

(Reprint No. 1)

SOUTH AUSTRALIA

IRRIGATION ACT, 1930

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 15 August 1991.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

SUMMARY OF PROVISIONS

PART I

PRELIMINARY

Section

1. Short title
2. Commencement of Act
3. Incorporation with Crown Lands Act, 1929
4. Arrangement of Act
5. Acts repealed
6. Interpretation

PART II

ABOLITION OF COMMISSION AND TRANSITIONAL PROVISIONS

7. Abolition of Irrigation Commission
8. Incorporation of Minister
9. Transfer to Commission of property, rights, etc.
10. Works in course of construction to be completed by Minister
11. Saving of contracts
12. Annual report

PART III

RECLAMATION OF SWAMP LANDS AND PROCLAMATION OF IRRIGATION AREAS

13. Reclamation and improvement of swamp lands
14. Provision of moneys for reclamation and improvement of lands
16. Proclamation of irrigation areas
17. Power to alter boundaries of irrigation areas
18. Governor to assign names to irrigation areas
19. Survey and subdivision into blocks

PART IV

ACQUISITION, TENURE, AND TRANSFER OF LAND WITHIN IRRIGATION AREAS

DIVISION I—BLOCKS

21. Mode of fixing rent
22. Terms of lease
23. Payment of rent
24. Power to reduce rent
27. Dealing with unallotted land

DIVISION II—TOWN ALLOTMENTS

28. Offering of town allotments by auction
29. Land to be gazetted before auction
30. Provisions with respect to rent
31. Improvements by lessees
32. Allotments may be set apart for special purposes
33. Number of holdings may be limited
34. Variation of purpose for which allotment may be used
- 35a. Grant of freehold of township allotments to certain bodies corporate
- 35b. Offer of town allotments
36. Licences to occupy allotments
37. Revision of rents of certain township allotments

DIVISION III—GENERAL PROVISIONS

38. Form of lease
39. Incorporation of certain provisions of Crown Lands Act, 1929
40. Grant of sites for public, charitable, and other purposes
42. General power to lease land
43. Grant of licences of land other than town allotments
44. Power to grant miscellaneous leases
45. Payment of rents to Minister
46. Repurchased lands to be leased under Act
47. Crown lessee may surrender for lease under this Act
48. Grant of lease and fixing of rent
- 48a. Power to accept surrender of uneconomic block
- 48b. Payment for improvements on lease of block comprised in surrendered lease
- 48c. Fee simple of lease or licence may be purchased
- 48d. Application of Crown Lands Act to breach of Agreement or condition
- 48e. Consent of Minister not required to transfer, etc., of perpetual lease, agreement or land grant
49. Privileges of beneficial owners of blocks or allotments
50. Disqualifications as leaseholder

- 51. Agreement preventing fair competition at auction to be void
- 52. Agreement to pay commission of more than two and a half per centum void
- 53. Registration of alterations of leases and mortgages

PART V

IRRIGATION AND DRAINAGE

DIVISION I—PRELIMINARY

- 54. Interpretation

DIVISION II—POWERS OF THE MINISTER

- 55. Irrigation and drainage of land
- 56. Powers of the Minister
- 57. Obligation on owner of land
- 58. Minister may carry out work where owner fails

DIVISION III—ALLOCATION OF WATER FOR IRRIGATION

- 59. Entitlement to water
- 60. Allocation of water
- 61. Transfer of allocation
- 62. Record of allocations

DIVISION IV—RATES

- 63. Rates
- 64. Water supply rates
- 65. Minimum rate payable
- 66. Drainage rate
- 67. Reduction of rates in respect of undeveloped blocks
- 68. Reduction of rate in case of surplus water
- 69. Liability for rates and interest on rates
- 70. Minister may remit interest

DIVISION V—GENERAL

- 71. Insufficient supplies of water
- 72. Records to be made by the Minister
- 73. Supply of water to and drainage of water from non-ratable land
- 74. Failure to pay rates or other charges, etc.

PART VI

FINANCIAL ASSISTANCE TO HOLDERS OF LAND IN IRRIGATION AREAS

- 81. Financial assistance to landholders in irrigation areas

PART VII

POWERS, DUTIES AND FUNCTIONS OF THE MINISTER UNDER THE
DISCHARGED SOLDIERS SETTLEMENT ACT, 1934-1940

- 110. Discharged Soldiers Settlement Acts to be administered by Minister
- 111. Advances to discharged soldiers on irrigation lands repayable to Minister
- 112. Consequential amendments to Acts and instruments
- 113. Annual report to be prepared by Minister as to lands administered by him

PART VIIA

POWERS WITH RESPECT TO THE RECOVERY OF MONEYS DUE

- 113a. Interpretation
- 113b. Duty of agent, etc., to keep books
- 113c. Power to inspect books, etc., of packing sheds, etc.
- 113d. Duty of landholder to keep books

PART VIII

REGULATIONS

- 114. Regulations

PART IX

MISCELLANEOUS

- 116. Special rates on town land
- 117. Governor may place certain lands under the care, control, and management of local bodies
- 118. Treasurer may fix rate of interest

- 118a. Use of party channels and drains
- 121. No liability for damage through insufficiency of water, or floods
- 121a. Power of Minister to carry out work on behalf of lessee or owner
- 122. Provision as to powers and functions transferred

PART X

LEGAL PROCEDURE

- 124. *Gazette* to be evidence
- 125. Proclamation not invalid for preliminary defect
- 126. Service of notices
- 127. Penalty where none specified
- 128. Who may take proceedings and hearing of same
- 129. Penalties to be paid to the Treasurer
- 130. Protection to persons acting in execution of this Act

SCHEDULES

IRRIGATION ACT, 1930

being

Irrigation Act, 1930, No. 1989 of 1930 [Assented to 20 November 1930]¹

as amended by

Irrigation Act Amendment Act, 1933, No. 2116 of 1933 [Assented to 12 October 1933]
Statute Law Revision Act, 1936, No. 2293 of 1936 [Assented to 8 October 1936]
Irrigation Act Amendment Act, 1941, No. 38 of 1941 [Assented to 20 November 1941]
Irrigation Act Amendment Act, 1945, No. 21 of 1945 [Assented to 13 December 1945]
Irrigation Act Amendment Act, 1946, No. 37 of 1946 [Assented to 19 December 1946]
Irrigation Act Amendment Act, 1967, No. 55 of 1967 [Assented to 9 November 1967]
Irrigation Act Amendment Act, 1971, No. 105 of 1971 [Assented to 9 December 1971]²
Rates and Taxes Remission Act, 1974, No. 16 of 1974 [Assented to 4 April 1974]³
Statute Law Revision Act, 1974, No. 42 of 1974 [Assented to 11 April, 1974]
Statutes Amendment (Rates and Taxes Remission) Act, 1975, No. 98 of 1975 [Assented to 20 November 1975]⁴
Statutes Amendment (Rates and Taxes Remission) Act, 1977, No. 55 of 1977 [Assented to 15 December 1977]⁵
Statutes Amendment (Irrigation Acts) Act, 1978, No. 28 of 1978 [Assented to 30 March 1978]⁶
Irrigation Act Amendment Act, 1981, No. 18 of 1981 [Assented to 19 March 1981]⁷
Irrigation Act Amendment Act (No. 2), 1981, No. 65 of 1981 [Assented to 15 October 1981]⁸
Irrigation Act Amendment Act, 1982, No. 2 of 1982 [Assented to 7 January 1982]⁹
Statutes Amendment (Irrigation) Act, 1983, No. 15 of 1983 [Assented to 12 May 1983]¹⁰
Statutes Amendment and Repeal (Crown Lands) Act, 1985, No. 39 of 1985 [Assented to 18 April 1985]¹¹
Irrigation Act Amendment Act, 1986, No. 68 of 1986 [Assented to 20 November 1986]¹²
Rates and Land Tax Remission Act, 1986, No. 78 of 1986 [Assented to 4 December 1986]¹³
Irrigation Act Amendment Act (No. 2), 1986, No. 79 of 1986 [Assented to 4 December 1986]
Irrigation Act Amendment Act, 1988, No. 61 of 1988 [Assented to 15 September 1988]¹⁴
Statutes Amendment (Water Resources) Act 1991 No. 7 of 1991 [Assented to 28 March 1991]¹⁵

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

An Act to repeal the Irrigation Acts, 1922 to 1928, and to enact other provisions for the control, management, and supervision of irrigation areas, and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

¹ Came into operation 5 February 1931: *Gaz.* 5 February 1931, p. 189.

² Came into operation 3 February 1972: *Gaz.* 3 February 1972, p. 431.

³ Came into operation 1 July 1973: s. 2.

⁴ Came into operation 1 July 1975: s. 2.

⁵ Came into operation 1 July 1978: s. 2.

⁶ Came into operation 3 July 1978: *Gaz.* 29 June 1978, p. 2236.

⁷ Came into operation 26 November 1981: *Gaz.* 26 November 1981, p. 2135.

⁸ Came into operation 30 June 1983: *Gaz.* 9 June 1983, p. 1625.

⁹ Came into operation 21 January 1982: *Gaz.* 21 January 1982, p. 152.

¹⁰ Came into operation 30 June 1983: *Gaz.* 9 June 1983, p. 1625.

¹¹ Came into operation 15 July 1985: *Gaz.* 4 July 1985, p. 4.

¹² Came into operation 1 July 1987: *Gaz.* 26 February 1987, p. 440.

¹³ Came into operation 1 April 1987: *Gaz.* 26 March 1987, p. 702.

¹⁴ Came into operation 1 May 1989: *Gaz.* 16 March 1989, p. 771.

¹⁵ Came into operation (except s. 7) 15 July 1991: *Gaz.* 11 July 1991, p. 244.

PART I
PRELIMINARY

Short title

1. This Act may be cited as the *Irrigation Act, 1930*.

Commencement of Act

2. This Act shall come into operation on a day to be fixed by proclamation.

Incorporation with Crown Lands Act, 1929

3. This Act is incorporated with the *Crown Lands Act, 1929*, and that Act and this Act shall be read as one Act.

Arrangement of Act

4. The provisions of this Act are arranged as follows:—

PART I—Preliminary:

PART II—Abolition of Irrigation and Drainage Commission and transitional provisions:

PART III—Reclamation of swamp lands and proclamation of irrigation areas:

PART IV—Acquisition, tenure, and transfer of land within irrigation areas—

DIVISION I—Blocks:

DIVISION II—Town allotments:

DIVISION III—General provisions:

PART V—IRRIGATION AND DRAINAGE

DIVISION I—PRELIMINARY

DIVISION II—POWERS OF THE MINISTER

DIVISION III—ALLOCATION OF WATER FOR IRRIGATION

DIVISION IV—RATES

DIVISION V—GENERAL.

PART VI—Financial assistance to holders of land in irrigation areas:

PART VII—Powers, duties and functions of the Minister under the Discharged Soldiers Settlement Act, 1934-1940:

PART VIIA—Powers with respect to the recovery of moneys:

PART VIII—Regulations:

PART IX—Miscellaneous:

PART X—Legal procedure.

Acts repealed

5. (1) The Acts mentioned in the First Schedule are hereby repealed.

(2) Such repeal shall not affect any lease, licence, loan, advance, mortgage, or agreement granted or made under any of the repealed Acts, and all such matters and things are, subject to the other provisions of this Act, and to the extent that they were respectively in force or subsisting immediately before the commencement of this Act, hereby preserved and continued and declared to be of the same force and effect as if this Act had been in force when they were granted or made respectively.

(3) Whenever in any deed, lease, transfer, mortgage, or other document or instrument of any kind any reference is made to any of the repealed Acts, or to any provision of any of the repealed Acts, such reference shall be read and construed as a reference to this Act, or to the corresponding provision of this Act.

Interpretation

6. In this Act, and in leases granted under or continued by this Act, and in proceedings taken under this Act, except where the context or subject matter requires a different construction—

“advance” means any advance made under this Act or any of the repealed Acts:

“by-law” means by-law made under any of the repealed Acts:

“channel” includes a closed channel or pipe:

“Commission” means the Commission established by the *Irrigation Act, 1922*, under the name of the Irrigation Commission and subsequently re-named the Irrigation and Drainage Commission by the *South-Eastern Drainage Act, 1926*:

*	*	*	*	*	*	*	*	*	*
*	*	*	*	*	*	*	*	*	*
*	*	*	*	*	*	*	*	*	*

“fixed rate” means the annual rate of interest fixed by the Treasurer under section 97A of the *Irrigation and Reclaimed Lands Act, 1914*, or under section 137 of the *Irrigation Act, 1922*, or under section 118 of this Act, which was or is in force at the time when the moneys in question were expended or advanced respectively:

“irrigation area” means an irrigation area continued by or proclaimed under this Act or any of the repealed Acts:

“Land Board” means the Land Board as constituted under the *Crown Lands Act, 1929*:

“lessee” includes, as well as the original lessee of the land held under a lease issued pursuant to this Act or any of the repealed Acts, the transferee of such lease, and the executors or administrators of such lessee or transferee:

“Minister” means the Minister of the Crown to whom, for the time being, the administration of this Act is committed by the Governor:

“owner”, in relation to land within an irrigation area, means a person who owns, or who is purchasing from the Crown under an agreement to purchase, the fee simple of the land:

“ratable land” means any land situated within an irrigation area for which the Minister has approved and made available a water supply in return for a rate fixed and payable annually:

“reclaimed lands” means lands reclaimed from being swamp lands:

“repealed Acts” means the Acts repealed by this Act and the Acts repealed by the *Irrigation and Reclaimed Lands Act, 1914*, and by the *Irrigation Act, 1922*:

“River Murray” includes any affluent, effluent, anabranch, or extension of the River Murray, and any river, creek, stream, watercourse, spring, lake, lagoon, swamp, or marsh connected with the River Murray:

“Surveyor-General” means the Surveyor-General for the State, or the person for the time being discharging the duties of the office of such Surveyor-General.

PART II

ABOLITION OF COMMISSION AND TRANSITIONAL PROVISIONS

Abolition of Irrigation Commission

7. The Commission is hereby abolished: Provided that for all purposes of the *South-Eastern Drainage Act, 1926*, the Commission shall be deemed to continue to exist as if this Act had not been passed, until Parliament otherwise provides.

Incorporation of Minister

8. * * * * *

(2) For the purposes of this Act the Minister shall be a body corporate, having perpetual succession and a common seal, and in his corporate name may sue and be sued and hold and dispose of land.

(3) The powers by this Act granted to the Minister to make contracts may be exercised as follows:—

- I. Any contract which, if made between private persons, would be by law required to be in writing and under seal, the Minister may make in writing in his corporate name under his common seal:
- II. Any contract which, if made between private persons, would be by law required to be in writing and signed by the parties thereto, may be made by the Minister or any person acting under his authority (express or implied), in writing signed by the Minister or such person:
- III. Any contract which, if made between private persons, would be by law valid although made by parol only and not reduced into writing, may be made by parol by the Minister or by any person acting under his authority (express or implied).

(4) A contract made according to this section shall be effectual in law, and binding on the Minister and his successors and all other parties thereto.

(5) A contract made by or on behalf of the Minister may be varied or discharged in the same manner in which it is authorized by this section to be made.

Transfer to Commission of property, rights, etc.

9. (1) All property, both real and personal, including all works for the irrigation of land or the reclamation of swamp land, which at the commencement of this Act is vested in the Commission for the purposes of the repealed Acts is hereby transferred to and vested in the Minister.

(2) All the powers, immunities, rights, interests, titles, privileges, obligations, liabilities, and duties of the Commission, the Minister of Irrigation, the Director of Irrigation, or any Irrigation Board arising or accruing under any of the repealed Acts, or under any document or instrument of any kind whatsoever in force or subsisting at such commencement, whether arising or accruing before or after such commencement, are hereby transferred to the Minister.

(3) In any deed, lease, agreement, licence, permit, transfer, mortgage, or other document or instrument of any kind whatsoever in force and subsisting at the commencement of this Act, which concerns or affects any of the property, matters, or things transferred to the Minister by the last preceding section and in any Act passed before the commencement of this Act, all references to the Commission, the Director of Irrigation, or any Irrigation Board shall, so far as they concern or affect any property, matter, or thing so transferred, be read and construed as references to the Minister.

Works in course of construction to be completed by Minister

10. The construction of any works which, at the commencement of this Act, are in course of construction by or for the Commission under any of the repealed Acts shall be continued and carried on by or for the Minister, and all moneys appropriated by Parliament for the construction of any such works and unexpended at the commencement of this Act shall be expended by the Minister, subject to the provisions of this Act.

Saving of contracts

11. Without in any way limiting the operation of the last preceding section, all contracts, deeds, agreements, and other instruments entered into or made under any of the repealed Acts and subsisting at the commencement of this Act with regard to any such works, and to which the Commission is a party, may be enforced by or against the Minister as fully and effectually as if the Minister instead of the Commission had been a party thereto.

Annual report

12. (1) As soon as may be after the thirtieth day of June in each year the Minister shall cause to be prepared a report containing the following matters, namely:—

- I. A report of the proceedings under this Act during the last previous financial year setting forth the contracts entered into, works carried on or completed, and the transactions generally under this Act during the year:
- II. A balance-sheet and financial statement with respect to each irrigation area:
- III. A statement of the moneys received and disbursed under this Act during the year, setting forth the matters in respect of which they have been received and the purposes for which they have been disbursed, and showing in regard to each of such matters and purposes the balance of receipts and disbursements brought forward from the previous year, and the balance at the end of the financial year dealt with in such statement:
- IV. A balance-sheet and a report upon the operation of Part VI of this Act.

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

PART III

RECLAMATION OF SWAMP LANDS AND PROCLAMATION OF IRRIGATION AREAS

Reclamation and improvement of swamp lands

13. The Minister may reclaim and improve any swamp lands, whether such lands are or are not at the time included or intended to be included in any irrigation area, and may construct all such embankments and other works and do all such other things as he deems necessary for such reclamation and improvement.

Provision of moneys for reclamation and improvement of lands

14. (1) The public moneys to be expended by the Minister in reclaiming and improving swamp lands and lands in irrigation areas, in constructing and improving embankments, and in carrying out the objects of this Act with regard to lands in irrigation areas, shall not exceed the amount provided by Parliament for that purpose.

(2) Such sums as are for the time being required for maintaining embankments shall be paid out of general revenue, and the Treasurer may, without any authority other than this Act, pay out of general revenue any money required for the said purpose.

* * * * *

Proclamation of irrigation areas

16. (1) The Governor may by proclamation set apart any Crown lands as an irrigation area.

(2) Any such irrigation area may consist wholly of reclaimed lands or wholly of other lands, or partly of reclaimed and partly of other lands, and may include any embankment.

(3) All irrigation areas proclaimed before the commencement of this Act are hereby preserved and continued, and shall be irrigation areas for the purposes of this Act.

Power to alter boundaries of irrigation areas

17. The Governor may by proclamation—

(a) withdraw any land included in an irrigation area from that area; and may, as to the whole or any part of the land so withdrawn—

I. proclaim it to be an irrigation area; or

II. include it as part of a new irrigation area; or

III. include it in an irrigation area then already proclaimed; and

(b) set apart any Crown lands (including embankments) and include the same in any irrigation area then already proclaimed.

Governor to assign names to irrigation areas

18. Every proclamation of an irrigation area shall assign a name to that irrigation area.

Survey and subdivision into blocks

19. (1) The Minister shall cause the land included in any irrigation area, and the lands (if any) adjoining such irrigation area which are to be leased in connection therewith, to be surveyed and, subject to subsection (3) of this section, to be subdivided into blocks.

(2) Such blocks shall be of such size and shall contain such class or classes of land as the Minister on the recommendation of the Land Board determines.

(3) The Minister shall set apart such parts of the land included in any irrigation area as he thinks proper, as Government reserves, reserves for roads, water channels, wharves, docks, commonage, and park lands, sites for towns, pumping stations, machinery and factories, and for any other purposes approved by him; and may from time to time set apart such other parts of the said land as he thinks proper for any of the said purposes.

(4) The Minister may cause sites for towns to be subdivided into allotments.

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PART IV

ACQUISITION, TENURE, AND TRANSFER OF LAND WITHIN IRRIGATION
AREAS

DIVISION I—BLOCKS

Mode of fixing rent

21. The Land Board, with the approval of the Minister, shall fix the annual rent to be paid for each block in an irrigation area.

Terms of lease

22. Each block shall be offered on perpetual lease at a rental as hereinafter mentioned.

Payment of rent

23. (1) The rent for each block for the first three years of the lease shall be payable as follows:—

- (a) for the first year, one-quarter of the annual rent fixed under section 21:
- (b) for the second year, one-half of such rent:
- (c) for the third year, three-quarters of such rent.

(2) The provisions of subsection (1) hereof shall apply only in respect of any block which, at the time it is offered on perpetual lease, has not been planted or otherwise brought under cultivation. If the Land Board is of opinion, at the time any block is offered on perpetual lease—

- (a) that the whole or any portion of such block is in a complete state of cultivation and in full bearing;

or

- (b) that, although not in a complete state of cultivation or in full bearing, the block or any portion thereof is in such a state or stage of cultivation that the provisions of subsection (1) of this section should not apply,

or

- (c) that there is any other reason why the provisions of subsection (1) hereof should not apply,

then the Minister, in offering the said block on perpetual lease, may direct that the provisions of subsection (1) hereof shall not apply in respect of such block, and shall fix what proportion of the annual rent fixed under section 21 (being the whole or any part thereof) shall be payable for the first, second, and third years of the lease respectively, having regard to the area of the block under cultivation at the time it is offered on perpetual lease, and the state or stage of such cultivation.

(3) For the fourth and each succeeding year of the lease of any block, the full amount of the annual rent fixed under section 21 shall be payable.

- (4) All such rents shall be due and payable in advance.

Power to reduce rent

24. (1) The Minister may—

- (a) on the recommendation of the Land Board, reduce the rent payable for any block in an irrigation area:

(b) direct that the rent payable for any such block shall be payable quarterly in advance.

(2) This section shall be deemed to have come into operation on the first day of July, 1925.

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Dealing with unallotted land

27. Any land offered for application on perpetual lease under this Division and which remains unallotted for one year after being open to application may be let at such reduced rental as is fixed by the Land Board and approved by the Minister, or on miscellaneous lease, as provided by section 182 of the *Crown Lands Act, 1929*.

DIVISION II—TOWN ALLOTMENTS

Offering of town allotments by auction

28. (1) Subject to subsection (2) of this section, perpetual leases of town allotments shall be offered for sale by auction at an upset price fixed by the Land Board with the approval of the Minister, and shall be sold to the highest bidder at or above such upset price.

(2) In any case where, before any allotment is offered on perpetual lease, that allotment has been occupied by any person under licence from the Crown or the Commission or the Minister, and permanent improvements, consisting of premises used or to be used for the purpose of residence, business, or manufacture, or for any religious purpose, have been carried out by him, or he satisfies the Minister that it is his intention to carry out such permanent improvements immediately upon the grant of a perpetual lease to him of the allotment, and such person desires a perpetual lease of the said allotment, the allotment shall be offered on perpetual lease to such person at a rent to be fixed by the Land Board with the approval of the Minister: Provided that in fixing the rent of such an allotment the rent of allotments in the immediate vicinity of such allotment which have been offered at auction shall be considered.

(3) Perpetual leases of town allotments offered for sale under subsection (1) and not sold may be sold by the Minister by private contract at any price not less than the upset price at which the same were last offered.

(4) In lieu of offering perpetual leases of town allotments for sale by auction as provided in the preceding subsections of this section, town allotments may, in any case in which the Minister so directs, be offered on perpetual lease at such rental as is fixed by the Land Board with the approval of the Minister.

Land to be gazetted before auction

29. (1) The Minister shall, before a perpetual lease of any town allotment is offered for sale by auction, publish for not less than four consecutive weeks in the *Gazette* a statement setting forth, in accordance with the recommendations of the Land Board, the time and place of auction, the allotments, the upset price, and, if necessary, the purposes for which any of such allotments must be used or may not be used, and the maximum number of allotments that may be held by any one person, or by any one person for any particular purpose or purposes.

(2) The Minister shall, before a perpetual lease of any town allotment is offered for allotment pursuant to subsection (4) of section 28, publish in the *Gazette* a statement setting forth the time within which applications therefor will be received, the allotments,

and, in accordance with the recommendations of the Land Board, the rent to be paid therefor, and, if necessary, the purposes for which any of such allotments must be used or may not be used, and the maximum number of allotments that may be held by any one person, or by any one person for any particular purpose or purposes.

Provisions with respect to rent

30. (1) The annual rent of a perpetual lease of a town allotment offered for sale by auction pursuant to subsection (1) of section 28 shall be the amount of the annual rent offered by the highest bidder at the sale, or, in the case of land occupied as mentioned in subsection (2) of section 28, the annual rent fixed by the Land Board, with the approval of the Minister, or, in the case of leases sold under subsection (3) of section 28, the contract price.

(1a) The annual rent of a perpetual lease of a town allotment offered for allotment pursuant to subsection (4) of section 28 shall be the rent fixed pursuant to that subsection.

(2) The said annual rent shall be payable in full and in advance from the commencement of the lease.

Improvements by lessees

31. (1) The lessee of any town allotment or allotments under any lease granted before the passing of the *Irrigation Act Amendment Act, 1945*, shall, within a period of eighteen months from the date of the lease, or within such longer period as is allowed by the Minister in writing, carry out, in respect of each allotment, permanent improvements on any part of the land comprised in the lease not less in value than an amount which is ten times the annual rent payable in respect of such allotment: Provided that—

I. if any of such allotments has been set apart by the Minister for residential purposes, the value of the improvements carried out in respect of such allotment shall be not less than three hundred dollars, or if any of such allotments has been set apart by the Minister for any other purpose or purposes, the value of the improvements carried out in respect of such allotment shall be not less than four hundred dollars;

II. if the land comprised in the lease comprises not less than three adjoining town allotments, all of which have been set apart by the Minister for any purpose or purposes other than residential purposes, such improvements shall be carried out on not less than two of the said allotments; and

III. any permanent improvements on the land paid for by the lessee shall, for the purposes of this section, be deemed to have been carried out by the lessee.

(1a) If, after the passing of the *Irrigation Act Amendment Act, 1945*, any town allotment is offered for sale or offered for allotment under this Division, the allotment shall be so offered upon condition that, within eighteen months from the date of the lease granted in respect thereof, or within such longer period as is allowed by the Minister in writing, the lessee shall carry out, in respect of the allotment, permanent improvements of not less than the value fixed by the Minister prior to the allotment being so offered.

(2) If, at any time, the Minister is of opinion that the value of the permanent improvements to be carried out on any allotment should be reduced below the value fixed pursuant to subsection (1) or (1a) hereof, the Minister may fix the value of the permanent improvements to be carried out on the allotment at such lesser amount as he thinks fit. The Minister may fix any such amount subject to such terms and conditions as he thinks fit. If the lessee carries out on any part of the said allotment permanent improvements equal to the value of the amount so fixed by the Minister, and complies with the said terms

and conditions (if any), the provisions of subsection (1) hereof or, as the case may be, subsection (1a) hereof shall be deemed to be complied with in respect of the said allotment.

(3) If any portion of the land comprised in a lease is transferred, the provisions of this section shall be complied with by the lessee of every portion of such land, notwithstanding that prior to such transfer this section may have been complied with in respect of the land taken as a whole.

(4) The lessee of any town allotment shall not at any time erect any building, shed, or other permanent improvement on any portion of the land comprised in his lease without first obtaining the approval, in writing, of the Minister.

Allotments may be set apart for special purposes

32. The Minister may, by the statement mentioned in section 29 of this Act, set apart any town allotments—

- (a) for residential, business, or manufacturing purposes, or for the purpose of any business or manufacture of any particular class or kind, or for any other purpose or purposes; or
- (b) on which any particular business or manufacture, or any business or manufacture of any particular class or kind, shall not be carried on.

Number of holdings may be limited

33. (1) The Minister may, by the statement mentioned in section 29 hereof, specify the maximum number of town allotments in any township which may be held, whether on freehold or leasehold tenure, by any person, or by any person for any particular purpose or purposes, whether in his own name or in the name of any other person, or partly in one way and partly in the other, or either by himself or conjointly with any other person: Provided that—

- I. whether such number is so specified by the Minister or not, such number shall not exceed, in the case of allotments leased for residential purposes, three, or in the case of allotments leased for any other purpose, four; and
- II. with the consent in writing of the Minister previously obtained, allotments in excess of such maximum number may be held by or on behalf of any one person.

(2) If it is shown to the satisfaction of the Minister that perpetual leases of more than the maximum number have been purchased by or on behalf of any person, the Minister may, by notice in the *Government Gazette*, cancel the sale of all or any of the perpetual leases purchased by or on behalf of that person, whereupon the sale of those leases shall become absolutely void, and the leases shall be forfeited to the Crown.

Variation of purpose for which allotment may be used

34. (1) If any town allotment is set apart for any purpose, the lessee may, with the consent in writing of the Minister given on the recommendation of the Land Board, use that town allotment or any portion thereof for any other purpose.

(2) If any town allotment has been set apart to the intent that any particular business or manufacture or any business or manufacture of any particular class or kind shall not be carried on thereon, the Minister, on the recommendation of the Land Board, may by consent in writing authorize the lessee to carry on the particular business or manufacture or, as the case may be, business or manufacture of the particular class or kind, on the town allotment.

(3) Any consent given under this section may be given for such period and subject to such terms and conditions as the Minister thinks fit.

* * * * *

Grant of freehold of township allotments to certain bodies corporate

35a. (1) Notwithstanding any other provision of this Division, the Governor may, on payment of such sum as is fixed by the Land Board, grant the fee simple of any town allotment or allotments to any of the following bodies corporate, namely, the War Service Homes Commissioner, the Savings Bank of South Australia, the State Bank of South Australia, or the South Australian Housing Trust.

(2) The fee simple of any town allotment shall be granted as aforesaid only upon the recommendation of the Minister and a recommendation shall not be made by the Minister unless the Minister is satisfied that the body corporate aforesaid to which the town allotment is to be granted will, within a reasonable time after the grant thereof, erect or cause to be erected a dwelling-house upon the allotment.

Offer of town allotments

35b. (1) The Minister may, by notice in the *Gazette*—

(a) offer town allotments for sale by auction for cash at a reserve price fixed by the Land Board with the approval of the Minister, and any such town allotments so offered shall be sold to the highest bidder at or above the reserve price so fixed;

or

(b) offer town allotments for sale by auction at a reserve price, fixed by the Land Board, with the approval of the Minister, on terms that the highest bidder at or above the reserve price may, at his option, purchase the allotment for cash or on an agreement with a covenant to purchase.

(2) A notice under subsection (1) of this section—

(a) shall set out the description of the town allotment, the time and place of the sale and any conditions or stipulations that shall be binding on the purchaser;

(b) the options, if any, that shall be open to the purchaser;

and

(c) short particulars of the terms, covenants and conditions that shall be included in any agreement to purchase.

(3) The terms, covenants and conditions that shall be included in an agreement to purchase under this section shall be as determined by the Minister.

(4) Town allotments offered for sale under subsection (1) of this section and not sold may be sold by the Minister by private contract but under the terms, conditions and options under which they were so offered at the reserve price fixed under that subsection or at such other price as may be fixed by the Land Board.

(5) The Minister, by notice in writing, published in the *Gazette*—

(a) may declare that estates in fee simple or agreements with a covenant to purchase may be applied for in writing in respect of any town allotments described in the notice;

- (b) shall, in respect of every such allotment, specify the price, fixed by the Land Board, in respect of that allotment;
- (c) shall set out in respect of every such allotment the terms of payment of the purchase money and the conditions or stipulations that shall be binding on the purchaser of the fee simple of any such allotment;
- (d) shall in the case of any allotment offered under an agreement with a covenant to purchase, set out short particulars of the terms, covenants or conditions determined by the Minister as being the terms, covenants or conditions to be included in any such agreement;

and

- (e) shall specify the time within which applications will be received for the town allotments described in the notice.

(6) Subject to subsection (7) of this section all applications received in response to a notice referred to in subsection (5) of this section shall be referred to the Land Board and the Land Board shall after considering such application allot the land applied for in such manner as it considers just and expedient.

(7) If the Minister by notice in writing to the Land Board directs the Land Board not to proceed in relation to applications for a town allotment specified in the notice the Land Board shall not further proceed to allot the land comprised in that town allotment.

(8) Land sold pursuant to this section may be sold subject to all or any of the following conditions—

- (a) that the purchaser or his successor in title shall within such time as is specified in the conditions construct or cause to be constructed on the land such buildings as are specified in the conditions and that the purchaser or his successor in title shall not, without the written consent of the Minister, construct or cause to be constructed any other buildings;
- (b) conditions regulating or restricting in such manner as is specified in the conditions the purposes for which the land may be used;
- (c) limiting the number of town allotments in any area being the whole or any part of the area of the town in which the allotments are situated that may be purchased by or on behalf of any person;

and

- (d) that the land shall not be transferred, mortgaged or otherwise dealt with, within the period set out in the conditions without the consent in writing of the Minister that on any breach of the condition the sale may be cancelled and in such case the condition including the day on which the period is to terminate shall be expressed in a receipt for the purchase money and in the land grant.

(9) Subsections (2), (3), (4), (5), (6), (6a), (7) and (8) of section 232h of the *Crown Lands Act, 1929*, as amended, with such modifications as are necessary shall apply and have effect to and in relation to the conditions referred to in paragraphs (a) and (b) of subsection (8) of this section as if provisions of those subsections were enacted in this Act.

(10) Subsections (2), (3) and (4) of section 235 of the *Crown Lands Act, 1929*, as amended, with such modifications as are necessary shall apply and have effect to or in relation to the condition referred to in paragraph (c) of subsection (8) of this section as if these subsections were enacted in this Act.

(11) Subsections (2), (3), (4) and (5) of section 234 of the *Crown Lands Act, 1929*, as amended, with such modifications as are necessary shall apply and have effect to and in relation to the conditions referred to in paragraph (d) of subsection (8) of this section as if those subsections were enacted in this Act.

(12) Where the sale of any land is cancelled pursuant to this section or pursuant to any condition imposed by or under this section the Minister may cause to be refunded such portion of the purchase money of the land as has been paid to the Crown as may be recommended by the Land Board and approved of by the Minister.

Licences to occupy allotments

36. (1) The Minister or any person authorized by him may grant a licence to any person to enter upon and occupy any one or more town allotments, to be specified in the licence, for any purpose approved by the Minister.

(2) Every licence shall continue in force for a period not exceeding one year from the date of the granting thereof, and shall be subject to the payment of such fee, and to such restrictions and conditions, as are determined by the Minister.

(3) If any holder of a licence uses any town allotment specified in the licence for any purpose not authorized by the Minister, or fails to observe any restriction or condition imposed by the Minister in respect of the licence, the Minister may forfeit the licence.

Revision of rents of certain township allotments

37. (1) The lessee of any town allotment let on perpetual lease subject to re-valuation pursuant to section 3 of the *Irrigation and Reclaimed Lands Act Further Amendment Act, 1919*, may at any time apply in writing to the Minister requesting that the rent payable in respect of the said town allotment shall be fixed by the Minister.

(2) The Minister shall thereupon fix the rent payable in respect of the said town allotment, and the rent fixed shall be the rent payable in respect of the said allotment until any other rent is fixed in respect thereof pursuant to any provision of the perpetual lease granted in respect thereof.

DIVISION III—GENERAL PROVISIONS

Form of lease

38. (1) Every lease of land within an irrigation area shall be granted by the Minister upon the recommendation of the Land Board, and shall be granted in the name of the Minister.

(2) Every lease of any block within an irrigation area shall be in the form of lease in the second schedule and shall contain the terms, reservations, covenants, and conditions therein set out, or terms, reservations, covenants, and conditions to the like effect.

(3) Every lease of land within an irrigation area not being a block or blocks shall be in the form of lease in the third schedule, and shall contain the terms, reservations, covenants, and conditions therein set out, or terms, reservations, covenants, and conditions to the like effect.

(4) The form of any lease may be altered so far as is necessary to suit the circumstances of any particular case.

Incorporation of certain provisions of Crown Lands Act, 1929

39. For the purposes of this Act all the provisions of the *Crown Lands Act, 1929*, which relate to the fixing and reduction of rents, to invitations for and the consideration, acceptance, or rejection of applications for leases, to the allotment of lands, and to the

interpretation, preparation, execution, registration, transfer, transmission, and forfeiture of leases, in so far as such provisions are not repugnant to this Act, shall apply, *mutatis mutandis*, to leases of blocks, of town allotments, of factory sites, and of other lands under this Act.

Grant of sites for public, charitable, and other purposes

40. (1) The Governor may at any time, on the application in writing of the lessee of any land within an irrigation area, grant any of the land comprised in his lease—

- (a) to any corporation, or to trustees, to be used as a site for a school, church, chapel, institute, or hospital, or for any other public or charitable purpose whatsoever:
- (b) to the lessee, or his nominee, to be used as a site for a blacksmith's shop, carpenter's shop, mill, store, or post office, or for any other purpose approved by the Governor:

Provided that—

I. the land granted for any one of such purposes does not exceed 0.41 hectares:

II. such security as the Governor thinks proper is given to the Governor to secure that the land will be used for one of such purposes.

(2) The lessee shall, at or before making his application, pay to the Treasurer as purchase-money for the land such sum as is agreed upon between him and the Minister, or, failing agreement, as is fixed by valuation.

(3) After the grant the lease shall be read as if the land comprised in the grant had been expressly excepted from the operation of the lease.

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General power to lease land

42. (1) Notwithstanding the provisions of sections 25 and 26 any land within an irrigation area may be offered on perpetual lease on such terms and conditions and in such area or areas as may be fixed by the Land Board and approved by the Minister.

(2) The Land Board shall fix the annual rent to be paid for such land.

Grant of licences of land other than town allotments

43. (1) The Minister or any person authorized by him may grant a licence to any person to enter upon and occupy any unleased Crown land in an irrigation area, not being a town allotment, or to enter upon and occupy any land comprised in a miscellaneous lease, not being a town allotment, for the objects and purposes hereunder expressed:—

I. for the cutting, obtaining, and taking away any live or dead timber, gravel, stone, clay, earth, guano, manure, or shell:

II. for any other purpose, similar or not, approved by the Minister.

(2) Every licence shall contain a description of the land in respect of which it is issued, and shall continue in force for a period not exceeding one year from the date of the granting thereof, and shall be subject to the payment of such fee, and to such restrictions and conditions as are determined by the Minister.

(3) If any holder of a licence uses any land specified in the licence for any purpose not authorized as aforesaid, or fails to observe any restriction or condition imposed by the Minister in respect of the licence, the Minister may forfeit the licence.

Power to grant miscellaneous leases

44. Notwithstanding anything contained in this Act to the contrary, the Minister may grant leases of any land within an irrigation area for any term not exceeding twenty-one years from the date thereof, at such rent and upon such terms and conditions and for such purposes as are recommended by the Land Board.

Payment of rents to Minister

45. (1) All rents and other payments payable to the Minister—

- (a) under all leases and licences of land within an irrigation area granted before the commencement of this Act by the Minister or the Commission; and
- (b) under all leases, permits, and licences granted or made by the Minister under or pursuant to this Act,

shall be payable to the Minister.

(2) Payment of rent or any other payment made to the Minister or any person authorized in that behalf by the Minister shall be a sufficient discharge of such rent or money paid.

(3) If any rent or other payment payable to the Minister of Irrigation is in arrear, the Minister, without prejudice to the right of the Minister to recover in any other way, may sue for the same, together with interest at the rate of five per centum per annum, and the costs attendant thereon, by action in his own name in any court of competent jurisdiction as a debt due to him.

(4) The Minister may extend the time for payment of any amount payable to the Minister under this section: Provided that on all such extensions interest may, at the discretion of the Minister, be charged on such amounts at the rate of five per centum per annum.

(5) All such leases, permits, and licences granted or made by the Commission or the Minister shall be construed to give effect to this section.

Repurchased lands to be leased under Act

46. Any land purchased or otherwise acquired under Part X of the *Crown Lands Act, 1903*, or under the *Closer Settlements Acts, 1910 to 1912*, or under Part X of the *Crown Lands Act, 1915*, or under Part X of the *Crown Lands Act, 1929*, or under the *Discharged Soldiers Settlement Act, 1917*, which is included in any irrigation area, shall, notwithstanding the provisions of such Acts, and whether wholly or partially reclaimed or not, be leased under the provisions of this Act, and may be so leased with other lands adjoining such irrigation area.

Crown lessee may surrender for lease under this Act

47. (1) The lessee of any Crown lands included in any irrigation area proclaimed after the first day of December, 1909, may tender a surrender of his lease for the purpose of obtaining a perpetual lease under this Act, and the Minister may, if he deems proper, accept such surrender in the name and on behalf of His Majesty the King.

(1a) The lessee under any perpetual lease subject to revaluation or under any miscellaneous lease, of any land included in any irrigation area, may tender a surrender of his lease for the purpose of obtaining a perpetual lease under this Act, and the Minister may, if he deems proper, accept such surrender in the name and on behalf of His Majesty the King.

(2) The surrender shall be in the form, and be made and executed in the manner prescribed by regulation: Provided that until such form and manner are so prescribed the surrender shall be in the form, and be made and executed in the manner, prescribed for surrenders under the *Crown Lands Act, 1929*, with such variations as the case may require.

* * * * *

Grant of lease and fixing of rent

48. (1) Notwithstanding anything contained in this Act, upon the acceptance of a surrender, as provided by the last preceding section, the lessee shall be entitled to the grant of a perpetual lease under this Act of the land comprised in the surrendered lease at an annual rent to be fixed under this Act by the board with the approval of the Minister.

(2) In fixing such rent, any improvements made in or upon the land by the surrendering lessee shall be disregarded, and the rent shall be fixed on the basis of the value of such land without such improvements.

Power to accept surrender of uneconomic block

48a. If the Minister is satisfied that any block is such that the lessee thereof has no reasonable prospects of meeting his commitments from the income to be derived from the block, the lessee may surrender the lease and the Minister may accept the surrender in the name of and on behalf of His Majesty the King. In any such case, the Minister may, out of moneys to be provided by Parliament, make such *ex gratia* payment to the lessee upon the surrender of his lease as the Minister, on the recommendation of the Land Board, thinks just and proper. No such *ex gratia* payment shall exceed the sum of six hundred dollars.

Payment for improvements on lease of block comprised in surrendered lease

48b. (1) If the surrender of the lease of any block is accepted and a perpetual lease is granted of the block (other than a lease granted pursuant to section 48), the Minister may direct that the provisions of this section shall apply with respect to the block and the lease so granted.

(2) In any such case the improvements made in or upon the land shall be valued by the Land Board and the incoming lessee shall, either before or at the time of the grant of the lease, pay to the Minister the whole of the amount at which the improvements are valued or, in any case in which the Minister thinks fit, shall pay to the Minister such portion of the said amount as is determined by the Minister and shall grant to the Minister a mortgage of his lease and his estate and interest in the land comprised in the lease to secure the balance of that amount or shall grant to the Minister a mortgage of his lease and his estate and interest in the land comprised in the lease to secure the whole of the said amount.

(3) Every such mortgage shall provide for the payment of interest at the fixed rate and be for such term and be subject to such conditions as are fixed by the Minister on the recommendation of the Land Board. The provisions of sections 98 to 104 (both inclusive), and 106 shall, *mutatis mutandis*, apply with respect to every such mortgage and the lease and land given as security thereunder.

(4) The Minister may, in any case he thinks fit, require a lessee, in addition to executing a mortgage as aforesaid, to give any additional security to secure the payment of any amount required to be paid by the lessee under this section.

(5) In fixing the rent of any lease to which this section applies, any improvements made in or upon the land shall be disregarded and the rent shall be fixed on the basis of the value of the land without such improvements.

Fee simple of lease or licence may be purchased

48c. (1) In this section, "lease" or "licence" means a lease or licence over lands within an irrigation area, being a lease or licence from the Crown under this Act, or any other Act dealing with the disposal of lands of the Crown.

(2) A lessee or licensee may apply in writing to the Minister to surrender his interest in the lands, or any part of the lands, comprised in his lease or licence and to purchase, at a price to be determined by the Minister, the fee simple of the lands to which the surrender relates.

(3) The Minister may, upon such terms and conditions as he thinks fit, grant an application made under subsection (2), and shall give the applicant written notice of his decision.

(4) Without limiting the generality of subsection (3), the terms or conditions upon which an application may be granted may include a term or condition—

(a) that gives the applicant the option of purchasing the fee simple of the lands by immediate payment of cash, or by an agreement to purchase;

(b) that requires the applicant to purchase the fee simple of the lands by immediate payment of cash;

or

(c) that requires the land grant issued to the applicant, whether upon payment of cash or upon completion of an agreement to purchase, to be subject to conditions or reservations.

(5) A notice given under subsection (3) to a successful applicant must state—

(a) the purchase price determined by the Minister;

(b) the terms and conditions upon which the application is granted;

(c) if the applicant is given the option of entering into an agreement to purchase, the terms, conditions, covenants or reservations of the proposed agreement;

and

(d) the particulars of any conditions or reservations to which the land grant to be issued to the applicant will be subject.

(6) A condition attached to a land grant pursuant to this section may be of indeterminate duration or for such period of time as the Minister determines.

(7) The Minister may revoke, or waive compliance with, a condition to which a land grant or certificate of title is subject.

(8) Where a land grant is subject to conditions or reservations, any certificate of title subsequently issued for any of the lands comprised in the land grant shall, if issued during the continuance of the conditions or reservations, be endorsed with those conditions or reservations.

Application of Crown Lands Act to breach of Agreement or condition

48d. The provisions of the *Crown Lands Act, 1929-1980*, apply, *mutatis mutandis*, to and in relation to—

- (a) a breach of an agreement to purchase entered into under this Act, as if it were breach of an agreement entered into under that Act;

and

- (b) a breach of a condition to which a land grant or certificate of title is subject pursuant to this Act, as if it were breach of a condition to which a land grant or certificate of title is subject pursuant to Division I of Part XIII of that Act.

Consent of Minister not required to transfer, etc., of perpetual lease, agreement or land grant

48e. (1) Notwithstanding any provision to the contrary in this Act or any other Act, or in a perpetual lease, agreement to purchase or land grant, the consent of the Minister is not required to the transfer, assignment, subletting, encumbering or mortgaging of a perpetual lease or agreement to purchase, or of the lands comprised in a land grant, except where the Minister holds a mortgage over the lease, agreement or land grant.

(2) This section applies—

- (a) to a perpetual lease of, or an agreement to purchase, any lands within an irrigation area, being a lease or agreement from the Crown under this Act or any other Act dealing with the disposal of lands of the Crown;

and

- (b) to a land grant issued in respect of a town allotment under this Act.

Privileges of beneficial owners of blocks or allotments

49. If any person by or under any will, or as one of the next-of-kin, of any deceased person, or by reason of any estate or interest in expectancy falling into possession, or by survivorship, or by the foreclosure of any mortgage, becomes, or becomes entitled to be, the lessee of any block or town allotment and thereby contravenes the provisions of section 25 or of section 33, such person shall not be deemed to hold such land contrary to the provisions of either of the said sections until after the expiration of three years from the death of the testator, or intestate, or the falling of such estate or interest into possession, or the death of the person upon whose death any estate or interest accrues by survivorship to such first-named person or the foreclosure of such mortgage, as the case may be.

Disqualifications as leaseholder

50. Persons under eighteen years of age are disqualified from being lessees.

Agreement preventing fair competition at auction to be void

51. Every agreement, whether in writing or otherwise, whereby any person promises or agrees, either directly or indirectly, to give or allow any sum of money, reward, benefit, or thing to any other person, in consideration of such other person not bidding at any auction under this Act, or of his not competing at any such auction, or in consideration of his bidding to a limited amount only, or of his withdrawing from competition at any such auction, or in consideration of his doing any other act or thing which in any way might tend to prevent free and open competition at any such auction, shall be wholly illegal and void.

Agreement to pay commission of more than two and a half per centum void

52. Any agreement by any person to pay more than two and a half per centum on the purchase-money to any other person for bidding or acting for such first-mentioned person at any auction under this Act shall be absolutely illegal and void.

Registration of alterations of leases and mortgages

53. Where, pursuant to this Act, the rent payable under any lease is altered, or the terms of any lease or mortgage are varied, the provisions of Part XIII, of the *Real Property Act, 1886*, shall apply with respect to such alteration or variation.

PART V
IRRIGATION AND DRAINAGE
DIVISION I—PRELIMINARY

Interpretation

54. In this Part, unless the contrary intention appears —

“the consumption year” means a period of approximately 12 months in respect of which the volume of water supplied to, or in relation to, any land is assessed or measured:

“domestic rate” means a water supply rate declared in respect of water supplied for domestic purposes:

“to drain” includes to pump water from low-lying land:

“drainage channel” means a channel in an irrigation area used for draining water from land:

“irrigation channel” means a channel in an irrigation area used for irrigating land:

“irrigation rate” means a water supply rate declared in respect of water supplied for irrigation purposes:

“owner” of land means—

(a) where the land has been alienated from the Crown by grant in fee simple—the holder of an estate in fee simple in the land;

(b) where the land is held from the Crown by lease or licence—the lessee or licensee;

(c) where the land is held from the Crown under an agreement to purchase—the purchaser:

“watercourse” means the banks and bed of a river or creek or any other natural channel along which water flows continually or periodically.

DIVISION II—POWERS OF THE MINISTER

Irrigation and drainage of land

55. (1) Subject to this Act, the Minister may on such terms and conditions as the Minister determines—

(a) supply water for irrigation, domestic or other purposes to land within, or adjacent to, an irrigation area;

(b) drain water (including storm and surface water and water resulting from natural seepage) from land within, or adjacent to, an irrigation area.

(2) For the purposes of this Part the Minister may, subject to the *Water Resources Act 1990*, take water from, or discharge water into—

(a) the River Murray or any other river or creek that flows through or adjacent to an irrigation area;

or

(b) any lake, lagoon or other body of water that is in, or adjacent to, an irrigation area.

Powers of the Minister

56. In order to supply water to, or drain water from, land the Minister may—

- (a) construct channels, embankments, roads, buildings and other works on any land within, or adjacent to, an irrigation area and may install and operate machinery and equipment;
- (b) clear, maintain and repair channels, clear and maintain watercourses and clear land adjacent to channels and watercourses;
- (c) maintain and repair buildings, machinery and equipment;
- (d) control the flow of water in any irrigation or drainage channel;
- (e) take soil, stone or other materials from any land;
- (f) enter and occupy any land and obtain access to land across any other land;
- (g) acquire an estate or interest in any land either by agreement or compulsorily.

Obligation on owner of land

57. The Minister may, by notice in writing served on the owner of land in an irrigation area require the owner within the time fixed by the notice—

- (a) to clear or repair irrigation or drainage channels on the land or to clear watercourses on the land;
- (b) to clear the land adjacent to channels or watercourses;
- (c) to render the sides and bed of a channel on the land impervious to water in accordance with specifications set out in the notice;

or

- (d) to drain the land by constructing channels specified in the notice and connecting those channels to drainage channels constructed by the Minister.

Minister may carry out work where owner fails

58. (1) Where the Minister has served a notice under this Division requiring the owner of land to carry out clearance, repair or other work and the owner has failed to comply with the notice, the Minister may carry out the necessary work.

(2) The Minister's costs in carrying out work under subsection (1) are payable by the owner of the land.

DIVISION III—ALLOCATION OF WATER FOR IRRIGATION**Entitlement to water**

59. Subject to the availability of water, the owner of a block comprised of ratable land is entitled to the supply by the Minister in each consumption year of the quantity of water (the water allocation) for the time being allocated for irrigation purposes in respect of the block.

Allocation of water

60. (1) Subject to subsection (2), the water allocation in respect of a block is—

- (a) the water allocation applying at the commencement of the *Irrigation Act Amendment Act, 1988*;

or

- (b) if no such allocation applied at that time—the quantity of water (if any) allocated by the Minister pursuant to subsection (2).

(2) The Minister may at the request of the owner of a block allocate a quantity of water for irrigation purposes in respect of the block or increase an existing water allocation that applies in respect of the block.

(3) The Minister may, at the request of the owner of a block, decrease or revoke the water allocation applying in respect of the block.

(4) The Minister may, at intervals of not less than five years, in accordance with the findings of a review of the water allocation of all blocks in an irrigation area conducted by the Minister, increase or decrease the water allocation of individual blocks by notice in writing given to the owners or occupiers of those blocks.

(5) Subject to the availability of water, the Minister must base the allocation of water or a variation in the allocation of water (except a decrease requested by the owner of a block) on the requirements of the crop growing, or that the Minister believes will be grown, on the block and for that purpose may take into account rainfall, the extent to which the soil retains water and any other relevant factor.

- (6) A water allocation in respect of a block can be increased or decreased only—

(a) by the Minister pursuant to subsection (2), (3) or (4);

or

(b) by transfer pursuant to section 61.

Transfer of allocation

61. (1) The owner of a block may, with the approval of the Minister, transfer the whole or part of the water allocation in respect of the block to the owner of another block.

- (2) An application for approval under subsection (1)—

(a) must be made in a manner and form approved by the Minister;

and

(b) must be accompanied by the prescribed fee.

(3) The applicant must provide the Minister with such information as the Minister requires to consider and determine the application.

- (4) The Minister's approval may be conditional or unconditional.

Record of allocations

62. The Minister must keep a record of the water allocation applying from time to time in respect of each block and must make the record available for public inspection on payment of the prescribed fee.

DIVISION IV—RATES

Rates

63. (1) The Minister may recover costs of supplying water to land under this Part by means of a water supply rate or water supply rates.

(2) The Minister may recover costs of draining water from land under this Part by means of a drainage rate or, at the request of the Advisory Board established in respect of the irrigation area to which the rate applies, as a component of a water supply rate.

(3) A water supply rate that includes a component for the recovery of drainage costs may apply to land throughout an irrigation area or to land in any part of an irrigation area.

Water supply rates

64. (1) In respect of each financial year the Minister may, by notice in the *Gazette*, declare a water supply rate or water supply rates based on the volume of water supplied to ratable land in the consumption year that ends during the financial year to which the declaration applies.

(2) The Minister may declare different rates for water supplied for irrigation purposes and domestic purposes.

(3) In the case of water supplied for irrigation purposes the Minister may declare a basic rate in respect of the water allocation and a further rate, or series of rates, that increase in accordance with the quantity of water supplied to the block in excess of the water allocation.

Minimum rate payable

65. (1) The following amounts are payable by way of rates in each financial year in respect of water made available by the Minister for consumption on ratable land whether or not the water is in fact consumed:

(a) in the case of a block to which a water allocation applies—a proportion (declared by the Minister when declaring the water supply rate) of the amount payable by way of the water supply rate on the assumption that the quantity of water allocated in respect of the block had been consumed;

and

(b) in the case of a block or other land to which water is made available for domestic purposes—the amount declared by the Minister (when declaring the water supply rate) in respect of the meter belonging to and installed by the Minister to measure the volume of water supplied for domestic purposes and, if more than one such meter has been installed, the aggregate of the amounts declared in respect of each of those meters.

(2) An amount paid pursuant to subsection (1) is paid on account of the relevant water supply rate.

Drainage rate

66. (1) In respect of each financial year the Minister may, by notice in the *Gazette*, declare a drainage rate based on the area of ratable land in an irrigation area.

(2) For the purpose of calculating an amount payable in respect of a drainage rate, the area of land will be determined to the nearest one-tenth of a hectare (0.05 of a hectare being increased to the next one-tenth of a hectare).

(3) A drainage rate is not payable in respect of land that is not adjacent to and is not connected to the drainage system provided by the Minister.

Reduction of rates in respect of undeveloped blocks

67. (1) Where, at the time that a block first becomes subject to an irrigation rate, the block has not been developed to a stage where it is capable of producing income, the rate in respect of the block will be reduced as follows:

(a) in the first year after the block first becomes subject to the rate, the rate will be reduced by 75 per cent;

(b) in the second year after the block first becomes subject to the rate, the rate will be reduced by 50 per cent;

and

(c) in the third year after the block first becomes subject to the rate, the rate will be reduced by 25 per cent.

(2) Where, at the time that a block first becomes subject to an irrigation rate part only of the block has been developed to a stage where it is capable of producing income, the amount of the reduction in the rate prescribed by subsection (1) will be reduced in proportion to the area of the block that is capable of producing income.

Reduction of rate in case of surplus water

68. Where, in the Minister's opinion, more water than will be required by the owners and occupiers of ratable land in an irrigation area is available for distribution the Minister may, by notice in the *Gazette*, reduce one or more of the water supply rates applying in relation to that area for such period as the Minister thinks fit.

Liability for rates and interest on rates

69. (1) The following persons are jointly and severally liable for the payment of rates and interest on rates—

(a) the owner and occupier of the land in respect of which the rates are payable as at the date on which the rates first became payable;

and

(b) any person who becomes an owner or occupier of that land after the rates first became payable but before the liability to pay the rates or interest (or both) is satisfied.

(2) Notice of the amount payable by way of rates, setting out the date on which the amount becomes payable, must be served on the owner or occupier of the land in respect of which the rates are payable.

(3) Where an amount payable by way of rates remains unpaid for three months or more after the date for payment set out in the notice, interest will be added to the outstanding amount as follows:

(a) upon the expiration of the first three months, five per cent of the amount then outstanding will be added to that amount;

and

(b) upon the expiration of each succeeding month, a further one per cent of the total amount then outstanding (including interest) will be added to that amount.

(4) Rates and interest on rates are, until payment, a charge on the land on which the rates were declared.

Minister may remit interest

70. Where, in the Minister's opinion, the payment of interest under section 69 would cause hardship, the Minister may remit the whole, or part, of the interest.

DIVISION V—GENERAL

Insufficient supplies of water

71. (1) Where the quantity of water available is insufficient to meet the needs of the owners or occupiers of land in an irrigation area the Minister may distribute the available water so as to avoid, or reduce to a minimum, the incidence of financial loss.

(2) An owner or occupier of land (including land in relation to which a water allocation applies) cannot make a claim against the Minister in respect of the Minister's failure to supply water because of the insufficiency.

Records to be made by the Minister

72. The Minister must, in respect of each irrigation area, record—

- (a) a description of the ratable land within the area;
- (b) the names of the owners and occupiers of the ratable land within the area;
- (c) the area of each block constituted of ratable land within the area;

and

- (d) the number of meters belonging to, and installed by, the Minister to measure the volume of water supplied for domestic purposes to ratable land within the area.

Supply of water to and drainage of water from non-ratable land

73. (1) The Minister may, on such terms and conditions as the Minister determines, supply water to, or drain water from, land that is not ratable land whether the land is situated in an irrigation area or not.

(2) The following persons are jointly and severally liable to pay for water supplied to, or for the drainage of water from, land under this section and for interest in respect of any amount unpaid:

- (a) the owner and occupier of the land as at the date on which the amount payable first became payable;

and

- (b) any person who becomes an owner or occupier of that land after the amount payable first became payable but before the liability to pay the amount or interest (or both) is satisfied.

(3) Notice of the amount payable under this section must be served on the owner or occupier of the land and the amount becomes payable on the date stated in the notice.

(4) Any amount that remains unpaid bears interest, and may be recovered by the Minister, as if it were unpaid rates.

(5) An amount payable under this section (including interest) is, until payment, a charge on the land.

Failure to pay rates or other charges, etc.

74. Where an owner or occupier of land fails to pay rates or other charges for the supply of water to, or the drainage of water from, the land or contravenes or fails to comply with a term or condition upon which the Minister supplies water to, or drains water from, the land under this Part, the Minister may discontinue the supply of water to, or the drainage of water from, the land.

PART VI

FINANCIAL ASSISTANCE TO HOLDERS OF LAND IN IRRIGATION AREAS

Financial assistance to landholders in irrigation areas

81. (1) The Minister may, upon such terms and conditions as he determines, grant financial assistance to a lessee or owner of any land within an irrigation area—

(a) for the purpose of making improvements to the land;

(b) for the purpose of discharging a mortgage over the land;

or

(c) for the purpose of enabling the lessee or owner to purchase implements, stock, seeds, plants, trees or other things required for farming the land.

(2) Assistance under this section may consist of a non-repayable grant or a loan.

(3) Moneys required for the purposes of this section shall be paid out of moneys provided by Parliament for those purposes.

PART VII

POWERS, DUTIES AND FUNCTIONS OF THE MINISTER UNDER
THE DISCHARGED SOLDIERS SETTLEMENT ACT, 1934-1940

*	*	*	*	*	*	*	*	*	*
*	*	*	*	*	*	*	*	*	*

Discharged Soldiers Settlement Acts to be administered by Minister

110. (1) Notwithstanding anything contained in the *Discharged Soldiers Settlement Act, 1917* (hereinafter in this Division sometimes referred to as "the said Act"), the said Act, so far as it concerns or affects —

- (a) any land within an irrigation area;
- (b) any land set apart by the Governor under the provisions of section 6 of the said Act, or acquired by the Minister under the provisions of section 7 of the said Act, or over which any person has been granted a lease, agreement, or permit under or pursuant to the said Act, or with respect to which any advance has been made under the said Act, such land being irrigated or irrigable by water from the River Murray not supplied by the Minister of Works;
- (c) any training farm, store, shed, factory, or building on any such land; or
- (d) any advance under the said Act with respect to any such land,

shall be administered by the Minister and not by the Minister of Repatriation: Provided that the powers, duties, authorities, and functions of the Minister of Repatriation under sections 3 to 22 (both inclusive) of the *Discharged Soldiers Settlement Act Further Amendment Act, 1919*, shall not be exercised or discharged by the Minister, but shall continue to be exercised and discharged by the Minister of Repatriation.

(2) Any land mentioned in subsection (1) hereof, and any training farm, store, shed, factory, building, or other property (real or personal) of any kind whatsoever on any such land which, at the commencement of this Act, is vested in, or is the property of, the Minister of Repatriation, whether in his personal or corporate capacity, is hereby transferred to, and shall be vested in or shall be the property of, the Minister.

(3) All the powers, immunities, rights, interests, titles, privileges, functions, authorities, obligations, liabilities, and duties of the Minister of Repatriation and of the body corporate constituted by the *Discharged Soldiers Settlement Act, 1917*, under the name of the Minister of Repatriation, arising under the said Act or any other Act passed before the commencement of this Act, or under any document or instrument of any kind in force, or subsisting at such commencement, whether arising before or after such commencement of this Act, so far as they concern or affect —

- (a) any land within an irrigation area;
- (b) any land set apart by the Governor under the provisions of section 6 of the said Act or acquired by the Minister under the provisions of section 7 of the said Act, or over which any person has been granted a lease, agreement, or permit under or pursuant to the said Act, or with respect to which any advance has been made under the said Act, such land being irrigated or irrigable by water from the River Murray not supplied by the Minister of Works;
- (c) any training farm, store, shed, factory, or building on any such land; or
- (d) any advance under the said Act with respect to any such land,

are hereby transferred to the Minister.

Advances to discharged soldiers on irrigation lands repayable to Minister

111. All moneys advanced or expended by the Minister of Repatriation under the *Discharged Soldiers Settlement Act, 1917*, by way of an advance under that Act to any discharged soldier with respect to—

- (a) any land within an irrigation area; or
- (b) any land over which any person has been granted a lease, agreement, or permit under or pursuant to the said Act, or with respect to which any advance has been made under the said Act, such land being irrigated by water from the River Murray not supplied by the Minister of Works,

and all interest thereon, which moneys at the commencement of this Act are due, owing, or payable, or after the commencement of this Act, would but for this Act become due, owing, or payable, to the Minister of Repatriation shall become and be due, owing and payable to the Minister in substitution for the Minister of Repatriation.

Consequential amendments to Acts and instruments

112. In any deed, lease, agreement, licence, permit, transfer, mortgage, or other document or instrument of any kind whatsoever in force or subsisting at the commencement of this Act, which concerns or affects any of the matters or things transferred to the Minister by either of the last two preceding sections every reference to the Minister of Repatriation, whether in his personal or corporate capacity, shall, so far as it concerns or affects any matter or thing transferred by any of the said sections, be read and construed as a reference to the Minister.

Annual report to be prepared by Minister as to lands administered by him

113. The annual reports required by section 17 of the *Discharged Soldiers Settlement Act, 1917*, and by section 19 of the *Discharged Soldiers Settlement Act Amendment Act, 1918*, shall, so far as regards the administration by the Minister of the *Discharged Soldiers Settlement Act, 1917*, be prepared and presented by the Minister and not by the Minister of Repatriation.

PART VIIA

POWERS WITH RESPECT TO THE RECOVERY OF MONEYS DUE

Interpretation

113a. In this Part—

“landholder” means—

- (a) a lessee or owner of any block within an irrigation area;
- (b) the holder on lease or agreement for sale or purchase of any land which is charged with a mortgage to secure the repayment to the Minister of any advance made under the *Discharged Soldiers Settlement Act, 1934-1940*, or any Act repealed by that Act;
- (c) the owner of any estate of freehold in land which is charged with a mortgage to secure the repayment to the Minister of any advance made under the *Discharged Soldiers Settlement Act, 1934-1940*, or any Act repealed by that Act:

“person” includes firm, company, body corporate, and incorporated or unincorporated association of persons.

Duty of agent, etc., to keep books

113b. (1) Every person carrying on the business of a fruit packing-house, winery, distillery, fruit agent, fruit cannery, butter factory, or dairy produce merchant, or other business through whom in the course of the business of such person any part of the crop or produce of any landholder is marketed or to whom in the course of the business of such person any part of the crop or produce of any landholder is sold or delivered by the landholder or agreed by the landholder to be sold or delivered, shall keep such books, accounts and records as are sufficient to disclose full particulars of the following matters:—

- I. The quantity of any crop or produce delivered or sold by any landholder to such person or held for sale or sold on behalf of any landholder by such person:
- II. The amount paid or credited to any landholder by any such person on the sale of any such crop or produce:
- III. The amount of any advances made to any landholder by such person:
- IV. The value of any goods supplied to any landholder by such person:
- V. The amount standing to the credit or debit of any landholder in the accounts of such person.

(2) If any such person fails to keep any such books, accounts, or records, such person shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

Power to inspect books, etc., of packing sheds, etc.

113c. (1) If any amount is due and payable to the Minister by a landholder (whether payable under this Act or the *Discharged Soldiers Settlement Act, 1934-1940*, or any Act repealed by this Act or the said Act) the following provisions shall apply with respect to such landholder.

(2) The Minister, or any person authorized in writing by the Minister, may at any time inspect and make copies of any entries (whether made before or after the passing of the *Irrigation Act Amendment Act, 1941*) in the books, accounts, and records of any person carrying on the business of a fruit packing-house, winery, distillery, fruit agent,

fruit cannery, butter factory, or dairy produce merchant, or through whom in the course of business any part of the crop or produce of any landholder is marketed, or to whom in the course of business any part of the crop or produce of any landholder is sold or delivered or agreed to be sold or delivered, for the purpose of ascertaining—

- (a) the quantity of any crop or produce delivered or sold or agreed to be delivered or sold by any such landholder to such person or held for sale or sold on behalf of any such landholder by such person;
- (b) the amount paid or agreed to be paid or credited to any such landholder by any such person on the sale of any such crop or produce;
- (c) the amount of any advances made to any such landholder by such person;
- (d) the value of any goods supplied to any such landholder by such person;
- (e) the amount standing to the credit or debit of any such landholder in the accounts of such person.

(3) If any person refuses or neglects to permit the Minister or any person authorized as aforesaid to inspect or make any copy of any entry in any such books, accounts, or records, or in any way wilfully hinders the Minister or any person authorized as aforesaid in any such inspection, such person shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

Duty of landholder to keep books

113d. (1) If any amount is due and payable to the Minister by a landholder (whether payable under this Act or under the *Discharged Soldiers Settlement Act, 1934-1940*, or any Act repealed by this Act or the said Act) the Minister may, by notice in writing, from time to time require the landholder during such period as is specified in the notice to keep at the place of business of the landholder such books, accounts and records as are sufficient to disclose full particulars of the following matters:—

- I. The quantity of any crop or produce delivered or sold by the landholder to any person:
- II. Any amounts paid or credited to the landholder by any person on the sale of any such crop or produce:
- III. The amount of any advance made to the landholder by any person to whom any such crop or produce is delivered or sold or is agreed to be delivered or sold:
- IV. The value of any goods supplied to the landholder by any person to whom any such crop or produce is delivered or sold or is agreed to be delivered or sold.

(2) The Minister, or any person authorized in writing by the Minister, may at any reasonable time enter any place of business of the landholder and inspect and make copies of any entries in any such books, accounts or records.

(3) If any landholder fails to comply with any notice given pursuant to subsection (1) thereof or refuses or neglects to permit the Minister or any person authorized as aforesaid to inspect or make a copy of any entry in such books, accounts or records, or in any way wilfully hinders the Minister or any person authorized as aforesaid in such inspection, he shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

PART VIII
REGULATIONS

Regulations

114. In addition to any power by any other section of this Act conferred on the Governor to make regulations as to any matter (which power shall in every case be implied for the purposes of any section in which regulations are referred to, or in which the word "prescribed" is used), the Governor may make any regulations which may be necessary or convenient for carrying out any of the provisions of this Act, or for better effecting the objects of this Act, and in particular (without limiting the effect of this section) for all or any of the following purposes, namely—

- I. regulating the duties, powers, authorities, and privileges of all persons employed in the administration of this Act:
- II. regulating the meetings and proceedings of ratepayers:
- III. regulating the supply and distribution of water upon irrigation areas:
- IV. regulating the management of irrigation areas, and all improvements thereon, and the employment, duties, and privileges of owners, lessees, and occupiers of land:
- V. regulating the irrigation water supply and the flow of irrigation and drainage waters into, in, or through any channel, flume, or pipe, and the disposal of such waters:
- VI. regulating the fencing of supplies of water by owners, lessees, and occupiers of land:
- VII. regulating the making and dealing with applications, fixing of boundaries, areas, rents, and purchase-money and the making of surveys:
- VIII. regulating the form and contents of notices, applications, leases, licences, and all other instruments and documents, and the mode of executing, serving, or delivering the same:
- IX. regulating the making of assessments, and the declaring and recovery of rates:
- X. regulating transfers, transmissions, and forfeitures:
- XI. regulating the erection or carrying out of any buildings, sheds, or other improvements on any block, town allotment, factory site, or other land within irrigation areas:
- XII. regulating the time and manner in which any act, deed, matter, or thing required by this Act to be done, and as to which no time or procedure is provided, is to be done or performed:
- XIII. the imposition and recovery of fees and charges and interest on those fees and charges:
- XIV. prescribing the mode in which applications for advances are to be made:
- XV. regulating the consideration and granting of applications for advances:
- XVI. prescribing what inquiries and valuations shall be made in relation to applications for advances:
- XVII. adding to or altering the list of improvements for the making of which advances may be made:
- XVIII. prescribing the mode in which the value of improvements shall be determined:

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- XIX. prescribing the forms of mortgages and securities to be taken by the Minister, and providing for the registration of such mortgages and securities:
 - XX. prescribing the records, books, and accounts to be kept by the Minister:
 - XXI. providing for the receipt and payment of moneys under this Act, and the safe custody of securities:
 - XXII. prescribing the fees to be paid in respect of advances:
 - XXIII. rescinding or varying any by-law:
 - XXIV. prescribing all other matters and things not herein expressly provided for which may be necessary or convenient for fully and effectively carrying out and giving full force and effect to the various objects, purposes, powers, and authorities of this Act, and guarding against evasions and violations thereof:
 - XXV. prescribing penalties for breaches of any such regulations, and additional penalties for a repetition or continuance of any such breach: Provided that the penalty for any single breach shall not exceed in any case forty dollars, nor for any continuance four dollars for each day of such continuance.

PART IX
MISCELLANEOUS

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Special rates on town land

116. (1) Notwithstanding anything contained in the *Local Government Act, 1934*, the Minister may, for the carrying out of any purpose within any town, cause an assessment to be made of, and declare and levy a special rate on the ratable property in any town in any irrigation area, without obtaining the consent of the ratepayers, and notwithstanding that such assessment or rate has not been declared or levied in respect of the remainder or any other portion of such irrigation area.

(2) The Minister may declare and cause to be collected a special sanitary rate within any town in any irrigation area or within any portion of any irrigation area, notwithstanding that such sanitary rate is not declared or collected in respect of the remainder or any other portion of such irrigation area.

Governor may place certain lands under the care, control, and management of local bodies

117. (1) The Governor may, by proclamation, place under the care, control, and management of any person any land set apart by the Minister under the provisions of subsection (3) of section 19 of this Act, or by the Commission under the provisions of subsection (3) of section 41 of the *Irrigation Act, 1922*, or by the Minister under the provisions of subsection (3) of section 12 of the *Irrigation and Reclaimed Lands Act, 1914*: Provided that no proclamation pursuant to this section shall in any wise vest any such land in any such person.

(2) The Governor may, by proclamation, revoke or vary any proclamation made pursuant to subsection (1) hereof.

Treasurer may fix rate of interest

118. (1) The Treasurer may from time to time, by notice published in the *Gazette*, fix the annual rate of interest for the purposes of this Act, and may in the same manner annul any rate so fixed.

(2) Any such notice may provide for a rebate of such interest on condition of prompt payment of principal or of interest or on any other condition, and any provision of any mortgage or other security giving effect to any such rebate shall be valid.

(3) Any rate so fixed shall come into force on the fourteenth day after the date of the *Government Gazette* in which the same is published, and shall continue in force until the fourteenth day after the date of the *Government Gazette* in which the notice annulling the same is published.

Use of party channels and drains

118a. (1) If any channel for the supply of water to two contiguous blocks is constructed on or near the common boundary of the blocks, and the channel is constructed so that part thereof is situated on one of the blocks and part thereof is situated on the other of the blocks, the lessee or owner of each such block may, for the purposes of the irrigation of his block, divert, use, and take water from such part of the channel as is situated on the other block and may construct any works upon such other block as are necessary to divert, use, or take water as aforesaid and may for such purpose enter upon such other block.

(2) If any drain for the drainage of two contiguous blocks is constructed on or near the common boundary of the blocks and the drain is constructed so that part thereof is situated on one of the blocks and part thereof is situated on the other of the blocks, the lessee or owner of each such block may, for the purposes of the drainage of his block, divert any water from his block into such part of the drain as is situated on the other block and may construct any works upon such other block as are necessary to divert water as aforesaid and may for such purpose enter upon such other block.

* * * * *

No liability for damage through insufficiency of water, or floods

121. (1) Nothing in this Act shall render the Minister or the Government of the State liable for damages consequent upon the insufficiency of water, or for injury to any land or other property which happens through or by such insufficiency, or through or by floodwaters or the overflowing of any river.

(2) Nothing in this Act shall render the Minister or the Government of the State liable for injury happening through or by the breaking of any dam, bank, watercourse, channel, drain, or sluice, unless such injury arises through neglect to keep such dam, bank, watercourse, channel, drain, or sluice in repair, and unless the occupier of the land or property injured had given written notice to the Minister warning him of the probability of such injury, and the Minister neglected within a reasonable time thereafter to make any reasonable repair of such dam, bank, watercourse, channel, drain, or sluice.

Power of Minister to carry out work on behalf of lessee or owner

121a. (1) The Minister may, at the request and at the cost of the lessee or owner of any block, carry out work on the block for the purpose of the drainage or the irrigation of the block or for any other purpose of a similar nature.

(2) The Minister may enter into such arrangements as he thinks fit for the payment of the said cost and interest thereon by the lessee or owner, and may take such security for the payment of the said costs and interest as he thinks fit.

Provision as to powers and functions transferred

122. When in this Act any provision is made for the transfer to, or the taking in substitution by, the Minister of any powers, immunities, rights, interests, titles, privileges, functions, authorities, obligations, liabilities, or duties, such provision shall be construed as also providing that the matters or things so transferred or taken in substitution shall be vested in, conferred on, exercisable or enjoyable by, imposed on, or discharged by the Minister, subject to the provisions of this Act.

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PART X
LEGAL PROCEDURE

Gazette to be evidence

124. The production of a copy of the *Gazette* in which is published any proclamation, regulation, by-law, notice, appointment, or other notification, made or given, or purporting to be made or given, pursuant to this Act or any of the repealed Acts, shall be conclusive evidence in all courts and before all tribunals that such proclamation, regulation, by-law, notice, appointment, or notification was duly made or given and is of full force and effect, and of the contents thereof, and of the matters stated, recited, or assumed therein.

Proclamation not invalid for preliminary defect

125. No proclamation shall be invalid by reason of anything required as preliminary thereto not having been done, or not having been duly done.

Service of notices

126. (1) Service of any document on the Minister may be effected by giving the same personally to the Minister, or by leaving it at the office of the Minister with some adult person employed therein.

(2) Any notices required to be given, sent, or delivered by the Minister for the purposes of this Act may be given by post.

Penalty where none specified

127. Any offence against this Act for which no punishment is specified shall be punishable by a penalty not exceeding forty dollars.

Who may take proceedings and hearing of same

128. Proceedings may be taken for any offence against this Act by any person, and all such proceedings shall be heard and determined, and all moneys, costs, and expenses shall be recovered, in a summary way.

Penalties to be paid to the Treasurer

129. Except where otherwise provided, all penalties shall, when recovered, be paid to the Treasurer.

Protection to persons acting in execution of this Act

130. (1) All actions for anything done, or purporting to be done, under the authority of this Act shall be commenced within six months after the cause of action arises, and not afterwards.

(2) Notice in writing of such action, and the cause thereof, shall be given to the defendant one month at least before the commencement of the action.

(3) In every such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon.

(4) No plaintiff shall recover in any such action if tender of sufficient amends has been made before action brought, or if a sufficient sum of money has been paid into court by or on behalf of the defendant after action brought, together with the costs incurred up to that time.

SCHEDULES

SCHEDULE 1

TRANSITIONAL PROVISIONS

1. Where rates became due and payable before the commencement of the *Statutes Amendment (Irrigation) Act, 1983*, and an amount payable by way of those rates or interest on those rates (or both) remains unpaid for one month or more after the commencement of that amending Act, then, upon the expiration of each month after the commencement of that amending Act, interest of one per cent of the amount then outstanding (including interest) must be added to that amount.

THE SECOND SCHEDULE

SOUTH [ROYAL ARMS] AUSTRALIA

Crown Lease (Perpetual No.) under the Irrigation Act, 1930

I, the Honourable [here set out title of office] of the State of South Australia, being the Minister of the Crown to whom the administration of the *Irrigation Act, 1930-1978*, is committed by His Excellency the Governor of the said State in Executive Council (hereinafter called "the Minister"), in exercise of the powers conferred upon me by the above-mentioned Act (hereinafter called "the said Act") do hereby lease to [name of lessee], of [address and occupation], his executors, administrators, and assigns (all of whom are hereinafter included in the term "lessee") all that land containing hectares or thereabouts, and being No., in the Irrigation Area, in the Hundred of County of as the same is delineated in (insert description of particular survey plan) deposited in the Department of Lands, in the City of Adelaide, to be held in perpetuity at the following rental, namely:—For the first year the sum of for the second year the sum of for the third year the sum of and for the fourth and every succeeding year the sum of such sums to be paid in advance on the day of in each year, and the first of such sums to be paid on the day of one thousand nine hundred and and at a further rent of five dollars per centum per annum on any rent in arrear, subject to the reservations, covenants, and conditions shortly stated below, and some of which are more fully set out in the *Crown Lands Act, 1929*.

Reservations

1. There are reserved to the Crown all gold, silver, copper, tin, and other metals, all ores and other substances containing metals, all minerals, and all gems and precious stones, coal, and mineral oil, and all box gum timber outside the irrigable area, with incidental powers of search and mining.

2. There is reserved to the Minister the right at all times by himself or by his officers or agents to enter into and upon the land hereby leased and therein to construct, alter, divert, cleanse, repair, and inspect water channels, drains, embankments, and all other reclamation, irrigation, drainage, and sanitary works, and to conserve water for the public use where required, and to exercise all powers conferred upon him respectively by the said Act without any payment to the lessee by way of compensation.

Covenants

3. The lessee must—

- I. Pay the rent at the times and in manner aforesaid:
- II. Pay all rates and charges imposed upon or payable in respect of the land, and in particular all rates and charges imposed or charged by the Minister in exercise of the powers conferred by the said Act or by any Act amending or extending the same, and will also pay all amounts due or which may hereafter become due on account of loans granted under the *Vermin Act, 1931*, or any Act amending or extending the same:
- III. Pay for all water supplied to him by the Minister at the rates or charges declared or determined by the Minister:
- IV. Enclose the land with cattle-proof fence or wall before the end of the first year of the lease, and during the remainder of the term hereby granted maintain and uphold such fence or wall in good and substantial repair:
- V. During the first two years of the lease, plant or bring under cultivation, to the satisfaction of the Minister, at least two-fifths of the reclaimed and of the irrigable land included in this lease and an additional one-fifth of such lands in each of the following three years until the whole of such lands are under such cultivation or planting:
- VI. Personally reside on the land for nine months at least in every year:
- VII. Keep in good repair all Crown improvements (if any) on the land and all improvements made by the Minister and all buildings, orchards, vineyards, gardens, fences, walls, and other improvements thereon, and keep all fruit and other trees and plants thereon free as far as possible from insects, pests, and diseases:
- VIII. Commence forthwith to destroy, and during the lease keep the land and the adjoining half width of all Government roads adjacent thereto free from all vermin and noxious weeds to the satisfaction of the Minister, and fill up all burrows on the land and said half width of road:
- IX. Insure and keep insured in the full insurable value thereof, all buildings, the property of the Crown upon the land, in the joint names of the Minister and the lessee, in some insurance office to be approved by the Minister, and forthwith lodge the policy of every such insurance in the office of the Minister, and forward to the Minister the receipts for the premiums payable in respect of such policy within seven days after the same shall become due. The Minister may insure on default by the lessee and recover all amounts paid for such insurance in like manner as the rent is recoverable:
- X. Permit the Crown, the Minister, and the owner of any mining claim situated on the land or the holder of any mining lease of the whole or any portion of the land under any law for the time being relating to mining by itself, himself, or themselves, or its, his, or their officers or agents full and free liberty of access, ingress, egress, and regress into, upon, and from the land:

And the lessee must not—

* * * * *

- II. Erect any brush fence or suffer or permit the same to be erected or to remain on the land.

THE SECOND SCHEDULE—*continued**Conditions*

4. The lease shall be liable to forfeiture in the following cases and no others:—

- I. If default be made in payment of any rent in arrear for six months after the same falls due, the lessee having had at least three months' previous notice in writing requiring its payment; or if
- II. Default be made in the performance of any covenant either express or implied; or if

* * * * *

IV. The lessee does not reside on the land nine months in each year; or if

- V. The lessee shall refuse to permit the Minister by himself or by his officers or agents to enter upon the land hereby leased to construct, alter, divert, cleanse, repair, or inspect any water channel, drain, embankment, or other reclamation, irrigation, drainage, or sanitary works, or to conserve water for public use or otherwise to exercise any power conferred upon them by the said Act.

5. The land or any portion thereof may be resumed by the Crown for mining purposes or for roads, railways, tramways, or for sites for towns or for park lands or any other public work or purpose on giving three calendar months' notice to the lessee, full compensation being made to the lessee for loss, except where the land shall be resumed for the construction, alteration, or diversion of waterchannels, drains, embankments, or other reclamation, irrigation, drainage, or sanitary works, or for the conservation of water for the public use, in which cases no compensation whatever shall be made to the lessee.

6. Nothing in this lease shall render the Minister or the Government of the said State liable for damages consequent upon insufficiency of water or for injury to any land or other property which happens through or by such insufficiency or through or by flood waters or the overflowing of any river.

In witness whereof the hands and seals of the Minister and the lessee are hereunto set the day of, 19.....

Signed, sealed, and delivered by the Minister in the presence of }

Signed, sealed, and delivered by the above-named lessee in the presence of }

THE THIRD SCHEDULE

CROWN LEASE—SOUTH AUSTRALIA

(Perpetual No.)

Under the Irrigation Act, 1930

I, the Honourable [here set out title of office] of the State of South Australia, being the Minister of the Crown to whom the administration of the *Irrigation Act, 1930-1978*, is committed by His Excellency the Governor of the said State in Executive Council (hereinafter called "the Minister"), in exercise of the powers conferred upon me by the abovementioned Act (hereinafter called "the said Act"), do hereby lease to his executors, administrators, and assigns (all of whom are hereinafter included in the term "lessee"), all that land containing or thereabouts, and being town allotment No. in the township of in the Irrigation Area in the hundred of county of as the same is delineated in (insert description of particular survey plan) deposited in the Department of Lands in the City of Adelaide to be held in perpetuity [where allotment is set apart for particular purpose for the purpose of] at the annual rental of \$....., the whole of such annual rental to be paid in advance on the day of in each year, and at a further rent of five dollars per centum per annum of any rent in arrear subject to the reservations, covenants, and conditions stated below.

Reservations

1. There are reserved to His Majesty the King, his heirs and successors, and all persons lawfully claiming under or authorized by him or them all gold, silver, copper, tin, and other metals, all ores and other substances containing metals, all minerals, and all gems and precious stones, coal, and mineral oil, with incidental powers of search and mining. And the Minister and all persons lawfully claiming under or authorized by him, shall have full and free liberty of access, ingress, egress, and regress, with or without horses, cattle, carts, drays, carriages, engines, and all other necessary implements and things, into, upon, and from the said premises for all reasonable purposes, and to cut, dig, sink, try, search, work, remove, and dispose of all or any of the said excepted and reserved things, full compensation being made to the lessee for any loss or damage sustained by him.

2. There is reserved to the Minister the right at all times, by himself or by his officers or agents, to enter into and upon the land hereby leased and therein to construct, alter, divert, cleanse, repair, and inspect water channels, drains, embankments, and all other reclamation, irrigation, drainage, and sanitary works, and to conserve water for the public use where required, and to exercise all powers conferred upon him by the said Act without any payment to the lessee by way of compensation.

Covenants

3. The lessee hereby covenants with the Minister as follows:—

- I. The lessee shall pay the rent at the times and in manner aforesaid:
- II. The lessee shall pay all rates and charges imposed upon or payable in respect of the land, and in particular all rates and charges imposed or charged by the Minister in exercise of the powers conferred by the said Act, and will also pay all amounts due or which may hereafter become due on account of loans granted under the *Vermin Act, 1931*:

THE THIRD SCHEDULE—*continued*

- III. The lessee shall pay for all water supplied to him by the Minister at the rates or charges declared or determined by the Minister:
- IV. (1) The lessee shall, within a period of eighteen months from the date hereof, or within such longer period as is allowed by the Minister or an authorized person in writing, carry out on the land permanent improvements of a value of not less than \$ [where the land consists of not less than three allotments all of which have been set apart by the Minister for business or manufacturing purposes, add: Provided that such improvements shall be carried out on not less than two of the said allotments]: Provided that any permanent improvements on the land paid for by the lessee shall, for the purposes of this covenant, be deemed to have been carried out by the lessee:
- (2) Such improvements shall be carried out according to such designs and specifications, and in such a position on the land, as is approved in writing by the Minister or by an authorized person. One copy of such designs and specifications and of a plan showing the position in which any improvement is proposed to be carried out on the land shall be lodged with the Minister or an authorized person, and the Minister or such authorized person's approval shall be obtained thereto before the lessee commences to carry out such improvements:
- (3) The lessee shall not at any time erect any building, shed, or other permanent improvement on the land without first obtaining the approval in writing of the Minister or of an authorized person thereto:
- V. The lessee shall, within twelve months from the date hereof, enclose the land with a good and substantial fence, to the designs and specifications previously approved in writing by the Minister or an authorized person, and the lessee shall, during the remainder of the said term, maintain and uphold such fence in good and substantial repair to the satisfaction of the Minister or an authorized person:
- VI. The lessee shall, at his own cost, during the said term keep and maintain in good and tenantable repair and condition to the satisfaction of the Minister or an authorized person all permanent improvements on the land, by whomsoever made, and all buildings, orchards, vineyards, gardens, fences, walls, and other improvements thereon, and shall keep all fruit trees and other plants thereon free, as far as possible, from insects, pests, and diseases:
- VII. The lessee shall forthwith commence to destroy all rabbits on the land and on the half width of all Government roads adjacent thereto, and to fill up all burrows on the land and on the said half width of road to the satisfaction of the Minister or an authorized person, and will forthwith commence to destroy all such other vermin on the land and on the said half width of road as are, by or under the *Vermin Act, 1931*, or any other Act, declared to be vermin, and shall, during the said term, keep the land and the said half width of road free of all vermin to the satisfaction of the Minister or an authorized person, and shall destroy Bathurst burr and all other noxious weeds growing upon the land and upon the said half width of road:
- VIII. The lessee shall insure and keep insured in the full insurable value thereof, all buildings, the property of the Crown, upon the land in the joint names of the Minister and the lessee in some insurance office to be approved by the Minister, and forthwith lodge the policy of every such insurance in the office of the Minister and forward to the Minister the receipts for the premiums payable in respect of such policy within seven days after the same become due. The Minister may insure on default by the lessee and recover all amounts paid for such insurance in like manner as the rent hereby reserved is recoverable:
- IX. The lessee shall permit the Crown, the Minister, and the owner of any mining claim situated on the land, or the holder of any mining lease of the whole or any portion of the land, under any law for the time being relating to mining, by itself, himself, or themselves, or its, his, or their officers or agents full and free liberty of access, ingress, egress, and regress into, upon, and from the land:
- * * * * *
- XI. [If any of the allotments must not be used for the purpose of any particular business or manufacture]. The lessee shall not use the said land or any part thereof for
4. The Minister hereby covenants with the lessee that the lessee paying the rent hereby reserved, and observing and performing the several covenants and stipulations on his part contained, shall, subject to the provisions of this lease, peaceably hold and enjoy the land during the said term without any interruption by the Minister or any person rightfully claiming under or in trust for him.

Conditions

Provided always and it is expressly agreed as follows:

5. This lease shall be liable to forfeiture by the Minister in the following cases:
- I. If default is made in payment of any rent for six months after the same falls due the lessee having had at least three months' previous notice in writing requiring its payment; or
- II. If the land is used for any purpose other than that for which it is hereby leased [or, if necessary, for the purpose of]; or
- III. If the lessee without first obtaining the written consent of the Minister acquires, whether on freehold or leasehold tenure, more than allotments in the said township; or
- IV. If default is made in the performance of any covenant on the part of the lessee, either express or implied; or
- * * * * *
- VI. If the lessee refuses to permit the Minister by himself, or by his officers, or agents to enter upon the land hereby leased, to construct, alter, divert, cleanse, repair, or inspect any water channel, drain, embankment, or other reclamation, irrigation, drainage, or sanitary works, or to conserve water for public use, or otherwise to exercise any power conferred upon them by the said Act.

In the event of this lease becoming liable to forfeiture by the Minister as hereinbefore provided His Majesty or the Minister, after three months' written notice, may re-enter and take possession of the land; and it shall be lawful for the Minister, before or after re-entry, to cancel and determine this lease and the Minister may thereupon insert a notice in the *Government Gazette* declaring this lease to be forfeited and such notice appearing in the *Government Gazette* as having been published by the authority of the Minister shall, in all courts and elsewhere, and under all circumstances, be taken to be conclusive evidence that such lease has been legally cancelled and forfeited: Provided, however, that the Minister shall not (except in the case of rent being in arrear as aforesaid, or of the transfer, assignment, mortgage, encumbrance, or subletting of the land, or of any part thereof, without such consent as aforesaid) exercise the powers expressed in this clause in the case of default in the performance of a covenant before the expiration of the period of three months after notice has been given to the lessee of such default and requiring the performance of the covenant: Provided, nevertheless,

THE THIRD SCHEDULE—continued

that if notice has been given to the lessee of any default in the performance of a covenant no notice of any future default in the performance of the same covenant, or of the continuance of the same default, shall be necessary before the exercise of such powers.

6. Any notice to be served upon or given to the lessee under this lease shall be sufficiently served or given if the same be sent through the post office enclosed in an envelope addressed to the lessee at any address stated in any recent application, letter, or document received from him, or at his usual or last known place of abode in the said State, or to the care of any solicitor, attorney, or agent acting in the lessee's behalf in the particular matter in respect whereof such notice is given, and such notice shall be deemed to have been served or given, and time shall run from the day of the posting thereof as aforesaid.

7. The land, or any portion thereof, may at any time, and from time to time, be resumed by or on behalf of the Crown or the Minister, for mining purposes or for roads, railways, tramways, or for any public work or purpose on giving three calendar months' notice to the lessee, full compensation being made to the lessee for loss, except where the land is resumed for the construction, alteration, or diversion of water channels, drains, embankments, or other reclamation, irrigation, drainage, or sanitary works, or for the conservation of water for the public use, in which case no compensation whatever will be made to the lessee.

8. Nothing in this lease shall render the Minister, or the Government of the said State, liable for damages consequent upon insufficiency of water or for injury to any land or other property which happens through or by such insufficiency, or through or by floodwaters or the overflowing of any river.

9. In this lease "authorized person" means a person authorized in writing by the Minister for the purposes of the said Act or of leases under the said Act in general, or of this lease in particular.

10. Wherever in this lease reference is made to any Act of Parliament such reference shall be deemed to include a reference to all Acts amending such Act and to all Acts amending such amending Acts or any of them, and to any Act substituted for such Act or for any such amending Act or Acts.

11. Except in so far as inconsistent with the provisions of this lease, all the provisions of the *Crown Lands Act, 1929*, and of the *Irrigation Act, 1930*, shall apply to and in respect of the said land and this lease.

In witness whereof the hands and seals of the Minister and the lessee are hereunto set the day of, one thousand nine hundred and

Signed, sealed, and delivered by the Minister in the
presence of }

Signed, sealed, and delivered by the above-mentioned
lessee in the presence of }

APPENDIX

Legislative History

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 5 of The Public General Acts of South Australia 1837-1975 at page 196.

Section 4:	amended by 28, 1978, s. 5; 2, 1982, s. 3; 61, 1988, s. 3
Section 6:	definition of "channel" substituted by 61, 1988, s. 4(a) definition of "the consumption year" inserted by 68, 1986, s. 3; repealed by 61, 1988, s. 4(b) definition of "Director of Lands" repealed by 28, 1978, s. 6(a) definition of "embankment" repealed by 61, 1988, s. 4(b) definition of "Minister" substituted by 28, 1978, s. 6(b) definition of "owner" inserted by 2, 1982, s. 4
Section 8(1):	repealed by 28, 1978, s. 7
Section 12(1):	amended by 28, 1978, s. 8
Section 20:	repealed by 79, 1986, s. 2
Section 35:	repealed by 2, 1982, s. 5
Section 35b(8):	amended by 28, 1978, s. 9
Section 39:	amended by 28, 1978, s. 10
Section 41:	repealed by 39, 1985, s. 73(a)
Section 41a:	inserted by 2, 1982, s. 6; repealed by 39, 1985, s. 73(a)
Sections 48c - 48e:	inserted by 2, 1982, s. 7
	Part V comprising sections 54 - 80 l and headings amended by 55, 1977, s. 14; 28, 1978, ss. 11 - 17; 65, 1981, ss. 3 - 5; 2, 1982, ss. 8 - 18; 15, 1983, ss. 5 - 8; 68, 1986, ss. 4 - 8; 78, 1986, Sched. 5, cl. 2; repealed and sections 54 - 74 and headings inserted in its place by 61, 1988, s. 5
Section 55(2):	amended by 7, 1991, s. 3
	Part VI comprising sections 81 - 107 and heading repealed and s. 81 and heading inserted in its place by 18, 1981, s. 3
Heading preceding section 81:	amended by 2, 1982, s. 19
Section 81(1):	amended by 2, 1982, s. 20
Heading preceding section 108:	substituted by 28, 1978, s. 18
Sections 108 and 109:	repealed by 28, 1978, s. 19
Heading preceding section 110:	repealed by 28, 1978, s. 20
Section 110(1):	amended by 28, 1978, s. 21(a)
Section 110(2):	amended by 28, 1978, s. 21(b)
Section 110(3):	amended by 28, 1978, s. 21(c)
Section 111:	amended by 28, 1978, s. 22
Section 112:	amended by 28, 1978, s. 23
Section 113:	amended by 28, 1978, s. 24
Section 113a:	definition of "landholder" amended by 28, 1978, s. 25; 2, 1982, s. 21
Section 114:	amended by 68, 1986, s. 9
Section 115:	repealed by 39, 1985, s. 73(b)
Section 118a:	amended by 2, 1982, s. 22
Sections 119 and 120:	repealed by 61, 1988, s. 6
Section 121a:	amended by 2, 1982, s. 23
Section 122:	amended by 28, 1978, s. 26
Section 123:	repealed by 28, 1978, s. 27
First Schedule:	substituted by 61, 1988, s. 7
Second Schedule:	amended by 28, 1978, s. 28(a), (c); 79, 1986, s. 3
Clause 2:	amended by 28, 1978, s. 28(b)
Clause 3I: (second occurring)	repealed by 2, 1982, s. 24(a)
Clause 4III:	repealed by 2, 1982, s. 24(b)
Third Schedule:	amended by 28, 1978, s. 29(a), (c); 79, 1986, s. 4
Clause 2:	amended by 28, 1978, s. 29(b)
Clause 3X:	repealed by 2, 1982, s. 25(a)
Clause 5V:	repealed by 2, 1982, s. 25(b)