, on or after the appointed day for the transferring corporation.

(4) However, any such transfer of shares does not take effect before the appointed day for the transferring corporation.

(5) Neither the operation of this section nor any such agreement is to be regarded:

- (a) as a breach of contract or confidence or otherwise as a civil wrong; or
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities; or
- (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.

(6) Neither the operation of this section nor any such agreement is to be regarded as an event of default under any contract or other instrument.

Amendment of memorandum and articles of association

15. (1) The Ministers who are the voting shareholders of a transferring corporation are authorised to take steps before the appointed day for the corporation to make alterations and additions to the memorandum and articles of association of the corporation that are inconsistent with the requirements of the SOC Act.

(2) However, any such inconsistent alterations or additions do not take effect before the appointed day.

Creation of debt due to the State in connection with the transfer of shares

16. (1) The purpose of this section is to maximise the amounts payable to the State in connection with the transfer of the shares in a transferring corporation by providing for additional payments to the State as part of the consideration for the transfer of any such shares.

(2) An agreement referred to in section 14 may provide for the transferring corporation to become liable to pay to the State of New South Wales either or both of the following:

- (a) such amounts as are specified in the agreement; or
- (b) such amounts as the Minister may determine by order in writing before the appointed day for the corporation or within 6 months starting with the appointed day.

(3) The liability to pay the amounts arises on the appointed day, or, in the case of an amount determined after that day, on the day the determination takes effect.

(4) Any such amount is payable on such terms and at such time or times as are provided for in the agreement or as the Minister determines by order in writing and may be recovered by the Minister on behalf of the State as a debt in any court of competent jurisdiction.

Proceeds

17. (1) Any proceeds received for the transfer of shares in a transferring corporation, or by way of repayment of the debt under section 16, must be paid into the Consolidated Fund.

(2) There may be deducted from those amounts before payment into the Consolidated Fund such amount as the Minister approves to meet the expenses reasonably incurred in connection with the transfer of the shares.

Transfer of identified assets to Ministerial Corporation

18. (1) An agreement referred to in section 14 may identify assets of the transferring corporation concerned as assets to which this section applies.

(2) The Minister may, by order in writing, direct that any assets so identified be transferred to the Crown, on such terms and for such consideration (if any) as are specified in the order.

(3) On commencement of the order, the identified assets vest in the Ministerial Corporation by virtue of this section (subject to any existing leases, licences or permissive occupancies) and without the need for any conveyance, transfer, assignment or assurance.

(4) No attornment to the Ministerial Corporation by a lessee from the corporation is required.

(5) Such an order may be made before, on or after the appointed day for the corporation and may commence: before, on or after that day.

Amendment of SOC Act

19. (1) The SOC Act is amended by omitting from Schedule 1 to that Act the words “Coleambally Irrigation Limited”, if and when the name of the company is inserted in Schedule 2 to this Act.

(2) The SOC Act is amended by omitting from Schedule 1 to that Act the words “Jemalong Wyldes Plains Irrigation Areas Limited”, if and when the name of the company is inserted in Schedule 2 to this Act.

(3) The SOC Act is amended by omitting from Schedule 1 to that Act the words “Lower Murray Irrigation Areas Limited”, if and when the name of the company is inserted in Schedule 2 to this Act.

(4) The SOC Act is amended by omitting from Schedule 1 to that “Act the words “Murray Irrigation Limited”, if and when the name of the company is inserted in Schedule 2 to this Act.

(5) The SOC Act is amended by omitting from Schedule 1 to that Act the words “Murrumbidgee Irrigation Limited”, if and when the name of the company is inserted in Schedule 2 to this Act.

(6) If Schedule 1 to the SOC Act has been amended to reflect a change of the name of a company to be omitted by this section, the changed name is taken to be referred to in this section and Schedule 1 to this Act.

Application of SOC Act from appointed day

20. (1) The SOC Act does not apply to a transferring corporation on and after the appointed day for the corporation. This subsection has effect subject to any express provisions of this Division.

(2) The regulations may contain provisions regarding the interpretation of references in any instrument to a transferring corporation, or my officer or employee of the corporation, on and after the appointed day for the corporation.

Dividends

21. Section 14 of the SOC Act continues to apply to any dividends declared by a transferring corporation (before the appointed day for the corporation) to the extent that the whole or any part of those dividends payable to eligible Ministers has not been paid to the Treasurer.

Tax-equivalents

22. (1) Section 15 of the SOC Act continues to apply to any tax-equivalent due and payable to the Treasurer by a transferring corporation (before the appointed day for the corporation) to the extent that they have not been paid to the Treasurer before the appointed day.

(2) Without affecting subsection (1), an agreement referred to in section 14 of this Act may provide for the continued operation of section 15 of the SOC Act on or after the appointed day to the corporation as regards any period before the appointed day.

(3) Authorities of the State are entitled to access to the books and records of or relating to the corporation for the purposes of this section.

Reports and accounts

23. (1) An agreement referred to in section 14 of this Act may provide for the continued operation of section 24 of the SOC Act on or after the appointed day for a transferring corporation in relation to it as regards any period before the appointed day.

(2) Authorities of the State are entitled to access to the books and records of or relating to the corporation for the purposes of this section.

Staff

24. (1) An employee of a transferring Corporation retains any rights to annual leave, extended service leave or sick leave accrued or accruing by virtue of clause 3 of Schedule 4 to the SOC Act.

(2) An employee of a transferring corporation retains any rights to annual leave, extended service leave or sick leave accrued or accruing on or after the date the corporation became a class 1 irrigation corporation and before the appointed day for the corporation.

(3) Neither the contract of employment nor the period of employment of each employee of a transferring corporation is taken to have been broken by the operation of this Division for the purposes of any law, award or agreement relating to the employment of that employee.

(4) An employee of a transferring Corporation is not entitled to receive any payment or other benefit merely because as a result of the operation of this Division the person ceases to be an employee of a class 1 corporation and becomes an employee of a class 2 corporation.

Effect of transfer to Schedule 2 on licences

25. If a class 1 irrigation corporation becomes a class 2 irrigation corporation, its irrigation corporation licence and operating licence continue in force, subject to any amendment or to its being replaced.

Operation of Division

26. This Division has effect despite anything in the SOC Act or the memorandum or articles of association of a transferring corporation.

PART 3—CLASS 2 IRRIGATION CORPORATIONS

Division 1—General provisions

Designation of corporation as a class 2 irrigation corporation

27. (1) The Governor may by proclamation designate a corporation as a class 2 irrigation corporation by amending Schedule 2 to insert the name of the corporation. The corporation becomes a class 2 irrigation corporation when the amendment takes effect.

(2) If the corporation is, or is proposed to be, established for the purpose of exercising functions that are principally a continuation of arrangements within one or more existing or former irrigation scheme areas:

- (a) the name of the corporation is to be inserted in column 1 of Part 1 of Schedule 2; and
- (b) the names (or other descriptions) of the areas are to be inserted opposite in column 2.

Otherwise the name of the corporation is to be inserted in Part 2 of Schedule 2.

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(3) A proclamation may not be made designating a corporation as a class 2 irrigation corporation, unless the Minister certifies to the Governor that the requirements of this Part have been complied with in relation to the corporation.

(4) A corporation may be designated as a class 2 irrigation corporation after it has been included in Schedule 1 to the SOC Act, or without first being included in that Schedule.

(5) The name of a corporation may be included in Schedule 2 even though the irrigation scheme area or areas with which it is connected are referred to in an uncommenced item of Schedule 1.

(6) The name of a corporation cannot be included in Part 1 of Schedule 2 while the name of another corporation is included in Schedule 1 in relation to the whole or any part of the same irrigation scheme area, unless the other corporation consents.

Application

28. A proclamation designating a corporation as a class 2 irrigation corporation may only be made if the corporation has applied to the Minister to be so designated and the application is approved by the Minister.

Consideration of application

29. (1) In considering an application for the designation of a corporation as a class 2 irrigation corporation, the Minister may have regard to the public interest and to such other matters as the Minister considers relevant.

(2) The Minister may refuse an application on any reasonable grounds.

(3) The Minister may approve an application, but only if:

- (a) the Ministerial Corporation indicates that the corporation has, or is likely to be granted, an irrigation corporation licence; and
- (b) where relevant, the requirements of section 34 are satisfied; and
- (c) such other requirements as are prescribed by the regulations are satisfied.

Status of class 2 irrigation corporation

30. A class 2 irrigation corporation or any of its subsidiaries:

- (a) is not and does not represent the State; and

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- (b) is not exempt from any rate, tax, duty or other impost imposed by or under any law of the State merely because it is a class 2 irrigation corporation; and
- (c) cannot render the State liable for any debts, liabilities or obligations of the corporation or any of its subsidiaries,

unless this or any other Act otherwise expressly provides.

Staff

31. (1) The Ministerial Corporation may, by order in writing, provide that such staff of the Department of Water Resources or such staff of the Ministerial Corporation employed under section 10 of the Water Administration Act 1986 (or both) as are employed in the existing area of operations of a class 2 irrigation corporation and are specified or described in the order are transferred to the service of the irrigation corporation.

(2) A member of any such staff retains any rights to annual leave, extended service leave or sick leave accrued or accruing in his or her previous employment.

(3) Neither the contract of employment nor the period of employment of each member of such staff is taken to have been broken by the operation of this Division for the purposes of any law, award or agreement relating to the employment of that member of staff.

(4) A member of any such staff is not entitled to receive any payment or other benefit merely because the member ceases to be an employee of the Department of Water Resources or the Ministerial Corporation.

Ceasing to be a class 2 irrigation corporation

32. (1) A corporation ceases to be a class 2 irrigation corporation if its name is removed from Schedule 2.

- (2)** The Governor may remove the name by proclamation, but only:
 - (a) on application made by the irrigation corporation to the Minister; or
 - (b) if the irrigation corporation ceases to exist.

(3) If the name is removed from Part 1 of Schedule 2, the relevant particulars in column 2 are automatically removed.

(4) The regulations may make provision, not inconsistent with the Corporations Law, for or with respect to any matters that are consequential on a corporation ceasing to be a class 2 irrigation Corporation.

Division 2—Special provisions relating to corporations connected with irrigation scheme areas**Application of Division**

33. This Division applies to class 2 irrigation corporations that are, or are proposed to be, established for the purpose of exercising functions that are principally a continuation of arrangements within one or more existing or former irrigation scheme areas.

Further requirements regarding applications

34. (1) The Minister may not approve an application under section 28 by a corporation connected with an irrigation scheme area, unless the Minister is satisfied that satisfactory arrangements have been made:

- (a) for every existing irrigator within the area to have the opportunity to hold shares in the corporation on the date the proclamation designating it as a class 2 irrigation corporation takes effect, so that the number of shares held by each existing irrigator as a proportion of the total number of shares issued by the corporation is equal to or greater than that irrigator's existing water entitlement as a proportion of the total existing water entitlements for the irrigation scheme area; and
- (b) for every existing irrigator within the area to have the opportunity to enter into a water supply contract with the corporation, having effect from the date the proclamation takes effect and for the term of the irrigation corporation licence and any subsequent irrigation licence, providing for the supply to the irrigator of water, so that the water entitlement of each existing irrigator as a proportion of the total water entitlements allocated by the corporation is equal to or greater than that irrigator's existing water entitlement as a proportion of the total existing water entitlements for the irrigation scheme area; and
- (c) for every existing irrigator within the area to be entitled to surrender or transfer any such share, or to withdraw from any such contract, at any time after the proclamation takes effect, if the irrigator so chooses; and
- (d) for the allocation by the irrigation Corporation, on the date the proclamation designating it as a class 2 irrigation corporation takes effect, of water entitlements with respect to the total volume of water to which it is entitled under its irrigation corporation licence.

(2) The reference to shares in subsection (1) (a) does not include shares that relate exclusively to activities of the corporation that are unrelated to its water irrigation functions.

(3) The regulations may prescribe circumstances in which the interests of an existing irrigator may be disregarded for the purposes of subsection (1) (b).

(4) For the purposes of this section, a person is an “existing irrigator” if the person has, immediately before the proclamation is to take effect, any water entitlements in the existing area of operations.

Dissolution of irrigation scheme areas

35. (1) When the proclamation inserting the name of a corporation into Part 1 of Schedule 2 takes effect, the irrigation scheme area or areas referred to in column 2 opposite it are by force of this section dissolved.

(2) Subject to the regulations, a reference in any other Act or instrument made under any other Act to a particular irrigation scheme area dissolved by force of this section is to be read as a reference to the land that comprised that area immediately before it was dissolved.

Entry on to land

36. (1) An irrigation corporation may, by authorised persons, enter land within its existing area of operations in accordance with this Division for any one or more of the following purposes:

- (a) to install, operate, repair, replace, maintain, remove, extend, expand, connect, disconnect, improve or do any other things that the corporation considers are necessary or appropriate to any of its water management works or to construct new water management works and, for these purposes, to carry out any work on, below or above the surface of the land;
- (b) to read a meter that:
 - (i) measures water supplied by the corporation; or
 - (ii) monitors drainage for quantity or quality or both;
- (c) to find the source of pollution of water within the existing area of operations of the corporation;
- (d) to ascertain whether a water supply contract or other contract for the provision of services by the corporation is being breached;
- (e) to rectify defective or improper work that has not been rectified by a customer in accordance with a notice served by the corporation on the customer under a water supply contract or other contract;

- (f) to ascertain the character and condition of the land or a building to enable the corporation to install, operate, repair, replace, maintain, remove, extend, expand, connect, disconnect or improve the systems and services referred to in section 41 (2) (a) or to construct new water management works for the purposes of that section;
- (g) to ascertain the condition and location of any pipe, sewer, drain, channel or fitting or other work used in connection with the land or a building to enable the corporation to install, operate, repair, replace, maintain, remove, extend, expand, connect, disconnect or improve the systems and services referred to in section 41 (2) (a) or to construct new water management works for the purposes of that section;
- (h) to carry out any investigation or inspection, take levels, drill test bore-holes, make surveys and marks, and fix pegs and stakes, for the purpose of determining the site of any proposed water management work.

(2) This section does not affect any other action an irrigation corporation may lawfully take in accordance with an agreement or otherwise.

Provisions relating to powers under this Division

37. An irrigation corporation must ensure that as little damage as possible is caused by the exercise of powers under section 36 and must repair any damage caused or pay compensation for the damage.

PART 4—PROVISIONS RELATING TO CLASS 1 AND CLASS 2 IRRIGATION CORPORATIONS

Division 1—Assets

Assets of irrigation corporations

38. An irrigation corporation is the owner of all works installed in or on land by the corporation (whether or not the land is owned by the corporation) and of all works transferred to the corporation under Part 5.

Division 2—Operating licences**Grant of operating licence**

39. (1) The Governor may grant an operating licence to an irrigation corporation.

(2) The operating licence for a class 1 irrigation corporation is granted to authorise the corporation to carry on the business of supplying water provided to it under an irrigation corporation licence and to exercise the functions delegated to it under this Act.

(3) The operating licence for a class 2 irrigation corporation is granted to authorise the corporation to carry on the business of supplying water provided to it under an irrigation corporation licence and to exercise its functions under this Act.

Grounds of refusal of application for operating licence

40. The Governor may refuse an application for an operating licence on such grounds as the Governor considers appropriate.

Terms and conditions of Operating licence

41. (1) An operating licence is subject to the terms and conditions determined by the Governor.

(2) Examples of terms and conditions that may be included are as follows:

- (a) a requirement that the irrigation corporation will (in accordance with any applicable land and water management plan and the corporation's business plan) provide, construct, maintain, manage and operate:
 - (i) efficient, co-ordinated and commercially viable systems and services for supplying water from both surface and subsurface sources; and
 - (ii) surface and subsurface drainage networks which have sufficient capacity having regard to (specified) factors, including the amount of water supplied by the corporation to users;
- (b) a requirement that the irrigation corporation must be the holder of all relevant licences or other authorities;
- (c) a requirement that the irrigation corporation is to comply with the provisions of any applicable land and water management plan, either in all respects or in certain respects;

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- (d) a requirement that the irrigation corporation is to provide such information, in such form and manner, relating to funds provided to the corporation under section 73 (including its management and expenditure) as the Minister may require from time to time;
- (e) a requirement that, in supplying water to its members, the irrigation corporation is to give priority to certain councils or other water supply authorities for domestic water supply;
- (f) a requirement as to how the irrigation corporation is to spend and otherwise deal with any money provided to it out of money appropriated from the Consolidated Fund or other public money.

Amendment of operating licence

42. An operating licence may only be amended in the manner specified in the operating licence.

Term of operating licence

43. (1) An operating licence may be granted and renewed for such periods as the Governor determines.

(2) An operating licence may be renewed even if its term has expired.

Contravention of operating licence

44. (1) If, in the opinion of the Minister, an irrigation corporation contravenes an operating licence, the Governor may direct that one of the following is to apply:

- (a) a letter of reprimand by the Minister is to be served on the irrigation corporation;
- (b) the Minister is to cause a notice to be served on the irrigation corporation requiring it to rectify the contravention within a specified period.

(2) If, in the opinion of the Minister, an irrigation corporation continues to contravene an operating licence after the issue of a letter under subsection (1) (a) or fails to rectify a contravention as required by a notice under subsection (1) (b), the Governor:

- (a) may direct that the irrigation corporation is to pay a monetary penalty (not exceeding \$150,000) in an amount to be determined by the Governor;
- (b) may cancel the operating licence in accordance with section 45 (1) (b).

(3) The fact that the Governor has directed that action be taken under this section does not prevent the Governor directing that the same or other action under this section be taken if the contravention continues or a fresh contravention occurs.

(4) An operating licence may make provision for advice to be furnished to the Minister in connection with the exercise of the Minister's functions under this section.

(5) A penalty imposed under this section may be recovered in any court of competent jurisdiction as if it were a debt due to the Crown.

Cancellation of operating licence

45. (1) An operating licence may be cancelled by the Governor, but only if:

- (a) the irrigation corporation fails or ceases to hold a relevant licence or other authority, as referred to in section 41 (2) (b); or
- (b) the irrigation corporation is, in the opinion of the Minister, in material default in compliance with the operating licence, viewed in terms of the operation of the operating licence as a whole; or
- (c) the irrigation corporation is an externally administered corporation within the meaning of the Corporations Law; or
- (d) the irrigation corporation has been convicted of a criminal offence that is punishable by a fine of at least \$10,000 or, if the corporation were a natural person, penal servitude or imprisonment for 12 months or more.

(2) An operating licence may not be cancelled on the ground referred to in subsection (1) (a) if an appeal against a decision not to renew or to cancel the relevant licence or other authority has been made but not determined or withdrawn.

(3) Subsection (1) (d) does not apply where the offence is unconnected with the functions of the irrigation corporation relating to the supply or drainage of water.

Division 3—Irrigation corporation water management works licences

Definitions

46. In this Division:

“**aquifer**” means a geological structure or formation, or an artificial land fill, that is permeated with water or is capable of being permeated with water;

“bore” means:

- (a) a bore that is used for the purpose of supplying land with water from a water source; or
- (b) any excavation well, spear point, collector system or other work that is connected to a source of sub-surface water and that is used or is capable of being used to obtain water from that source, whether the water flows naturally at all times or must be raised sometimes, or at all times, by pumping or other artificial means;

“drainage work” means a work that is constructed or used for the dominant purpose of draining water from land, but does not include any work declared by the regulations not to be a drainage work;

“flood control work” means a work (such as a barrage, causeway, cutting, earthwork, embankment or levee) that is situated on the bed or bank of a river or lake, or that is within a flood plain, but does not include:

- (a) any work that is situated on the bed or bank of tidal water; or
- (b) any work declared by the regulations not to be a flood control work;

“flood plain” means land that is declared to be a flood plain by an order in force under section 166 of the Water Act 1912;

“lake” includes:

- (a) a lagoon, a swamp and a collection of still water, whether perennial or intermittent; and
- (b) any water prescribed by the regulations as being a lake, but does not include any water prescribed by the regulations as not being a lake;

“production bore” means a bore that is used for the purpose of supplying land with water from a water source;

“river” includes:

- (a) a stream of water, whether perennial or intermittent and whether flowing in a natural channel artificially improved, or in an artificial channel which has changed the course of the stream; and
- (b) an affluent, confluent, branch or other stream of water into or from which a stream referred to in paragraph (a) flows; and

(c) any water prescribed by the regulations as being a river, but does not include:

(d) tidal water, unless it is capable of being used at any time for irrigation or watering stock; or

(e) any water prescribed by the regulations as not being a river.

“sub-surface water” means water (including anything dissolved or suspended in water) under the surface of the ground, whatever the geological structure in which it is standing or moving;

“water management work” means a water supply work, a drainage work or a flood control work;

“water source” means a river, lake or aquifer;

“water supply work” means a work (including a production bore) that is constructed or used for the dominant purpose of supplying land with water taken (whether directly or indirectly) from a water source, and includes a water storage work, but does not include any work declared by the regulations not to be a water supply work;

“work” includes:

(a) a barrage, bore, causeway, cutting, dam, drain, excavation, flood control work, flume, lock, pipe, pump, race, regulator, reservoir, sewer, tunnel and weir and

(b) an artificial channel and a natural channel artificially improved; and

(c) anything prescribed by the regulations to be a work for the purposes of this Division; and

(d) any machinery or appliances relating to a work referred to in paragraph (a), (b) or (c),

but does not include anything prescribed by the regulations as not being a work for the purposes of this Division.

Irrigation corporation licence

47. (1) The Ministerial Corporation may on the application of an irrigation corporation, grant to the irrigation corporation an irrigation corporation water management works licence.

(2) The licence is to be issued only on payment of a fee calculated in the manner and according to the scale prescribed by the regulations.

(3) Part 5 of the Environmental Planning and Assessment Act 1979 does not apply to or in respect of the granting of the first irrigation corporation licence to an irrigation corporation.

Effect of irrigation corporation licence

48. (1) An irrigation corporation may:

- (a) take water from any river or lake or any ground water; or
- (b) construct or use a water management work,

but only in accordance with an irrigation corporation licence.

(2) However, an irrigation corporation licence has no effect unless the corporation holds an operating licence under this Act, and the rights conferred by the irrigation corporation licence are subject to the terms and conditions of the operating licence.

Application for irrigation corporation licence

49. (1) An irrigation corporation may apply to the Ministerial Corporation for an irrigation corporation licence, authorising the corporation:

- (a) to construct and use or to use any water management works specified in the application; and
- (b) to take the water conserved or obtained by the use of any of those works and dispose of it for the use of:
 - (i) in the case of a class 1 irrigation corporation—the occupiers from time to time of lands within the irrigation area with which the corporation is connected; or
 - (ii) in the case of a class 2 irrigation corporation—the shareholders in the corporation.

(2) Such an application may be made by a corporation that is not yet an irrigation corporation.

(3) If the regulations so provide, the application is to be in or to the effect of the prescribed form and is to be accompanied by the prescribed deposit. The deposit may be applied by the Ministerial Corporation in payment or part payment of the fee payable in respect of the irrigation corporation licence.

(4) The Ministerial Corporation may require the production of such particulars (which may include plans) as it specifies in writing.

Determination of applications

50. The Ministerial Corporation is to determine an application for an irrigation corporation licence:

- (a) by granting the irrigation corporation licence to which the application relates; or
- (b) by refusing the application.

Matters affecting consideration of applications

51. (1) In determining an application for an irrigation corporation licence, the Ministerial Corporation may take into account any matters considered by the Ministerial Corporation to be relevant.

(2) Without limiting the matters that may be considered relevant, the Ministerial Corporation is to take into account the effect that approval of the application would have on the following:

- (a) the reliability of the supply of water to users other than the applicant;
- (b) the environment;
- (c) social and economic development;
- (d) the efficient use of water;
- (e) active and passive recreational uses of water;
- (f) the quantity and quality of water in a water source;
- (g) any matters prescribed by the regulations for the purposes of this section.

Grounds of refusal of applications

52. The Ministerial Corporation may refuse an application for an irrigation corporation licence on such grounds as the Ministerial Corporation considers appropriate.

Conditions of irrigation corporation licence

53. An irrigation corporation licence is subject to:

- (a) the conditions imposed on the irrigation corporation licence from time to time by or under this Act; and
- (b) such other conditions as are imposed on the irrigation corporation licence by the Ministerial Corporation when the irrigation corporation licence is granted and as are notified in writing to the licensee,

whether or not the conditions are specified in the licence.

Imposition of Conditions after irrigation corporation licence is granted

54. After the granting of an irrigation corporation licence, the Ministerial Corporation may impose a specified condition on the licence, but only on the application of the licensee or after the licensee has been given an opportunity to make representations.

Revocation of conditions

55. A condition of an irrigation corporation licence imposed by the Ministerial Corporation may be revoked by the Ministerial Corporation at any time.

Duration of irrigation corporation licence

56. (1) An irrigation corporation licence has a term of 15 years.

(2) If an application for a new irrigation corporation licence is lodged before the term expires, the term of the expiring licence is extended until:

- (a) the date of the final decision on the application; or
- (b) a date fixed by the Ministerial Corporation for the licence,

whichever is the later time.

(3) If:

- (a) an irrigation corporation licence expires without an application being made for a new irrigation corporation licence; and
- (b) an application is later made by the former licensee in accordance with the regulations and is accompanied by a statutory declaration of the reasons for the lateness of the application; and
- (c) the reasons are acceptable to the Ministerial Corporation,

the term of the licence is taken to have been extended, and the application may be dealt with, as if the application had been made before the licence expired.

Review of irrigation corporation licence

57. (1) The Ministerial Corporation is to review the terms and conditions of the first irrigation corporation licence granted to an irrigation corporation at least:

- (a) once in each year of the first 5 years of the term of the licence; and
- (b) once in each remaining 5-year period of the term of the licence.

(2) The Ministerial Corporation must review the terms and conditions of each subsequent irrigation corporation licence granted to the irrigation corporation at least once in each 5-year period of the term of the licence.

Form of irrigation corporation licence

58. (1) An irrigation corporation licence is to be in a form approved by the Ministerial Corporation.

(2) The approved form for an irrigation corporation licence is to include a statement to the effect that the licensee is authorised, subject to this Act and the conditions of the licence:

- (a) to take water from any river or lake or any ground water; or
- (b) to construct or use any water management work described in the licence.

Amendment of irrigation corporation licence on application by licensee

59. The Ministerial Corporation may, on the application of the licensee, amend an irrigation corporation licence:

- (a) so as to authorise an alteration or extension of a water management work; or
- (b) so as to authorise the use of a water management work for an alternative or additional purpose; or
- (c) so as to authorise the construction or use of an additional water management work on land that is occupied by the licensee and that adjoins the site of the existing licensed work; or
- (d) so as to reduce the water entitlement under the licence.

Amendment of irrigation corporation licence on initiative of Ministerial Corporation

60. (1) The Ministerial Corporation may, for such reasons as the Ministerial Corporation considers appropriate, suspend an irrigation corporation licence or vary in a specified way the authority conferred by the licence by notice in writing, but only after the licensee has been given an opportunity to make representations.

(2) A notice of suspension operates to suspend the authority conferred by the irrigation corporation licence for the period specified in the notice.

(3) A notice of variation of authority operates to amend the irrigation corporation licence so that, while the notice is in force, the authority conferred by the licence is varied in accordance with the notice.

Cancellation of irrigation corporation licence

61. (1) Action may be taken under this section on any one or more of the following grounds:

- (a) that a water management work has been used otherwise than in accordance with the authority conferred by the irrigation corporation licence;

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- (b) that a water management work authorised by the licence has not been used for a continuous period of 3 years or more;
- (c) that a water management work has been used in a manner that, in the opinion of the Ministerial Corporation, has not been entirely beneficial;
- (d) that any fee or charge payable under the Water Administration Act 1986 or this Act in relation to the licence, or an instalment of any such fee or charge, has not been paid;
- (e) that the licensee is an externally administered corporation within the meaning of the Corporations Law;
- (f) that the licensee has been convicted of an offence against this Act, the Water Act 1912 or the Water Administration Act 1986.

(2) The Ministerial Corporation may cancel the irrigation corporation licence or do any one or more of the following, but only after the licensee has been given an opportunity to make representations:

- (a) the Ministerial Corporation may impose specified conditions on the licence;
- (b) the Ministerial Corporation may amend the licence in a specified manner;
- (c) the Ministerial Corporation may suspend the licence until a specified date or until the licensee has taken specified action;
- (d) the Ministerial Corporation may require a specified alteration to be made to the relevant water management work before a specified date;
- (e) the Ministerial Corporation may warn the licensee of the possible cancellation of the licence for a continuation or repetition of the act or omission to which the original notice related.

(3) If a licensee is required to alter a water management work before a specified date and the licensee fails to comply with the requirement, the Ministerial Corporation may cancel the irrigation corporation licence or suspend the licence until the alteration has been made.

(4) If an irrigation corporation licence is suspended until specified action is taken by the licensee and the action is not taken within a reasonable time, the Ministerial Corporation may cancel the licence.

Charges

62. The Ministerial Corporation may, in accordance with the regulations, levy the following service charges on the holder of an irrigation corporation licence:

- (a) water service charges;

- (b) drainage service charges;
- (c) flood mitigation service charges;
- (d) river management service charges;
- (e) special purpose service charges.

Offences with respect to irrigation corporation licences

63. Any irrigation corporation which:

- (a) being the holder of an irrigation corporation licence, uses a water management work that is the subject of the licence when the licence is suspended; or
- (b) being the former holder of an irrigation corporation licence, uses the work when the licence is revoked or cancelled or has expired; or
- (c) being the holder of an irrigation corporation licence, contravenes or fails to comply with any term or condition to which the licence is subject,

is guilty of an offence and liable on conviction to a penalty not exceeding 200 penalty units.

Evidence

64. (1) A certificate that is issued by the Director-General of the Department of Water Resources and that states that, on a date or during a period specified in the certificate:

- (a) a specified water management work was or was not authorised by a specified irrigation corporation licence; or
- (b) a specified irrigation licence was or was not the subject of specified conditions or did or did not give rise to specified water entitlements; or
- (c) a specified irrigation corporation licence was not in force,

is admissible in any legal proceedings and is evidence of the fact or facts so stated.

(2) In proceedings for an offence against this Act or the regulations:

- (a) evidence that a specified water management work was used at any time when the irrigation licence authorising the use of the work was not in force is evidence that the work was used by the holder of the licence at that time; and
- (b) evidence that any term or condition to which an irrigation licence is subject has been contravened is evidence that the contravention was caused by the holder or former holder of the licence.

Division 4—Arrangements with subsidiaries**Irrigation corporation may make arrangements with subsidiaries**

65. An irrigation corporation may arrange, whether by an agency agreement or in any other way (except by assignment), for a Subsidiary of the irrigation corporation to exercise any or all of the irrigation corporation's functions under this Act or under an operating licence or irrigation corporation licence.

Actions of subsidiaries

66. The Ministerial Corporation may treat any act or omission of the subsidiary of an irrigation corporation as an act or omission of the irrigation corporation for the purpose of determining whether the irrigation corporation has contravened its operating licence or irrigation corporation licence or whether the licence should be suspended or cancelled but only if the irrigation corporation has made arrangements under section 65 for the exercise of functions by the subsidiary.

Division 5—Miscellaneous**Additional functions of irrigation corporations**

67. Subject to the terms and conditions of the relevant operating licences, Parts 2 and 3 do not prevent irrigation corporations from exercising functions that do not relate to the supply of water.

Application of Act to corporations with no subsidiaries

68. If any provision of this Act is expressed to apply to an irrigation corporation and its subsidiaries, the provision also applies to an irrigation corporation that has no subsidiaries.

Mixed nature of area of operations

69. An irrigation corporation can be connected with one or more irrigation scheme areas, and those areas can be of the same or different kinds.

Successor in title liable for unpaid contract charges

70. On a change of ownership of land, the new owner of the land is liable to an irrigation corporation for the amount of any charges levied by the irrigation corporation in relation to the land and unpaid by the

previous owner & if the new owner had entered into a contract with the irrigation corporation for the supply of the service or services to which the unpaid charges relate.

Certificates as to amounts due

71. (1) An irrigation corporation must, on written application being made to it, and on payment of the fee determined by the irrigation corporation, issue to the applicant a certificate:

- (a) containing particulars of any amounts payable to the irrigation corporation in relation to land; or
- (b) to the effect that there are no such amounts.

(2) A certificate authenticated and issued in accordance with the regulations is taken to be a certificate applied for under subsection (X) and issued by the irrigation corporation.

(3) An application for a certificate must:

- (a) specify the name and address of the applicant; and
- (b) identify the land to which the application relates.

(4) A certificate is conclusive proof, in favour of a purchaser in good faith and for value of the land to which the certificate relates, that, at the date of its issue, no amounts were payable to the irrigation corporation in respect of that land other than the amounts specified in the certificate.

Rates and charges of irrigation corporation not charge on land

72. On and after the transfer under Part 5 of the business undertaking of an irrigation scheme area to an irrigation corporation, no rates or charges are to be levied by the irrigation corporation & a statutory charge or are to be a charge on any land.

Provision of funds

73. (1) The Minister may, out of money to be appropriated by Parliament or otherwise legally available, provide funds to an irrigation corporation, by way of grant or loan.

(2) Any such funds may be advanced on such terms and conditions & the Minister determines, including for example terms or conditions requiring repayment of funds advanced in specified circumstances (such & certain breaches of the terms and conditions of the corporation's operating licence).

(3) Any funds required to be repaid as referred to in this section may be recovered in any court of competent jurisdiction as if they were a debt due to the Crown.

Provisions relating to certain legislation

74. (1) The provisions of:

- (a) section 91 of the Public Works Act 1912; and
- (b) section 148 (5), (5A) and (5B) of the Water Act 1912; and
- (c) section 11I of the Irrigation Act 1912 as in force immediately before its repeal by this Act; and
- (d) section 10 (1) and (2) of the Wentworth Irrigation Act 1890 as in force immediately before the substitution of section 10 of that Act by this Act; and
- (e) the regulations made under the Irrigation Act 1912, published in Gazette No. 79 of 22 June 1928, and as subsequently amended,

cease to apply to or in respect of an irrigation scheme area with which an irrigation corporation is connected.

(2) Without affecting the generality of subsection (1), those provisions do not apply in relation to the irrigation corporation and the Ministerial Corporation when they cease to apply to or in respect of the irrigation scheme area.

(3) This section extends to any application that those provisions have because of any provisions of a savings, transitional or other nature.

Indemnities

75. (1) A person does not have any right or claim to relief of any kind whatever in any legal or other proceeding against an irrigation corporation or officer or employee of an irrigation corporation in respect of any nuisance connected with or in any way arising out of:

- (a) the design, construction, alteration, maintenance, non-maintenance, operation, repair, disrepair or non-repair of a work owned or controlled by the irrigation corporation; or
- (b) the destruction or damage, or partial destruction or partial damage, by flood, storm, tempest or otherwise of a work owned or controlled by the irrigation corporation; or
- (c) the exercise, in respect of a work owned or controlled by the irrigation corporation, by the irrigation corporation of any function conferred or imposed on the irrigation corporation under this or any other Act.

(2) Section 19 of the Water Administration Act 1986 does not apply to the exercise by an irrigation corporation of functions delegated to the corporation under section 12.

(3) Section 733 of the Local Government Act 1993 applies to and in respect of an irrigation corporation in the same way as it applies to and in respect of a council.

Illegal diversion of water

76. (1) A person must not:

- (a) wrongfully take, use or divert any water from any works owned or controlled by an irrigation corporation; or
- (b) wrongfully alter the index of a meter or prevent a meter from duly registering the quantity of water supplied by an irrigation corporation.

Maximum penalty: 150 penalty units.

(2) It is to be presumed, unless the contrary is proved, that any wrongful taking or diversion of water to, or any wrongful use of water on, any land was at the direction, or with the connivance, of the owner or, if the land is occupied by a person other than the owner, of the occupier of the land.

(3) If, in connection with the pipes or other apparatus of an irrigation corporation used to supply water to any land, there exists any artificial means for:

- (a) taking, using or diverting the water; or
- (b) altering the index of a meter or preventing it from duly registering the quantity of water supplied,

it is to be presumed, unless the contrary is proved, that the taking, use, diversion, alteration or prevention was wrongfully effected or caused by the owner or, if the land is occupied by a person other than the owner, by the occupier of the land.

Offence to discharge into works

77. (1) A person must not discharge any substance into a work owned by an irrigation corporation except with the written agreement of the corporation.

Maximum penalty: 150 penalty units.

(2) This section does not apply to the use of a work by a person in accordance with a water supply contract or other contract between an irrigation corporation and a customer.

PART 5—TRANSFER OF ASSETS, RIGHTS AND LIABILITIES

Direction to transfer business undertaking

78. (1) The Minister may, by order in writing, direct that the business undertaking of an irrigation scheme area be transferred to an irrigation corporation connected with the area.

(2) The order may exclude any assets, rights and liabilities from the transfer.

(3) The transfer is to be upon such consideration (if any) as is specified in the order directing the transfer.

(4) The transfer is to take place at a value or values specified in the order.

(5) On the commencement of the order, the following provisions have effect (subject to the order):

- (a) the assets comprised in the business undertaking vest in the irrigation corporation by virtue of this section and without the need for any conveyance, transfer, assignment or assurance;
- (b) the rights and liabilities of the Ministerial Corporation comprised in the business undertaking and specified in the order become by virtue of this section the rights and liabilities of the irrigation corporation;
- (c) all proceedings relating to the business undertaking commenced by the Ministerial Corporation or a predecessor of the Ministerial Corporation and pending immediately before the transfer are to be taken to be proceedings pending by the irrigation corporation;
- (d) any act, matter or thing done or omitted to be done in relation to the business undertaking before the transfer by, to or in respect of the business undertaking is (to the extent that that act, matter or thing has any force or effect) to be taken to have been done or omitted by, to or in respect of the irrigation corporation.

Creation of debt due to the State in connection with transfer of business undertaking

79. (1) The purpose of this section is to maximise the amounts payable to the State in connection with the transfer of a business undertaking to an irrigation corporation by providing for payments to the State as the consideration, or part of the consideration, for the transfer of the business undertaking.

(2) An order under section 78 may provide for the irrigation corporation concerned to become liable to pay to the State of New South Wales either or both of the following:

- (a) such amounts as are specified in the order;
- (b) such amounts as the Minister may determine by order in writing before the transfer takes place or within 6 months of the transfer.

(3) The liability to pay the amounts arises on the transfer or, in the case of an amount determined after the transfer, on the day the determination takes effect.

(4) Any such amount is payable on such terms and at such time or times as are provided for in the order or as the Minister determines by another order in writing and may be recovered by the Minister on Behalf of the State as a debt in any court of competent jurisdiction.

Proceeds from transfer of business undertaking

80. (1) Any proceeds received for the transfer of a business undertaking under this Part, or by way of repayment of the debt under this section, must be paid into the Consolidated Fund.

(2) There may be deducted from those amounts Before payment into the Consolidated Fund such amount as the Minister approves to meet the expenses reasonably incurred in connection with the transfer of the business undertaking.

Change of Principal under contrast

81. (1) In this section:

“Contractor” means the party who is “the Contractor” within the meaning of a contract made with the Ministerial Corporation or any of its predecessors;

“Principal” means the party referred to in a contract with a Contractor as “the Principal”.

(2) The Ministerial Corporation may serve on a Contractor a notice in writing stating that, on and from a date that is specified in the notice and is later than the date of service, an irrigation corporation, or some other person specified in the notice, will be the Principal under a specified contract.

(3) On and from the date specified in the notice:

- (a) the irrigation corporation or other person specified becomes for all purposes the Principal under the contract; and
- (b) anything done or omitted under the contract by the Ministerial Corporation or any of its predecessors are taken to have been done or omitted by the irrigation corporation or other person specified; and
- (c) (if so provided in the notice) any legal proceedings instituted under the contract, and not finally determined, before that date by the Ministerial Corporation or any of its predecessors are taken to be legal proceedings by the irrigation corporation or other person specified; and
- (d) (if so provided in the notice) any proceedings under the contract by way of arbitration between the Ministerial Corporation or any of its predecessors and another person that have not been finally determined before that date are taken to be proceedings by way of arbitration between the irrigation corporation or other person specified and that other person.

Excluded matters

82 Despite sections 78 and 81, the following do not become the responsibility of an irrigation corporation:

- (a) any cause of action that has accrued against the Ministerial Corporation or a predecessor of the Ministerial Corporation;
 - (b) without affecting the generality of paragraph (a), any proceedings that have been commenced against the Ministerial Corporation or a predecessor of the Ministerid Corporation,
- before the transfer of the relevant business undertaking.

Survival of unpaid amounts and amounts charged on land

83. (1) Any amount that was due but unpaid to the Ministerial Corporation immediately before the transfer of the business undertaking of an irrigation scheme area to an irrigation corporation, including any amount that was charged on the land to which the amount relates immediately before the transfer, survives and is included in the transfer of the business undertaking to the irrigation corporation.

(2) Any amount that was due but unpaid to the Ministerial Corporation immediately before the transfer of the business undertaking of an irrigation scheme area to an irrigation corporation and was charged on the land to which the amount relates immediately before that transfer remains a charge on the land until the amount is paid.

Effect of Part

84. (1) The operation of this Part is not to be regarded:

- (a) as a breach of contract or confidence or otherwise as a civil wrong; or
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights and liabilities; or
- (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.

(2) No attornment to the irrigation corporation by a lessee from the Ministerial Corporation, or by a lessee or licensee under the Crown Lands Acts, is required.

PART 6—MISCELLANEOUS**Act binds Crown**

85. This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

Vesting of ownership of works in Ministerial Corporation

86. On and from the commencement of this section, the Ministerial Corporation is the owner of all works constructed or controlled by the Ministerial Corporation under the Water Act 1912, the Irrigation Act 1912 or the Water Administration Act 1986 (whether or not the land on which the works are installed is owned by the Ministerial Corporation and whether or not those works were constructed before or after that commencement) except:

- (a) works which the Ministerial Corporation disposes of under this or any other Act; and
- (b) bridges and culverts constructed on land owned by a public or local authority.

Conversion of irrigation corporation to co-operative

87. Nothing in this Act prevents a class 2 irrigation corporation from applying to be registered, and being registered, as a co-operative under the Co-operatives Act 1992.

Stamp duty

88. Stamp duty is not payable for or in respect of:

- (a) the allotment of shares in an irrigation corporation to an eligible Minister; or
- (b) the transfer of shares in an irrigation corporation by eligible Ministers; or
- (c) the initial allotment of shares to an existing irrigator by an irrigation corporation; or
- (d) the transfer of assets, rights and liabilities to an irrigation corporation by an order under this Act; or
- (e) anything certified by the Minister as having been done in consequence of such a transfer (for example, the transfer or registration of an interest in land).

Authorisations for purposes of Trade Practices Act 1974 (Cth)

89. (1) In this section:

“**authorise**” includes approve;

“**the Commonwealth Act**” means the Trade Practices Act 1974 of the Commonwealth.

(2) The regulations may make provision for or with respect to specifically authorising certain acts and things, or acts and things of certain kinds, for the purposes of section 51 of the Commonwealth Act.

(3) In particular, the regulations may contain provisions specifically authorising, for the purposes of section 51 of the Commonwealth Act:

- (a) the transfer under Part 5 of the business undertaking of an irrigation scheme area to an irrigation corporation; and
- (b) all conduct relating to the performance of any or all contracts, agreements or understandings concerning the supply of water and associated purposes that are comprised in the business undertaking of an irrigation scheme area and all parties to any such contracts, agreements or understandings; and
- (c) the making by an irrigation corporation of a contract, agreement or understanding relating to the supply of water and associated purposes:
 - (i) that is, or is of a kind that is, specified in the regulations for the purposes of this section; or
 - (ii) that is approved by the Minister,

and all conduct of the irrigation corporation and all parties to the contract, agreement or understanding that relates to the proposed making of, negotiating for, making, and performance of any such contract, agreement or understanding.

(4) If regulations made under this section authorise an irrigation corporation to do any of the things referred to in subsection (3) (b) or (c), the corporation, in exercising that authority, is authorised to do or omit to do any act or thing that is, or is of a kind that would be, but for the authorisation, a contravention of a provision of Part IV of the Commonwealth Act.

(5) If authorisation is conferred by regulations made under this section, the contract, agreement or understanding so authorised is lawful and the irrigation corporation and all parties to the contract, agreement or understanding are authorised by force of this Act to enter into it, and to engage in the conduct referred to in subsection (3).

(6) Nothing in this section authorises an irrigation corporation to do or omit to do any act or thing that it would not be empowered to do or omit to do apart from this section and the Commonwealth Act.

(7) An approval under subsection (3) (c) (ii) may be given subject to conditions determined by the Minister.

(8) This section ceases to have effect at the end of 30 June 1997 or such earlier or later date as is prescribed by regulation. Such a regulation may only be made while this section is in force, and a date may not be prescribed that is earlier than the date the relevant regulation is published in the Gazette.

Exemptions from Monopolies Act 1923

90. (1) The regulations may make provision for or with respect to exempting an irrigation corporation from specified provisions of, or from, the Monopolies Act 1923.

(2) This section ceases to have effect at the end of 30 June 1997 or such earlier or later date as is prescribed by regulation. Such a regulation may only be made while this section is in force, and a date, may not be prescribed that is earlier than the date the relevant regulation is published in the Gazette.

Appeal or review

91. Nothing in this Act affects any statutory right of appeal or review or other right of appeal or review at law that an irrigation corporation has in respect of anything done or omitted to be done under this Act.

Payment of penalty does not affect other proceedings

92. (1) Prosecution or conviction of a person for an act or omission that is an offence against this Act does not affect any right of an irrigation corporation to take civil proceedings or any other action to recover from the person:

- (a) an amount in respect of loss or damage caused by the act or omission; or
- (b) the expenses incurred by the irrigation corporation in remedying the loss or damage; or
- (c) the value of water lost to the irrigation corporation because of the act or omission.

(2) Payment of a penalty for an offence against this Act does not affect any right of an irrigation corporation to institute any other action or proceeding.

Persons causing offences

93. (1) A person:

- (a) who causes the commission of an offence against this Act; or
- (b) by whose order or direction an offence against this Act is committed; or
- (c) who aids, abets, counsels or procures the commission of an offence against this Act,

is guilty of an offence against this Act and liable to a penalty in the same way as the principal offender.

(2) A person may be proceeded against for an offence under subsection (1) whether or not the principal offender has been prosecuted or convicted.

Disposal of proceedings for offence

94. (1) Proceedings for an offence against this Act are to be disposed of summarily before:

- (a) a Local Court constituted by a Magistrate sitting alone; or
- (b) the Land and Environment Court in its summary jurisdiction.

(2) The maximum penalty that may be imposed by a Local Court in proceedings for an offence against this Act is 100 penalty units or the maximum penalty for the offence, whichever is the lesser.

(3) Proceedings in the Land and Environment Court in its summary jurisdiction or in a Local Court in relation to an offence against this Act may be commenced not later than 12 months after the commission of the offence.

Minor amendment of Schedules 1 and 2

95. The regulations may amend Schedule 1 or 2 to reflect a change of name of a corporation or an irrigation scheme area, or to insert, omit or amend item numbers, or to correct errors.

Regulations

96. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, the regulations may make provision for or with respect to the following:

- (a) fees payable in respect of irrigation corporation licences, including the manner of payment and the waiver of such fees;
- (b) service charges to be levied on the holder of an irrigation corporation licence by the Ministerial Corporation;
- (c) prescribing circumstances in which an irrigation corporation is to be treated as an occupier of land for the purposes of the Water Act 1912.

(3) The regulations may contain provisions of a savings or transitional nature:

- (a) consequent on the enactment of this Act (including the amendments set out in Schedule 3); or
- (b) consequent on a corporation becoming an irrigation corporation; or
- (c) for or with respect to arrangements for the exercise of the functions of an irrigation corporation by some other person or body as a consequence of the suspension or cancellation of the operating licence of the irrigation corporation; or
- (d) consequent on the dissolution of an irrigation scheme area by operation of this Act.

(4) Any such savings or transitional provision may, if the regulations so provide, take effect from the commencement of this Act or a later date.

(5) To the extent to which any such savings or transitional provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

(6) Without affecting the generality of this section, the regulations may provide that a reference in any other Act, in any instrument under any Act, or in any document of any kind to the Ministerial Corporation or a predecessor of the Ministerial Corporation in relation to a business undertaking referred to in section 78 is to be read as, or as including, a reference to an irrigation corporation.

Register of licences, audits and land and water management plans

97. (1) The Ministerial Corporation must maintain at its head office a register containing all copies of all of the following:

- (a) operating licences;
- (b) irrigation corporation licences;
- (c) audit reports;
- (d) applicable land and water management plans;
- (e) recommendations of the Ministerial Corporation to the Governor under this Act.

(2) The register must be made available for public inspection during office hours.

(3) Any person may obtain a copy of any information on the register on payment of the reasonable cost of providing, the copy.

Amendments

98. Each Act specified in Schedule 3 is amended as set out in that Schedule.

Review of Act

99. (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

(2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.

(3) A report of the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

*Irrigation Corporations Act 1994 No. 41***SCHEDULE 1—LIST OF CLASS 1 IRRIGATION CORPORATIONS**

(Sec. 5)

Column 1 State owned corporation	Column 2 Existing area of operations
(1) Coleambally Irrigation Limited	Coleambally Irrigation Area
(2) Jemalong Wyldes Plains Irrigation Limited	Jemalong Domestic and Stock Water Supply and Irrigation District Wyldes Plains Domestic and Stock Water Supply and Irrigation District
(3) Lower Murray Irrigation Area Limited	Buronga Irrigation Area Coomoalla Irrigation Area Curlwaa Irrigation Area
(4) Murray Irrigation Limited	Tullakool Irrigation Area Berriquin Provisional Domestic and Stock Water Supply and Irrigation District Denimein Provisional Domestic and Stock Water Supply and Irrigation District Deniboota Provisional Domestic and Stock Water Supply and Irrigation District Wakool Domestic and Stock Water Supply and Irrigation District
(5) Murrumbidgee Irrigation Limited	Yanco No. 1 Irrigation Area Mirrool No. 1 Irrigation Area Benerambah Domestic and Stock Water Supply and Irrigation District Tabbita Domestic and Stock Water Supply and Irrigation District Wah Wah Domestic and Stock Water Supply and Irrigation District

*Irrigation Corporations Act 1994 No. 41***SCHEDULE 2—LIST OF CLASS 2 IRRIGATION CORPORATIONS**

(Sec. 27)

Part 1—Irrigation corporations with existing areas of operations

Column 1 Irrigation corporation	Column 2 Irrigation scheme area or areas
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Part 2—Irrigation corporations without existing areas of operations**SCHEDULE 3—AMENDMENTS**

(Sec. 97)

Conveyancing Act 1919 No. 6

- (1) Section 88 (**Limitation of enforceability of easements and restrictions of user of land**):

In section 88 (4), after “Parliament,” insert “or by or for an irrigation corporation within the meaning of the Irrigation Corporations Act 1994,”.

- (2) Section 88A (**Easements in gross and easements and restrictions appurtenant to easements**):

After section 88A (4), insert:

(5) For the purposes of this section, an irrigation corporation within the meaning of the Irrigation Corporations Act 1994 is taken to be a public authority constituted by an Act of Parliament.

Crown Lands Act 1989 No. 6

- (1) Section 3 (**Definitions**):

- (a) After “under” in the definition of “irrigation area” in section 3 (1) insert “the Wentworth Irrigation Act 1890,”.
- (b) From the definition of “mineral” in section 3 (1), omit “an irrigation area” wherever occurring, insert instead “a special land district”.

Irrigation Corporations Act 1994 No. 41

SCHEDULE 3—AMENDMENTS—*continued*

- (c) In section 3 (1) in alphabetical order insert:
“special land district” means a special land district declared under section 8;
- (2) Section 5 (**Application of Act**):
 Omit section 5 (1) (b), insert instead:
 (b) special land districts;
- (3) Section 8 (**Land districts**):
- (a) After section 8 (1), insert:
 (1A) The Minister may, by notification in the *Gazette*, establish land districts each comprising one or more irrigation areas or former irrigation areas that are within the Western Division.
- (b) After section 8 (2), insert:
 (3) The Minister may, by notification in the *Gazette*, declare any one or more land districts (whether in the Eastern and Central Division or the Western Division) to be a special land district. As far as practicable (but without affecting the power of the Minister to alter land districts or special land districts), a special land district is to consist of land within irrigation areas or former irrigation areas.
 (4) The Minister may, by notification in the *Gazette*, alter or abolish special land districts or define new special land districts.
- (4) Section 133 (**Definition**):
 Omit the section.

Crown Lands (Continued Tenures) Act 1989 No. 7

- (1) Section 3 (**Definitions**):
- (a) After “section 16” in paragraph (e) of the definition of “incomplete purchase” in section 3 (1), insert “, as in force before its repeal”.
- (b) After “section 16” in paragraph (c) of the definition of “perpetual lease” in section 3 (1), insert “, as in force before its repeal”.
- (2) Section 4 (**Application of Act**):
 From section 4 (a), omit “irrigation areas”, insert instead “special land districts”.
- (3) Section 6 (**Incomplete purchases etc.**):
 Omit section 6 (3).
- (4) Section 16 (**Schemes for redesign of irrigation area holdings**):
 Omit the section.

Irrigation Corporations Act 1994 No. 41

SCHEDULE 3—AMENDMENTS— *continued*

- (5) Section 17 (**Increase in irrigable area of holdings in irrigation areas**):
Omit the section.
- (6) Schedule 1 (**Continued tenures**):
From paragraph (r) in Part 2, omit “an irrigation area”, insert instead “a special land district”.
- (7) Schedule 2 (**Provisions applicable to continued tenures etc.**):
- (a) From clauses 2 (h) and 4 (1) in Part 1, omit “irrigation areas” wherever occurring, insert instead “special land districts”.
 - (b) From clauses 4 (3), (4), (5) (a), (6), (7) and (8), 7 and 8 in Part 1, omit “an irrigation area*” wherever occurring, insert instead “a special land district”.
 - (c) From clause 1 (e) in Part 2, omit “irrigation areas”, insert instead “special land districts*”.
 - (d) From clause 4 (1) and (2) in Part 2, omit “an irrigation area” wherever occurring, insert instead “a special land district”.
- (8) Schedule 3 (**Transfer restrictions**):
- (a) From clauses 2 (2), 8 (1) and 10 (1) in Part 1, omit “an irrigation area” wherever occurring, insert instead “a special land district”.
 - (b) From clause 10 (2) (b) in Part 1, omit “area; and”, insert instead “area.”.
 - (c) Omit clause 10 (2) (c) in Part 1.
 - (d) From clause 2 (2) (b) in Part 2, omit “an irrigation area”, insert instead “a special land district*”.
- (9) Schedule 4 (**Subdivision of holdings**):
- (a) From clause 1, omit “and to land in an irrigation area formerly comprised in a holding but, in either case,”.
 - (b) Omit clause 2 (7).
 - (c) Omit clause 2 (8).
 - (d) Omit clause 2 (9).
 - (e) From clause 3 (1), omit “and, if the land is in an irrigation area any areas required for channels or drainage”.
- (10) Schedule 5 (**Rent etc.**):
- (a) From clause 3 (1), omit “irrigation areas”, insert instead “special land districts”.
 - (b) From clauses 3 (3), (4), (5) (a) and (6), 9 (1), (2) and (3), 12 (6) and 13 (1), omit “an irrigation area” wherever occurring, insert instead “a special land district”.
 - (c) From clause 12 (1) (a), omit “irrigation area leases”, insert instead “leases of land within a special land district”.

Irrigation Corporations Act 1994 No. 41

SCHEDULE 3—AMENDMENTS—*continued*

(11) Schedule 7 (Purchase of land held under lease):

- (a) From the heading to Part 1, omit “AN IRRIGATION AREA”, insert instead “A SPECIAL LAND DISTRICT”.
- (b) From clause 1 in Part 1, omit “an irrigation area”, insert instead “a special land district”.
- (c) From the heading to Part 2, omit “AN IRRIGATION AREA”, insert instead “A SPECIAL LAND DISTRICT”.
- (d) From clause 1 (1) of Part 2, omit “an irrigation area”, insert instead “a special land district”.
- (e) From clause 9 (3) (a) of Part 2, omit “irrigation area known as the Coleambally Irrigation Area”, insert instead “land district of Coleambally”.

Dividing Fences Act 1991 No. 72

Section 25 (**Application of Act to Crown and local authorities etc**):

At the end of section 25 (1) (c), insert:

; or

- (d) an irrigation corporation under the Irrigation Corporations Act 1994.

Dried Fruits Act 1939 No. 7

(1) Section 5 (New South Wales Dried Fruits Board):

- (a) In section 5 (3) (b), after “within”, insert “that part of the special land district declared under the Crown Lands Act 1989 that comprised”.
- (b) From section 5 (3) (c), omit “irrigation area”, insert instead “part of the special land district”.

(2) Section 6 (Elections):

- (a) In section 6 (4) (a), after “within”, insert “that part of the special land district declared under the Crown Lands Act 1989 that comprised”.
- (b) From section 6 (4) (b), omit “irrigation area”, insert instead “part of the special land district”.

Forestry Act 1916 No. 55

Section 11A (**Sylvicultural management of certain lands in the land district of Murrumbidgee**):

- (a) From section 11A (1), omit “Murrumbidgee Irrigation Area”, insert instead “special land districts declared under the Crown Lands Act 1989 in relation to Yanco and Mirrool”.

Irrigation Corporations Act 1994 No. 41

SCHEDULE 3—AMENDMENTS— *continued*

- (b) From section 11A (1) and (4), omit “Water Administration Ministerial Corporation” wherever occurring, insert instead “Lands Administration Ministerial Corporation constituted by the Crown Lands Act 1989”.

Hay Irrigation Act 1902 No. 57

- (1) Section 1 (**Short title**):
Omit all words in section 1 after “1902”.
- (2) Section 2 (**Repeals and savings**):
Omit the section.
- (3) Section 3 (**Portions of Local Government Act 1919 at variance with this Act**):
Omit the section.
- (4) Section 4 (**Miners not to divert water**):
Omit the section.
- (5) Section 5 (**Definitions**):
- (a) In alphabetical order, insert:

“Area” means land described in the Second Schedule to this Act that is not land held in fee simple by a person (other than the Water Administration Ministerial Corporation) at the commencement of the Irrigation Corporations Act 1994.
 - (b) Omit the definition of “Irrigation area”.
 - (c) From the definition of “Ministerial Corporation”, omit “Water Administration Ministerial Corporation constituted by the Water Administration Act 1986”, insert instead “Lands Administration Ministerial Corporation constituted by the Crown Lands Act 1989”.
- (6) Section 6 (**Administration of Act**):
Omit the section.
- (7) Section 11:
Omit the section, insert instead:
- Property vested in the Ministerial Corporation**
11. (1) Land comprising the Area is vested in the Ministerial Corporation on and from the substitution of this section by the Irrigation Corporations Act 1994, together with any works constructed on that land, or for the purposes of this Act, which were vested in the Water Administration Ministerial Corporation immediately before that substitution.

Irrigation Corporations Act 1994 No. 41

SCHEDULE 3—AMENDMENTS—*continued*

- (2) Subsection (1) does not apply to:
- (a) land that has been set apart for public purposes by the Water Administration Ministerial Corporation before the appointed day, or that is from time to time set apart by the Lands Administration Ministerial Corporation after that day for those purposes; or
 - (b) land that is resumed or disposed of from time to time under this or any other Act.
- (8) Section 12 (**Alteration of Second Schedule**):
Omit the section.
- (9) Section 13 (**Powers of Ministerial Corporation**):
Omit the section.
- (10) Section 14 (**Compensation for damage done by the Ministerial Corporation**):
Omit the section.
- (11) Section 16 (**Arbitration**):
Omit the section.
- (12) Section 17:
Omit the section, insert instead:
Ministerial Corporation may lease
17. The Ministerial Corporation may let or lease any land vested in it by this Act for a term not exceeding 99 years.
- (13) Section 17A (**Restrictions as to assigns of holdings**):
Omit “irrigation area” wherever occurring, insert instead “Area”.
- (14) Section 18 (**Lots leased to be improved, or may be relet**):
Omit the section.
- (15) Sections 19A, 19B, 19C:
After section 19, insert:
Power to sell land
19A. (1) The Ministerial Corporation may from time to time dispose of for an estate in fee-simple by sale any land comprising the Area not demised or assigned by the Ministerial Corporation.
(2) The holder of a lease under this Act may purchase from the Ministerial Corporation the land comprised in the lease, but only with the consent in writing of any mortgagee.

Irrigation Corporations Act 1994 No. 41

SCHEDULE 3—AMENDMENTS— *continued*

(3) The purchase price for the land, together with interest at the annual rate of 4 per cent, or such other rate as may be prescribed by the regulations, is payable by 74 equal half-yearly instalments. The first instalment is payable on the date of purchase.

(4) The purchaser is to execute a contract of sale in a form approved by the Ministerial Corporation and enter into such covenants as the Ministerial Corporation considers necessary.

(5) The covenants are to include a covenant to execute, if required by the Ministerial Corporation, a mortgage over the land to the mortgagee preserving the rights, powers and remedies that the mortgagee would have had if the purchase had not been effected.

(6) The contract may, with the concurrence of the Ministerial Corporation, also provide for the transfer of the land after payment of the whole of the purchase money and interest or before the payment.

(7) If the contract provides for the transfer of the land before the payment of the purchase money and interest, the contract is to contain provisions for:

- (a) performance of any covenant specified to be performed before the transfer; and
- (b) a mortgage of the land to the Minister to secure the payment of the purchase money and interest.

(8) The purchaser of leased land under this section is, if required by the Ministerial Corporation, to execute a surrender of the purchaser's lease of the land to the Ministerial Corporation in a form approved by the Ministerial Corporation.

Purchase price of leased lands

19B. (1) The purchase price, for the purposes of section 19A, of land (excluding any improvements owned by a lessee who is purchasing the land) is to be determined by the Ministerial Corporation as at the date of notification of a person's intention to purchase the land.

(2) The Ministerial Corporation is, on determining a purchase price for the land, to give notice of the determination to the person intending to purchase the land.

(3) The notice must include information to the effect that the intended purchaser may object to the purchase price determined by the Ministerial Corporation.

(4) The Ministerial corporation is to consider any objection lodged and by notice inform the objector:

- (a) whether the determination of the purchase price is to stand or be varied; and

Irrigation Corporations Act 1994 No. 41

SCHEDULE 3—AMENDMENTS—*continued*

(b) that the objector, if dissatisfied with the Minister's decision, may appeal as provided by subsection (5).

(5) An appeal against the Ministerial Corporation's decision lies:

(a) to the local land board (within the meaning of the Crown Lands Act 1989) if the purchase price determined does not exceed \$150,000 or such greater amount as may be prescribed; or

(b) in any other case, to the Land and Environment Court.

(6) The local land board, or the Court, on hearing the appeal, may affirm the Ministerial Corporation's determination or substitute its own.

Payment of other amounts in respect of conversion of leaseholds

19C. (1) On the commencement of title to a purchase of land under section 19A, the following amounts are payable to the Ministerial Corporation:

(a) any stamp duty payable under the Stamp Duties Act 1920 in respect of the purchase;

(b) in the case of leased land, any rent (including rent for Crown improvements) payable on the lease up to the commencement of title to the land;

(c) in the case of leased land, any outstanding postponed or funded debts in respect of the lease (whether or not due for payment) together with interest up to the commencement of title to the land;

(d) the cost of any necessary survey carried out by the Ministerial Corporation;

(e) any other amounts determined by the Ministerial Corporation as payable on the commencement of title.

(2) Failing payment of any such amount within 3 months of demand, the purchase may be declared by the Ministerial Corporation to be forfeited and any money paid in connection with the purchase may (by the declaration) be forfeited to the Ministerial Corporation.

(3) Any other debts outstanding in respect of a lease of the land continue (subject to this section and any increased rate of interest required by this Act) to be payable to the Ministerial Corporation in the same manner as they were payable before the commencement of title to the land.

(16) Section 20 (**Ministerial Corporation may contract to supply water for a term of years**):

Omit the section.

(17) Section 21 (**When water insufficient, Ministerial Corporation may supply proportionally and is not liable for any inability to supply**):

Omit the section.

Irrigation Corporations Act 1994 No. 41

SCHEDULE 3—AMENDMENTS—*continued*

- (18) Section 22 (**Water to be used only in the manner prescribed**):
Omit the section.
- (19) Section 23 (**Right-of-way for water**):
 Omit the section.
- (20) Section 21 (**Water-way through land not to confer right to water on owner**):
- (21) Section 25 (**Construction of works on roads etc.**):
 Omit the section.
- (22) Section 27 (**Power to fix rates**):
 Omit the section.
- (23) Section 28 (**Saving of by-laws**):
 Omit the section.
- (24) Section 29 (**Regulations**):
- (a) In section 29 (1) (a), after “Act;” insert “and”
 - (b) Omit section 29 (1) (b)–(e), insert instead:
 - (b) advertisements and notifications relating to the sale of land under this Act; and
 - (c) applications to purchase land under this Act, including the form and determination of those applications; and
 - (d) the charging of interest on a daily basis on unpaid rent (whether or not the subject of a judgment by a court) and the times and manner of its payment.
- (25) Sections 30, 31:
 After section 29, insert:
- Savings and transitional provisions**
30. The Third Schedule has effect.
- Delegation**
31. The Ministerial Corporation may delegate to a person the exercise of any of its functions under this Act (other than this or any other power of delegation).
- (26) Part 5 (**Offences and penalties**):
 Omit the Part.

Irrigation Corporations Act 1994 No. 41

SCHEDULE 3—AMENDMENTS—*continued*

(27) The Third Schedule:

After the Second Schedule, insert:

THIRD SCHEDULE**Construction of certain references to the Water Administration Ministerial Corporation**

1. On and from the commencement of this clause, a reference (other than a reference prescribed by the regulations) in any instrument or document executed or made for the purposes of this Act to the Water Administration Ministerial Corporation constituted by the Water Administration Act 1986 is taken to be a reference to the Lands Administration Ministerial Corporation constituted by the Crown Lands Act 1989.

Conversion of leasehold contracts

2. (1) A contract under section 11C of the Irrigation Act 1912 (as in force immediately before its repeal) in respect of land within the Area is taken to be a contract under section 19A of this Act.

(2) A reference in any such contract:

- (a) to section 11C of the Irrigation Act 1912 is taken to be a reference to section 19A of this Act; and
- (b) to the Water Administration Ministerial Corporation constituted by the Water Administration Act 1986 is taken to be a reference to the Lands Administration Ministerial Corporation constituted by the Crown Lands Act 1989.

Irrigation Act 1912 No. 73

- (1) Section 6A (**Constitution of certain irrigation areas, setting apart of lands and allotting of water rights, validated**), section 6B (**Validation**):

Omit the sections, insert instead:

Change of Principal under contract

6A. (1) The Ministerial Corporation may serve on the holder of a lease, licence or permissive occupancy under this Act a notice in writing stating that, on and from a date that is specified in the notice and is later than the date of service, a reference in any agreement or other instrument relating to the lease, licence or permissive occupancy to the Ministerial Corporation is taken to be a reference to the Lands Administration Ministerial Corporation constituted by the Crown Lands Act 1989.

(2) A notice under this section has effect according to its tenor.

Irrigation Corporations Act 1994 No. 41

SCHEDULE 3—AMENDMENTS—*continued*

- (2) Section 11A (**Application of ss 11B–11F**):
Omit the section.
- (3) Section 11B (**Power to sell lands in fee-simple**):
Omit the section.
- (4) Section 11C (**Conversion of leaseholds**):
Omit the section.
- (5) Section 11E (**Determination of purchase money**):
Omit the section.
- (6) Section 11F (**Irrigated lot**):
Omit the section.
- (7) Section 11G (**Reserves for public purposes**):
Omit the section.
- (8) Section 11H (**Agreements for the supply of electricity**):
 - (a) From section 11H (l), omit “or in the Wentworth Irrigation Act”.
 - (b) From section 11H (l), omit “or in the Hay Irrigation Act 1902”.
- (9) Section 11I (**Special provisions relating to portions of irrigation areas included in local government areas**):
Omit the section.
- (10) Section 26 (**General regulations**):
 - (a) From section 26 (1) (u), omit “or in the Wentworth Irrigation Act,”.
 - (b) From section 26 (1) (u), omit “or the Hay Irrigation Act 1902”.

Irrigation Areas (Reduction of Rents) Act 1974 No. 83

Section 3 (Definitions):

- (a) Omit “an irrigation area within the meaning of the Irrigation Act, 1912” from paragraph (a) of the definition of “lease” in section 3 (l), insert instead “a special land district within the meaning of the Crown Lands Act 1989”.
- (b) Omit “Water Administration Ministerial Corporation constituted by the Water Administration Act 1986” from the definition of “Ministerial Corporation” in section 3 (l), insert instead “Lands Administration Ministerial Corporation constituted by section 13 of the Crown Lands Act 1989”.

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SCHEDULE 3—AMENDMENTS—*continued*

**Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act 1955
No. 12**

Section 20 (Reduction of rentals in certain cases):

- (a) From section 20 (1) (b), omit “Water Administration Ministerial Corporation”, insert instead “Lands Administration Ministerial Corporation constituted by section 13 of the Crown Lands Act 1989”.
- (b) From section 20 (1) (b) (i), omit “irrigation area constituted under the provisions”, insert instead “Area within the meaning”.
- (c) From section 20 (1) (b) (iv), omit “Water Administration Ministerial Copration”, insert instead “Lands Administration Ministerial Corporation constituted by section 13 of the Crown Lands Act 1989”.

Land and Environment Court Act 1979 No. 204

Section 21 (Class 5—environmental planning and protection summary enforcement):

After section 21 (ha), insert:

- (hb) proceedings under the Irrigation Corporations Act 1994; and

Mining Act 1992 No. 29

(1) Section 4 (Definitions):

From the Table to section 4 (2), omit “irrigation area”.

(2) Dictionary of words and expressions:

Omit the definition of “irrigation area”.

National Parks and Wildlife Act 1974 No. 80

Section 47J (Provisions relating to mining):

- (a) In section 47J (7) (a), omit “as defined in the Crown Lands Consolidation Act 1913”, insert instead “or special land district as defined in the Crown Lands Act 1989”.
- (b) At the end of section 47J (7) (b), insert:
 - ; or
- (c) where the lands are within such a special land district—the Minister for the time being administering the Crown Lands Act 1989 obtained after consultation with the Minister administering the Irrigation Corporations Act 1994.

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SCHEDULE 3—AMENDMENTS— *continued*

Noxious Weeds Act 1993 No. 11

- (1) Section 17 (**Other land to which occupiers' obligations to control noxious weeds extend**):
- (a) Omit section 17 (1) and (2).
 - (b) From section 17 (3), omit “This subsection does not apply to land within an irrigation area.”
 - (c) From section 17 (4), omit ““This subsection does not apply to land within an irrigation area.”
 - (d) From section 17 (6), omit “(other than land referred to in subsection (2))”.
- (2) Dictionary:
Omit the definitions of **channel land** and **irrigation area**

Petroleum (Onshore) Act 1991 No. 84

- (1) Section 70 (**Restrictions on rights of holders of titles over reserved lands etc.**):
After section 70 (3) (a), insert:
- (a1) without the concurrence in writing of the Lands Administration Ministerial Corporation constituted by section 13 of the Crown Lands Act 1989; or
- (2) Section 106 (**Rights of way over Crown or private land**):
After section 106 (4) (a), insert:
- (a1) without the concurrence in writing of the Lands Administration Ministerial Corporation constituted by section 13 of the Crown Lands Act 1989; or

Real Property Act 1900 No. 25

- Section 13K (**Conversions, purchases, extensions of term, subdivisions etc.**):
Omit section 13K (1) (g).

Water Act 1912 No. 44

- (1) Section 5 (**Definitions**):
In alphabetical order in section 5 (1), insert:
“irrigation corporation licence” means an irrigation corporation water management works licence granted under the Irrigation Corporations Act 1994;

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SCHEDULE 3—AMENDMENTS—*continued*

(2) Section 20V (**Definitions**):

After “authority” in paragraph (a) of the definition of “entitlement” in section 20V (1) insert “, irrigation corporation licence”.

(3) Section 20Y (**Invalidation of applications for entitlements**):

After section 20Y (2A), insert:

(2B) Subsection (1) does not apply to an application for an irrigation corporation licence.

(4) Section 21B (**Offences with respect to construction, erection and use of work without licence etc.**):

After “group licence,” wherever occurring in section 21B (1) and (2), insert “irrigation corporation licence,”.

Wentworth Irrigation Act 1890 54 Vic. No. 7

(1) Section 2 (**Portions of the Local Government Act 1919 at variance with this Act**):

Omit the section.

(2) Section 3 (**Repeal of parts of “Mining Act of 1874”**):

Omit the section.

(3) Section 4 (**Definitions**):

(a) In alphabetical order, insert:

“**Area**” means land described in Schedule 1 that is not land held in fee simple by a person (other than the Water Administration Ministerial Corporation) at the commencement of the Irrigation Corporations Act 1994.

(b) Omit the definition of “Irrigation area”.

(c) From the definition of “Ministerial Corporation”, omit “Water Administration Ministerial Corporation constituted by the Water Administration Act 1986”, insert instead “Lands Administration Ministerial Corporation constituted by the Crown Lands Act 1989”.

(d) Omit all words in section 4 after the definition of “stock”.

(4) Section 5 (**Administration of Act**):

Omit the section.

(5) Section 10:

Omit the section, insert instead:

Property vested in the Ministerial Corporation

10. (1) Land comprising the Area is vested in the Ministerial Corporation on and from the substitution of this section by the Irrigation Corporations Act 1994, together with any works constructed on that land,

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SCHEDULE 3—AMENDMENTS—*continued*

or for the purposes of this Act, which were vested in the Water Administration Ministerial Corporation immediately before that substitution.

(2) Subsection (1) does not apply to:

- (a) land that has been set apart for public purposes by the Water Administration Ministerial Corporation before the appointed day, or that is from time to time set apart by the Lands Administration Ministerial Corporation after that day for those purposes; or
- (b) land that is resumed or disposed of from time to time under this or any other Act.

(6) Section 11 (**Power of Ministerial Corporation**):

Omit the section.

(7) Section 17 (**Qualified engineers to be employed**):

Omit the section.

(8) Section 19 (**Compensation for damage done by the Ministerial Corporation**):

Omit the section.

(9) Section 21 (**Arbitration**):

Omit the section.

(10) Section 22:

Omit the section, insert instead:

Ministerial Corporation may lease

22. The Ministerial Corporation may let or lease any land vested in it by this Act for a term not exceeding 30 years.

(11) Section 22A (**Restrictions as to assigns of holdings**):

Omit “irrigation area” wherever occurring, insert instead “Area”.

(12) Sections 22B, 22C, 22D:

After section 22A, insert:

Power to sell land

22B. (1) The Ministerial Corporation may from time to time dispose of for an estate in fee-simple by sale any land comprising the Area not demised or assigned by the Ministerial Corporation.

(2) The holder of a lease under this Act may purchase from the Ministerial Corporation the land comprised in the lease, but only with the consent in writing of any mortgagee.

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SCHEDULE 3—AMENDMENTS—*continued*

(3) The purchase price for the land, together with interest at the annual rate of 4 per cent, or such other rate as may be prescribed by the regulations, is payable by 74 equal half-yearly instalments. The first instalment is payable on the date of purchase.

(4) The purchaser is to execute a contract of sale in a form approved by the Ministerial Corporation and enter into such covenants as the Ministerial Corporation considers necessary.

(5) The covenants are to include a covenant to execute, if required by the Ministerial Corporation, a mortgage over the land to the mortgagee preserving the rights, powers and remedies that the mortgagee would have had if the purchase were not effected.

(6) The contract may, with the concurrence of the Ministerial Corporation, also provide for the transfer of the land after payment of the whole of the purchase money and interest or before the payment.

(7) If the contract provides for the transfer of the land before the payment of the purchase money and interest, the contract is to contain provisions for:

- (a) performance of any covenant specified to be performed before the transfer, and
- (b) a mortgage of the land to the Minister to secure the payment of the purchase money and interest.

(8) The purchaser of leased land under this section is, if required by the Ministerial Corporation, to execute a surrender of the purchaser's lease of the land to the Ministerial Corporation in a form approved by the Ministerial Corporation.

Purchase price of leased lands

22C. (1) The purchase price, for the purposes of section 22B, of land (excluding any improvements owned by a lessee who is purchasing the land) is to be determined by the Ministerial Corporation as at the date of notification of a person's intention to purchase the land.

(2) The Ministerial Corporation is, on determining a purchase price for the land, to give notice of the determination to the person intending to purchase the land.

(3) The notice must include information to the effect that the intended purchaser may object to the purchase price determined by the Ministerial Corporation.

(4) The Ministerial Corporation is to consider any objection lodged and by notice inform the objector:

- (a) whether the determination of the purchase price is to stand or be varied; and
- (b) that the objector, if dissatisfied with the Minister's decision, may appeal as provided by subsection (5).

Irrigation Corporations Act 1994 No. 41

SCHEDULE 3—AMENDMENTS—*continued*

- (5) An appeal against the Ministerial Corporation's decision lies:
- (a) to the local land board (within the meaning of the Crown Lands Act 1989) if the purchase price determined does not exceed \$150,000 or such greater amount as may be prescribed; or
 - (b) in any other case, to the Land and Environment Court.

(6) The local land board, or the Court, on Rearing the appeal, may affirm the Ministerial Corporation's determination or substitute its own.

Payment of other amounts in respect of conversion of leaseholds

22D. (1) On the commencement of title to a purchase of land under section 22B, the following amounts are payable to the Ministerial Corporation:

- (a) any stamp duty payable under the Stamp Duties Act 1920 in respect of the purchase;
- (b) in the case of leased land, any rent (including rent for Crown improvements) payable on the lease up to the commencement of title to the land;
- (c) in the case of leased land, any outstanding postponed or funded debts in respect of the lease (whether or not due for payment) together with interest up to the commencement of title to the land;
- (d) the cost of any necessary survey carried out by the Ministerial Corporation;
- (e) any other amounts determined by the Ministerial Corporation as payable on the commencement of title.

(2) Failing payment of any such amount within 3 months of demand, the purchase may be declared by the Ministerial Corporation to be forfeited and any money paid in connection with the purchase may (by the declaration) be forfeited to the Ministerial Corporation.

(3) Any other debts outstanding in respect of a lease of the land continue (subject to this clause and any increased rate of interest required by this Act) to be payable to the Ministerial Corporation in the same manner as they were payable before the commencement of title to the land.

- (13) Section 23 (**Ministerial Corporation may contract to supply water for a term of years**):

Omit the section.

- (14) Section 24 (**When water insufficient the Ministerial Corporation may supply proportionally and not liable for any inability to supply**):

Omit the section.

- (15) Section 25 (**Water-rights not transferable, save by permission of Ministerial Corporation**):

Omit the section.

Irrigation Corporations Act 1994 No. 41

SCHEDULE 3—AMENDMENTS— *continued*

- (16) Section 26 (**Water to be used only in the manner prescribed**):
Omit the section.
- (17) Section 27 (**Right-of-way for water**):
Omit the section.
- (18) Section 28 (**Water-way through land not to confer right to water on owner**):
Omit the section.
- (19) Section 29 (**Bridges to be built at road crossings**):
Omit the section.
- (20) Section 30 (**Water to be sold by measurement**):
Omit the section.
- (21) Section 31 (**Power to fix charges for water**):
Omit the section.
- (22) Section 31A (**Ministerial Corporation empowered to construct drainage works**):
Omit the section.
- (23) Section 32 (**Saving of by-laws**):
Omit the section.
- (24) Section 33 (**Regulations**):
- (a) In section 33 (1) (a), after “Act;” insert “and”.
 - (b) Omit section 33 (1) (b)–(f), insert instead:
 - (b) advertisements and notifications relating to the sale of land under this Act; and
 - (c) applications to purchase land under this Act, including the form and determination of those applications; and
 - (d) the charging of interest on a daily basis on unpaid rent (whether or not the subject of a judgment by a court) and the times and manner of its payment.
- (25) Sections 34, 35:
After section 33, insert:
- Delegation**
34. The Ministerial Corporation may delegate to a person the exercise of any of its functions under this Act (other than this or any other power of delegation).
- Savings and transitional provisions**
35. Schedule 2 has effect.

Irrigation Corporations Act 1994 No. 41

SCHEDULE 3—AMENDMENTS—*continued*

(26) Part 5 (**Offences and penalties**):

Omit the Part.

(27) The Schedule:

Omit the heading, insert instead “**SCHEDULE 1**”.

(28) Schedule 2:

After Schedule 1, insert:

SCHEDULE 2

Construction of certain references to the Water Administration Ministerial Corporation

1. On and from the commencement of this clause, a reference (other than a reference prescribed by the regulations) in any instrument or document executed or made for the purposes of this Act to the Water Administration Ministerial Corporation constituted by the Water Administration Act 1986 is taken to be a reference to the Lands Administration Ministerial Corporation constituted by the Crown Lands Act 1989.

Conversion of leasehold contracts

2. (1) A contract under section 11C of the Irrigation Act 1912 (as in force immediately before its repeal) in respect of land within the Area is taken to be a contract under section 22B of this Act.

(2) A reference in any such contract:

(a) to section 11C of the Irrigation Act 1912 is taken to be a reference to section 22B of this Act; and

(b) to the Water Administration Ministerial Corporation constituted by the Water Administration Act 1986 is taken to be a reference to the Lands Administration Ministerial Corporation constituted by the Crown Lands Act 1989.

*[Minister's second reading speech made in—
Legislative Assembly on 21 April 1994
Legislative Council on 13 May 1994]*