



ANNO NONO

## GEORGII VI REGIS.

A.D. 1945.

\*\*\*\*\*

### No. 21 of 1945.

An Act to amend the Irrigation Act, 1930-1941.

[Assented to 13th December, 1945.]

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

1. (1) This Act may be cited as the "Irrigation Act Amendment Act, 1945". Short titles.

(2) The Irrigation Act, 1930-1941, as amended by this Act, may be cited as the "Irrigation Act, 1930-1945".

(3) The Irrigation Act, 1930-1941, is hereinafter referred to as "the principal Act".

2. Section 15 of the principal Act is repealed.

Repeal of s. 15  
of principal  
Act.

3. Section 28 of the principal Act is amended by adding at the end thereof the following subsection :—

Amendment of  
principal Act,  
s. 28—

(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.

Offer of  
township  
allotments.

4. Section 29 of the principal Act is amended by adding at the end thereof the following subsection (the preceding portion of the said section being read as subsection (1) thereof) :—

Amendment of  
principal Act,  
s. 29—  
Land to be  
gazetted.

(2) The Minister shall, before a perpetual lease of any town allotment is offered for allotment pursuant to sub-

section (4) of section 28, publish in the *Gazette* a state ment 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.

Amendment of  
principal Act,  
s. 30—  
Rent.

5. Section 30 of the principal Act is amended—

- (a) by inserting after the word “ allotment ” in the second line thereof the words “ offered for sale by auction pursuant to subsection (1) of section 28 ”;
- (b) by striking out the words “ by auction ” in the third line thereof;
- (c) by inserting therein after subsection (1) thereof the following subsection :—

(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.

Amendment of  
principal Act,  
s. 31—  
Improvements  
by lessees.

6. Section 31 of the principal Act is amended—

- (a) by inserting after the word “ allotments ” in the first line thereof the passage “ under any lease granted before the passing of the Irrigation Act Amendment Act, 1945 ”;
- (b) by inserting therein after subsection (1) thereof the following subsection :—

(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.

(c) by striking out subsection (2) thereof and by inserting in lieu thereof the following subsection :—

(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.

7. Section 34 of the principal Act is amended so as to read as follows :—

Amendment of principal Act, s. 34—

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.

Variation of purpose for which allotment may be used.

(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.

8. The following section is enacted and inserted in the principal Act after section 35 thereof :—

Enactment of s. 35a of principal Act—

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

Grant of freehold of township allotments to certain bodies corporate.

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.

Amendment of principal Act, s. 47—  
Surrender.

9. Section 47 of the principal Act is amended by striking out subsection (3) thereof.

Enactment of s. 48b of principal Act—

10. The following section is enacted and inserted in the principal Act after section 48a thereof:—

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.

**11.** (1) Section 80c of the principal Act (as enacted by section 11 of the Irrigation Act Amendment Act, 1941) is amended so as to read as follows :—

Amendment of  
principal Act,  
s. 80c—

80c. For the purposes of this Division—

Access to  
outlet.

(a) a block shall be deemed to have direct access to a permanent outlet if any part of that outlet is situated on the block or if the outlet is so situated that the internal drainage of the block is discharged or is capable of being discharged into the outlet ;

(b) a block shall be deemed to have direct access to a temporary outlet if a drain or drains from the block are led to the outlet or if, in the opinion of the Drainage Committee, the block derives reasonable benefit from the outlet.

(2) The amendment made by this section shall be deemed to have effect as and from the passing of the Irrigation Act Amendment Act, 1941.

**12.** Section 80d of the principal Act (as enacted by section 11 of the Irrigation Act Amendment Act, 1941) is amended—

Amendment of  
principal Act,  
s. 80d—  
Appeal.

(a) by inserting before the word "Every" in the first line of subsection (4) thereof the words "Subject to subsection (5),";

(b) by adding at the end thereof the following subsection :—

(5) If any such notice specifies that any works constitute a permanent outlet and that any block described in the notice has direct access to that permanent outlet, then, in any case where the permanent outlet is not situated on the said block, the lessee of the block may by notice in writing given to the Minister appeal against the notice on the grounds that, at the time of the publication of the notice, the internal drainage of the block was not discharged or capable of being discharged into the outlet. The Minister shall thereupon refer the appeal to the Drainage Committee and the Drainage Committee, if satisfied that at the said time the internal drainage of the block was

neither discharged nor capable of being discharged into the outlet, shall report to the Minister accordingly. The Minister shall thereupon by notice published in the *Gazette* vary the notice first mentioned in this subsection so as to give effect to the report of the Drainage Committee and any such variation shall be deemed to take effect from the time of the publication of the notice first mentioned in this subsection.

Amendment of  
principal Act,  
s. 80f—  
Payment of  
cost of outlet.

**13.** Section 80f of the principal Act (as enacted by section 11 of the Irrigation Act Amendment Act, 1941) is amended—

- (a) by inserting after the word "land" in the fourth line of paragraph II. of subsection (1) thereof the words "which is drained or is capable of being drained by means of the outlet and which is";
- (b) by inserting after the word "land" in the second line of paragraph III. of subsection (1) thereof the words "which is drained or is capable of being drained by means of the outlet and which is";
- (c) by adding at the end thereof the following subsection:—

(3) If any lessee is required by this section to pay in respect of any block any amount being the whole or any portion of the cost of any outlet to which the block has direct access, the lessee, in lieu of paying that amount by ten equal instalments, may at any time pay off the whole amount so payable.

If any such payment is made, the amount of any annual charge payable under section 80g in respect of the block or the amount of any drainage rate payable under section 80i in respect of the block, shall be reduced by an amount equal to the interest payable upon the amount so paid and which would otherwise have been taken into account for the purpose of computing that charge or rate pursuant to paragraph (c) of subsection (2) of section 80g or, as the case may be, paragraph (c) of subsection (2) of section 80i.

Amendment of  
principal Act,  
s. 80g—  
Drainage  
charge before  
constitution of  
area.

**14.** Section 80g of the principal Act (as enacted by section 11 of the Irrigation Act Amendment Act, 1941) is amended—

- (a) by striking out the words "the fixed rate" in paragraph (c) of subsection (2) thereof and by inserting in

lieu thereof the words "such rate as is from time to time fixed by the Treasurer";

(b) by inserting after the word "land" in the second line of subsection (3) thereof the words "which is drained or is capable of being drained by the outlet and which is";

(c) by inserting after the word "land" occurring in the sixth and the eighth lines of subsection (3) thereof in each case the word "aforesaid".

15. Section 80i of the principal Act (as enacted by section 11 of the Irrigation Act Amendment Act, 1941) is amended by striking out the words "the fixed rate" in paragraph (c) of subsection (2) thereof and by inserting in lieu thereof the words "such rate as is from time to time fixed by the Treasurer".

Amendment of principal Act, s. 80i—  
Drainage rate.

16. Section 80j of the principal Act (as enacted by section 11 of the Irrigation Act Amendment Act, 1941) is amended—

Amendment of principal Act, s. 80j—

(a) by striking out the words "acre of ratable land" in the fifth line thereof and by inserting in lieu thereof the words "ratable acre";

Recovery of drainage charges and rates.

(b) by striking out the words "acre of ratable land" in the fifth line of subsection (2) thereof and by inserting in lieu thereof the words "ratable acre";

(c) by striking out the words "Commissioner of Waterworks" in the penultimate line of subsection (4) thereof and by inserting in lieu thereof the words "Minister of Works".

17. Division III. of Part V. of the principal Act (as enacted by section 11 of the Irrigation Act Amendment Act, 1941) is amended by inserting therein after section 80j the following sections:—

Amendment of principal Act, Part V., Division III.—

80k. (1) If any notice is given by the Minister pursuant to this Division specifying that any block has direct access to any permanent outlet or temporary outlet and if subsequent to the giving of the notice any part of the block is transferred so that the block is then comprised in two or more leases, the following consequences shall ensue:—

Apportionment of liability on transfer of portion of block.

1. All the ratable land which, before the transfer, was comprised in the block and was drained or

capable of being drained by the outlet shall be deemed to have direct access to the outlet and shall be deemed to be drained or capable of being drained by the outlet :

ii. All the ratable land which, before the transfer, was comprised in the block and which was pursuant to section 80f and section 80j charged with the cost of the outlet or any portion of that cost, shall continue to be so charged and the Minister shall, by notice in the *Gazette*, apportion that cost between the lessees under the leases aforesaid and the land of those lessees :

iii. If before the transfer any annual charge was fixed by the Minister or any drainage rate was declared by the Minister in respect of any land comprised in the block, any such charge or rate which was unpaid at the time of the transfer shall be apportioned by the Minister by notice in the *Gazette* between the lessees under the leases aforesaid and the land of those lessees ; and any subsequent annual charge or drainage rate shall be fixed or declared accordingly.

(2) This section shall apply whether any such transfer was made before or after the passing of the Irrigation Act Amendment Act, 1945.

Payment of drainage charges and rates by certain occupiers.

80l. If any block which has direct access to an outlet is not comprised in a lease but is planted with citrus trees, deciduous trees or vines and is occupied by some person, the occupier of the block shall be liable to the same annual charges under section 80g and the same rates under section 80i as if he were the lessee of the block, and sections 80g, 80i and 80j shall be read and construed as if every reference to a lessee in those sections relating to the payment of such charges and rates included a reference to such occupier.

Amendment of principal Act, ss. 75 and 108 to 111—  
Change of Ministerial titles.

18. (1) Section 75 of the principal Act is amended by striking out the words " Commissioner of Waterworks " in subsection (2) thereof and by inserting in lieu thereof the words " Minister of Works ".

(2) Section 108 of the principal Act is amended by striking out the words " Commissioner of Crown Lands " and by inserting in lieu thereof the words " Minister of Lands ".

(3) Section 109 of the principal Act is amended by striking out the words "Commissioner of Crown Lands" and by inserting in lieu thereof the words "Minister of Lands".

(4) Section 110 of the principal Act is amended by striking out the words "Commissioner of Waterworks or by the Commissioner of Water Conservation" occurring in paragraph (b) of subsection (1) thereof and in paragraph (b) of subsection (3) thereof and by inserting in lieu thereof in each case the words "Minister of Works".

(5) Section 111 of the principal Act is amended by striking out the words "Commissioner of Waterworks or by the Commissioner of Water Conservation" in paragraph (b) thereof and by inserting in lieu thereof the words "Minister of Works".

19. The third schedule to the principal Act is amended by striking out the words "The lessee shall not erect a brush fence on the land or suffer or permit the same to be erected or remain on the land" in subparagraph v. of paragraph 3 thereof.

Amendment of  
principal Act,  
third schedule.

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

C. W. M. NORRIE, Governor.

1945