

**THE
BURDEKIN RIVER DEVELOPMENT ACTS,
1949 to 1959**

Burdekin River Development Act of 1949, 13 Geo. 6 No. 58

Amended by

**Burdekin River Development Act Amendment Act of 1959, 8 Eliz. 2
No. 40**

Acquisition of Land Act of 1967, No. 48, s. 3 (2) First Schedule

An Act to Authorise the Construction of Dams on the Burdekin River and its Tributaries, and to Provide for the Practical Utilisation of such Dams and the Waters of the Burdekin River and its Tributaries for Water Conservation, Flood Mitigation, Irrigation, Water Supply, and the Development of Hydro-Electric Power and for the Further Development of Northern Queensland, and Generally for other purposes connected therewith, and to Authorise the Entry into an Agreement with the Commonwealth of Australia by and on behalf of the State of Queensland in relation thereto

[Assented to 8 December 1949]

PART I—PRELIMINARY

1. Short title. This Act may be cited as “The Burdekin River Development Act of 1949.”

Collective title conferred by Act of 1959, 8 Eliz. 2 No. 40, s. 1 (3).

2. Commencement of Act. This Act shall come into force on a date to be fixed by the Governor in Council by Proclamation published in the Gazette.

Commenced 8 July 1950 (Proclamation, Gazette 8 July 1950, p. 174).

3. Parts. This Act is divided into parts, as follows:—

PART I—PRELIMINARY;

PART II—POWER TO ENTER INTO AGREEMENTS WITH THE
COMMONWEALTH OF AUSTRALIA;

PART III—THE BURDEKIN RIVER AUTHORITY;

PART IV—FUNCTIONS AND POWERS OF THE AUTHORITY;

PART V—OFFICERS AND EMPLOYEES OF THE AUTHORITY;

PART VI—FINANCES OF THE AUTHORITY;

PART VII—MISCELLANEOUS.

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

“Commissioner for Electricity Supply”—Means the Commissioner for Electricity Supply as defined in or by “The State Electricity Commission Acts, 1937 to 1948”;

- “Commissioner of Irrigation and Water Supply”—Means the Commissioner of Irrigation and Water Supply as defined in or by “The Irrigation and Water Supply Commission Acts, 1946 to 1949”;
- “Commonwealth”—Means the Commonwealth of Australia;
- “Co-ordinator-General”—Means the Co-ordinator-General of Public Works as defined in or by “The State Development and Public Works Organisation Acts, 1938 to 1940”;
- “Easement”—Includes a license or a right in the nature of an easement;
- “Officer”—Means an officer of the Authority;
- “Sitting days”—Means days on which Parliament actually sits for the despatch of business;
- “Subject to Agreement”—Means that the particular matter or thing shall not have any force or effect unless it is the subject matter of an agreement between the Minister and the Commonwealth of Australia authorised by this Act;
- “The Authority”—Means the Burdekin River Authority;
- “The Minister”—Means the Premier and Chief Secretary or other Minister of the Crown for the time being charged with the administration of this Act;
- “Unless otherwise agreed”—Means unless it is otherwise agreed in an agreement between the Minister and the Commonwealth of Australia authorised by this Act.

Acts referred to:

State Electricity Commission Acts, 1937 to 1965, title ELECTRICITY, Vol. 5, p. 325.

Irrigation and Water Supply Commission Acts, 1946 to 1949, p. 171, *post*.

State Planning and Development, Public Works Organisation, and Environmental Control Act 1938–1970; see now State and Regional Planning and Development, Public Works Organization and Environmental Control Act 1971, title WORKS.

5. The Burdekin River Area. (1) For the purposes of this Act the Burdekin River Area shall be an area of land in the Northern portion of Queensland defined in accordance with this section.

(2) The Governor in Council may by Order in Council define the boundaries of the Burdekin River Area and may from time to time by Order in Council vary the boundaries as so defined.

PART II—POWER TO ENTER INTO AGREEMENTS WITH THE COMMONWEALTH OF AUSTRALIA

6. Agreements with the Commonwealth. (1) The Minister is hereby authorised at any time and from time to time to enter into an Agreement with the Commonwealth whereby in consideration of the Commonwealth affording financial assistance in the construction, maintenance, operation, protection, management, and control of works authorised by this Act and towards the expenses, charges, and other costs incurred in the execution of this Act, the Commonwealth shall be empowered to appoint such number of members of the Authority as shall not exceed one half

of the total number of members thereof excluding the Chairman, and shall as far as possible be commensurate with such financial assistance afforded by the Commonwealth.

Any such agreement may provide for—

- (a) The manner and duration of the appointment of the representatives of the Commonwealth, including the Deputy Chairman;
- (b) The salaries and allowances to be paid to the Chairman and other members of the Authority;
- (c) The vacation of office by the representatives of the Commonwealth;
- (d) The powers and duties of the Chairman and other members of the Authority;
- (e) The indemnification of the members of the Authority in respect of any act done by them and of any losses, costs, or damages incurred by them in the bona fide execution of the powers conferred on them by this Act;
- (f) The keeping of proper minutes and records of the proceedings of the Authority;
- (g) The works to be constructed, maintained, operated, protected, managed, and controlled by the Authority;
- (h) The employment of labour by the Authority;
- (i) The commencement and the completion of such works;
- (j) The preparation and submission of a general scheme in respect of such works and of designs and estimates of cost of such works;
- (k) The approvals of such general scheme, designs and estimates;
- (l) The approvals necessary prior to the commencement of such works;
- (m) The construction of such works in accordance with approvals;
- (n) The allocation of costs as between the parties and the manner of payment of such costs;
- (o) The preparation and submission of estimates of expenditure and receipts by the Authority;
- (p) The audit and inspection of books of the Authority;
- (q) The furnishing of reports, information, and particulars to and by the Authority by and to the parties thereto;
- (r) The utilisation of the works and electricity generated by any such works for the defence of the Commonwealth in time of War;
- (s) The maintenance, operation, protection, management, and control of the works of the Authority;
- (t) The revenue to be derived by the Authority from water supplied for irrigation, local government, stock routes, industrial and other purposes, and from the sale of electricity generated by the Authority;

- (u) Any provision, matter, or thing which, by this Act, is made "subject to Agreement" or in respect of which it is provided that it shall be of full force and effect "unless otherwise agreed";
 - (v) The manner of ratification of any such Agreement by the Commonwealth;
 - (w) Any other matter or thing necessary or which may be considered expedient for carrying out or giving effect to this Act (including any such Agreement) or the objects or purposes thereof.
- (2) Any such Agreement when entered into shall come into force on a day to be fixed by the Governor in Council by Proclamation.

Every such Proclamation and agreement shall—

- (a) Be published in the Gazette;
- (b) Upon its publication in the Gazette be judicially noticed, shall be deemed to be approved by Parliament as part of this Act, and shall have force and effect accordingly, and such publication shall be conclusive evidence of the matters therein contained; and
- (c) Be laid before Parliament within fourteen sitting days after such Proclamation if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

PART III—THE BURDEKIN RIVER AUTHORITY

7. The Burdekin River Authority. (1) For the purposes of this Act, there shall be an Authority to be known as the Burdekin River Authority which shall exercise and perform the functions, powers, authorities, and duties conferred or imposed upon it by this Act.

- (2) The Authority shall be constituted by members as follows:—
- (a) The Co-ordinator-General, who shall be the Chairman of the Authority;
 - (b) The Commissioner of Irrigation and Water Supply;
 - (c) The Commissioner for Electricity Supply;
 - (d) Subject to agreement, such other members representative of the Commonwealth, one of whom shall be Deputy Chairman.

(3) The Authority shall be a corporation representing the Crown with perpetual succession and an official seal, and shall be capable of suing and being sued in its corporate name, and, subject to this Act, may acquire, hold, and dispose of real and personal property.

(4) All courts, judges, and persons acting judicially shall take judicial notice of the seal of the Authority affixed to any document and shall presume that it was duly affixed.

(5) The validity of any proceeding of the Authority shall not be affected by any vacancy amongst the members thereof, or by any defect in the appointment of, or disqualification, of a member or of a deputy for a member thereof.

As to delegation of the powers of the Authority, see s. 10.

The Authority has regulation-making powers, s. 11.

As to the functions of the Authority, see s. 12.

Powers of the Authority are set forth in s. 13 (general) and ss. 14-17 (specific).

As to the officers and employees of the Authority, see ss. 18-21.

The finances of the Authority are dealt with in ss. 22-29.

Miscellaneous provisions include acquisition of land (s. 31), compensation (ss. 32-35), power of the Authority to sell electricity (s. 40), evidentiary provisions (s. 42).

8. Deputy Members. (1) Unless otherwise agreed, if the Chairman (or subject to agreement, the Deputy Chairman) or other Member of the Authority is absent by leave of the Authority for any reason whatsoever, the Minister may, if so requested by the Authority, appoint a person to act as his Deputy during such absence, and every Deputy shall, while so acting, have the powers and perform the duties of the Chairman, Deputy Chairman, or, as the case may be, the other Member for whom he is such Deputy:

Provided that, subject to agreement, in the case of the absence of the Deputy Chairman or of any other representative of the Commonwealth, the Deputy shall be appointed upon the nomination of the Commonwealth.

(2) Unless otherwise agreed, if a Member of the Authority is so appointed to act as Deputy for the Chairman (or, subject to agreement, for the Deputy Chairman) the Minister may, in like manner, appoint some other person to act as Deputy for such Member while he is acting as Deputy for the Chairman (or, as the case may require, for the Deputy Chairman).

9. Remuneration of Members of the Authority. Unless otherwise agreed, the Chairman and other Members of the Authority shall be paid such salary and allowances as the Governor in Council determines.

10. Delegation of Authority. (1) The Authority may in relation to any particular matter or class of matters or to any particular place, by writing under its seal, delegate to an officer such of its powers under this Act as it considers necessary (except this power of delegation) so that the delegated powers may be exercised by the delegate with respect to the matter or class of matters, or to the place, specified in the instrument of delegation.

(2) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power of the Authority.

(3) Where under this Act the exercise of any power, function, or authority by the Authority is dependent upon the opinion, belief, or discretion of the Authority in relation to any matter, that power, function, or authority may be exercised by the delegate upon the opinion, belief, or discretion of that delegate.

11. Regulations made by the Authority. (1) Unless otherwise agreed, the Authority may make regulations—

(a) For or relating to—

(i) The times and places of its meeting;

- (ii) The conduct of its meetings, including matters of procedure, voting, order of business, quorum, the appointment of a Member to preside where this Act does not otherwise provide and other matters connected therewith;
 - (iii) The duties and the control, supervision, and guidance of its officers and employees and the time and mode in which they shall account to the Authority for all moneys received by them on its behalf or account;
 - (iv) The mode of making and the management and carrying out of contracts of the Authority;
 - (b) Prescribing what business shall be deemed formal;
 - (c) Prescribing a penalty not exceeding ten dollars for a breach of any such regulation.
- (2) Every regulation made under this section shall—
- (a) Be published in the Gazette;
 - (b) Upon its publication be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
 - (c) Take effect and have the force of law from the date of such publication or such later date as is specified therein;
 - (d) Be laid before Parliament within fourteen sitting days after such publication if Parliament is in session and, if not, then within fourteen sitting days after the commencement of the next session; and
 - (e) If Parliament passes a resolution of which notice has been given at any time within fourteen sitting days after any such regulation has been laid before Parliament disallowing any such regulation or part thereof, that regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime.

As amended by Act of 1959, 8 Eliz. 2 No. 40, s. 2.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

See notes to s. 7.

PART IV—FUNCTIONS AND POWERS OF THE AUTHORITY

12. Functions of the Authority. The functions of the Authority shall be—

- (a) To conserve water, mitigate floods, and irrigate lands by means of dams, weirs, channels, pipe lines, and other appropriate works, whether of the same kind as those herein enumerated or not, in the Burdekin River Area;
- (b) To supply water so conserved for irrigation, local government, stock routes, industrial and other purposes;
- (c) To generate electricity by means of hydro-electric works in the Burdekin River Area; and
- (d) To supply electricity so generated for consumption.

See notes to s. 7.

13. General powers of the Authority. (1) For the purpose of performing its functions under the last preceding section, the Authority shall have power and is hereby authorised to construct, maintain, operate, protect, manage, and control works—

- (a) For the collection, diversion, and conservation and storage of water in the Burdekin River Area;
- (b) For the mitigation of floods in that Area;
- (c) For the irrigation of lands in that Area;
- (d) For the supply of water for irrigation, local government, stock routes, industrial and other purposes in and from that Area;
- (e) For the generation of electricity in that Area;
- (f) For the transmission in and from that Area of electricity generated by the Authority; and
- (g) Incidental or related to the construction, maintenance, operation, protection, management, or control of any works specified in the preceding paragraphs of this subsection.

(2) The Authority shall have power to construct, maintain, operate, protect, manage, and control works which in the opinion of the Authority are necessary or desirable for the purpose of preventing or mitigating injurious effects of any works referred to in the last preceding subsection.

14. Particular powers of the Authority. The Authority shall have, in addition to the powers specifically conferred upon it by this Act, such other powers as are necessary or convenient for the performance of its functions under this Act and, in particular, but without limiting the generality of the foregoing, shall have power—

- (a) To acquire lands by agreement or resumption;
- (b) To take land on lease by agreement or resumption;
- (c) To take easements over land by agreement or resumption;
- (d) To sell, exchange, surrender to the Crown, or otherwise dispose of land vested in the Authority but not required for the purposes of the Authority, but unless otherwise agreed, subject to the approval of the Minister;
- (e) To lease land vested in the Authority but not required for the purposes of the Authority;
- (f) To release any easement over land;
- (g) To purchase or take on hire plant, machinery, equipment, or other goods;
- (h) To dispose of or let on hire plant, machinery, equipment, or other goods owned by the Authority but not required by the Authority;
- (i) To provide transport, accommodation, provisions, and amenities for officers and employees of the Authority and their families; and
- (j) To do anything incidental to any of its powers.

15. Power to enter land and take levels. The Authority or an officer or employee of the Authority or any other person authorised by the Authority so to do may for the purposes of this Act, without any previous notice—

- (a) Enter upon land for the purpose of inspecting the land;
- (b) Make surveys, take levels, sink bores, dig pits, and examine the soil;
- (c) Do anything necessary for ascertaining the suitability of the land for the purposes of the Authority.

16. Power to enter and occupy land. The Authority, or any person authorised by the Authority so to do, may, for the purposes of this Act—

- (a) After giving not less than seven days' notice in writing to the occupier of land, enter upon and occupy that land;
- (b) On or from land so occupied—
 - (i) Construct, build, or place any plant, machinery, equipment, or goods;
 - (ii) Take sand, clay, stone, earth, gravel, timber, wood, or other materials or things;
 - (iii) Make cuttings or excavations;
 - (iv) Deposit sand, clay, stone, earth, gravel, timber, wood, or other materials or things;
 - (v) Erect workshops, sheds, and other buildings;
 - (vi) Make roads;
 - (vii) Manufacture and work materials of any kind; and
- (c) Demolish, destroy, or remove, on and from land so occupied, any plant, machinery, equipment, goods, workshop, shed, building, or road.

17. Powers in respect of waters. The Authority may raise or lower the level of any river, creek, stream or watercourse, lake, lagoon, swamp or marsh in the Burdekin River Area and take, impound, divert, and use, either permanently or temporarily, the waters of a river, creek, stream or watercourse, lake, lagoon, swamp or marsh in that Area.

PART V—OFFICERS AND EMPLOYEES OF THE AUTHORITY

18. Appointment of officers. (1) Unless otherwise agreed, the Authority may from time to time, with the approval of the Minister, appoint a Secretary, and may with the like approval, terminate the services of such Secretary.

(2) The Secretary shall have power to execute documents on behalf of the Authority and affix the official seal thereto and shall also have such other powers and perform such other duties as are from time to time conferred and imposed by the Authority.

(3) Unless otherwise agreed, the Authority may, with the approval of the Minister, appoint such administrative and technical officers as it thinks necessary for the purposes of this Act and, with the like approval, terminate the services of such officers.

See notes to s. 7.

19. Employees. The Authority may employ such employees and workmen as it considers necessary for the carrying into execution of works under this Act or otherwise for carrying its provisions into full effect.

The services of any officers or employees mentioned in this section may be terminated by the Authority.

20. Temporary and casual officers and employees. The Authority may employ such temporary or casual officers or employees as it thinks fit, on such terms and conditions as the Authority thinks necessary for the purposes of this Act.

21. Preservation of certain awards. Nothing in this Act shall prevent the making of an industrial award, order, determination, or agreement under any Act in relation to officers or employees appointed or employed under this Act or affect the operation of any such award, order, determination, or agreement in relation to any such officer or employee.

PART VI—FINANCES OF THE AUTHORITY

22. Appropriation of moneys. The Treasurer may, out of moneys appropriated by Parliament for the purposes of this Act, make advances to the Authority of such amounts and upon such terms as it thinks fit.

See notes to s. 7.

23. The Burdekin River Authority Trust Fund. Unless otherwise agreed, there shall be created at the Treasury a fund to be called "The Burdekin River Authority Trust Fund".

To the credit of this Fund shall be placed all moneys appropriated by Parliament for the purposes of this Act, all moneys received from the Commonwealth pursuant to any agreement made under this Act, and all other moneys whatsoever received or recovered by the Authority.

24. Application of moneys. Subject to this Act, and unless otherwise agreed, the moneys of the Authority—

- (a) Shall be applied by the Authority—
 - (i) In payment or discharge of the expenses, charges and other obligations incurred or undertaken by the Authority under this Act;
 - (ii) In payment of the salaries and allowances of members of the Authority; and
 - (iii) In repayment of advances made to the Authority under this Act in accordance with the terms upon which those advances were made;
 - (iv) Subject thereto, in such other manner as the Authority, with the approval of the Minister, determines;
- (b) May be invested in such investments authorised by law as the Treasurer approves.

25. Accounts. (1) Unless otherwise agreed, the Authority shall keep accounts in such form as the Treasurer approves.

(2) The accounts of the Authority shall be subject to inspection at least once yearly by the Auditor-General.

26. Provisions with respect to taxation. Unless otherwise agreed, no taxes, rates, or charges (whether local government or not) shall be imposed, levied or made in respect of the property of the Authority.

27. Reserves. Unless otherwise agreed, the Authority may, with the approval of the Treasurer, set aside, out of its revenue, such sums as it thinks proper for depreciation of assets, insurance and other purposes.

28. Ministerial approval of certain contracts. Unless otherwise agreed, the Authority shall not, except with the approval of the Minister, enter into any agreement involving the payment or receipt of an amount exceeding two thousand dollars.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

29. Price for supply and sale of electricity. Unless otherwise agreed, the price at which electricity is supplied or sold by the Authority shall be such as the Minister, after receipt of a recommendation of the Authority, determines.

PART VII—MISCELLANEOUS

30. Authority in execution of works to do as little damage as possible. (1) In the exercise of its powers under this Act, the Authority shall cause as little detriment and inconvenience and do as little damage as reasonably possible.

(2) Subject to this Act, when the owner of land in the Burdekin River Area is injuriously affected by the exercise, in relation to that land, of any of the powers conferred by this Act, compensation shall be paid by the Authority.

(3) Where land (whether within or without the Burdekin River Area) is entered or occupied in pursuance of section fourteen of this Act, the Authority shall be liable to pay compensation to the owner or occupier of the land, or to both, as the case requires, and the compensation so payable shall include compensation in respect of—

(a) Damage of a temporary character as well as of a permanent character; and

(b) The taking of sand, clay, stone, earth, gravel, timber, wood, or other materials or things by the Authority.

(4) All persons having any interest in land referred to in the preceding subsection may recover compensation in respect of all damage suffered as a result of the use or occupation thereof by the Authority for the purposes of this Act, under "The Public Works Land Resumption Acts, 1906 to 1940," but not exceeding the compensation which would have been payable had the land been taken by the Authority.

Act referred to:

Public Works Land Resumption Acts, 1906 to 1955, repealed; see now Acquisition of Land Act 1967–1969, title WORKS.

See s. 31, and notes to s. 7.

31. Acquisition of land. For the purpose of taking any land required for any works under or for any purpose of this Act, the Authority shall be a constructing authority under "The Acquisition of Land Act of 1967."

Substituted by Acquisition of Land Act of 1967, No. 48, s. 3 (2) First Schedule.

Act referred to:

Acquisition of Land Act 1967-1969, title WORKS.

32. Notice to be given in action for compensation for damage by works.

No action, claim, or other proceeding for compensation for damage occasioned by the construction, maintenance, operation, protection, management, control or use of works under this Act shall be maintainable unless—

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

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

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

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

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

There shall be considered in reduction of all claims for compensation for injury, whether by reason of the construction, maintenance, operation, protection, management or control or use of any works of the Authority, any, and if so what, enhancement in value of any property of the claimant, wherever situate, has been directly or indirectly caused, and whether any, and if so what, immediate or proximate benefit has been gained by or become available to such claimant by reason of the construction, maintenance, operation, protection, management, control or use of such works; and a deduction shall be made accordingly from the amount which, but for this provision, would have been paid or payable as compensation.

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

Where the injury complained of appears to be of a permanent or continuing character, or likely to be repeated, a sum may be awarded which the court may declare to be a compensation for all injury, loss, or

damage sustained in respect of the matter complained of to the date of the bringing of the action, and also for all future injury, loss, or damage, in respect of the same matter; and after such award no further compensation shall be made in respect of any such future injury, loss, or damage.

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

35. Compensation for injury to interests in reversion. Where such compensation is sought to be recovered in respect of any acts causing or likely to cause the same kind of injury to the same property, and such acts may injure interests in reversion as well as in possession of such property, the person claiming compensation shall, before any sum is awarded as compensation, satisfy the court as to the nature and extent of the respective estates or interests in such property of such claimant and all other persons (if any) said to be injured, and that he has given sufficient notice to all such other persons of his proceedings to obtain compensation under this Act. All such other persons, whether they have received such notice or not, who may appear before the court shall be entitled to be heard on behalf of their respective interests in the compensation to be awarded.

In awarding any sum by way of compensation for such injury, the court shall award and apportion as between such claimant and such other persons in such manner in all respects as to such court may seem fit the amounts to be received by any or some or all of them respectively out of such sum as compensation for all injury of the same kind caused or likely to result to the respective interests of such claimant or other persons in such property. Such amounts shall be received by such claimant or other persons, and shall be in full discharge and satisfaction of the claims of such persons to compensation in respect of the matter complained of, and of all future injury, loss, or damage in respect of the same matter.

Any person to whom any such sum has been awarded or apportioned as aforesaid shall have all such remedies and means of recovering the said sum from the Authority against which the claim has been made as though such person had originally been a plaintiff in the action in which such award or apportionment has been so made.

36. Arrangements for performance of work. The Authority may arrange with any Minister of the Crown, the Co-ordinator-General, the Commissioner of Irrigation and Water Supply, the Commissioner for Electricity

Supply, or any other authority or instrumentality of the State or with any Minister of State of authority of the Commonwealth of Australia or with any other person for the performance by that Minister, authority or instrumentality or other person of any work on behalf of the Authority.

37. Arrangements for water supply. The Authority may arrange with any Minister of the Crown or any authority or instrumentality of the State, with any Minister of State or authority of the Commonwealth, or with any Local Authority or person for the supply of water in or from the Burdekin River Area.

38. Works of Authority not to be injuriously affected. Except as prescribed, a person shall not, in the Burdekin River Area, carry out or make any use of the water in any river, creek, stream, or watercourse, lake, lagoon, swamp, or marsh whereby any works or proposed works of the Authority, or the use or proposed use of water by the Authority, is or may be injuriously affected or interfered with.

39. Discharge of water. Any water used by the Authority for the generation of electricity shall be discharged into any river, creek, stream or watercourse, lake, lagoon, swamp or marsh in the Burdekin River Area.

40. Sale of electricity. The Authority may sell to any Electric Authority or to the Commonwealth or to any person any electricity generated by the Authority.

41. Annual Report. (1) The Authority shall, as soon as practicable after the thirtieth day of June in each year, prepare and furnish to the Minister a report on the operation of the Authority during the year ended on that date together with financial accounts in respect of that year in such form as the Treasurer approves.

(2) Before submitting the financial accounts to the Minister, the Authority shall submit them to the Auditor-General for report as to their correctness or otherwise.

(3) The report and financial accounts of the Authority, together with the report of the Auditor-General as to those accounts, shall be laid before Parliament within fourteen sitting days after their receipt by the Minister, if Parliament is in Session, and if not, then within fourteen sitting days after the commencement of the next Session.

(4) The Authority shall furnish to the Minister such other reports and such documents and information, relating to the operations of the Authority, as the Minister requires.

42. Evidence of records of Authority. Every minute or record of the proceedings of the Authority, if signed by the Chairman or the Secretary, shall be presumed to be correct until the contrary is proved.

43. Irrigation Acts to be read subject to this Act. Nothing in "The Irrigation Acts, 1922 to 1949," "The Irrigation Acts Amendment Acts, 1933 to 1949," or "The Water Acts, 1926 to 1942," shall affect the exercise of any powers conferred by this Act and such lastmentioned Acts shall be read subject to this Act.

Acts referred to:

Irrigation Acts, 1922 to 1965, p. 117, *post*.

Irrigation Acts Amendment Acts, 1933 to 1949, repealed.

Water Act 1926–1968, p. 305, *post*.

44. Irrigation Area may be declared. (1) Notwithstanding anything in the Acts mentioned in the preceding section, the Governor in Council may, on the recommendation of the Authority, by Order in Council declare part of the Burdekin River Area to be an Irrigation Area within the meaning of “The Irrigation Acts, 1922 to 1949,” and thereupon all the provisions of such lastmentioned Acts and “The Irrigation Acts Amendment Acts, 1933 to 1949,” shall extend and apply as if such part had been constituted an irrigation area under the provisions of section nine of “The Irrigation Acts, 1922 to 1949.”

(2) The Governor in Council may by such Order in Council—

(a) Declare the name of the Irrigation Area so constituted;

(b) Define the boundaries thereof; and

(c) Make such provisions as to lands held under any tenure from the Crown and the preservation of the rights of the persons interested therein as it considers necessary or desirable,

and may, from time to time, by Order in Council vary such name, boundaries or provisions as it thinks necessary or desirable.

(3) All works of the Authority within any part of the Burdekin River Area declared to be an Irrigation Area pursuant to the provisions of subsection one of this section, designed and constructed for the purpose of the irrigation of lands shall be deemed to be (and in the case of a declaration as aforesaid at any time prior to the enactment of this subsection shall be deemed to have always been on and from the date of the making of the relevant Order in Council) an irrigation undertaking under and for the purposes of “The Irrigation Acts, 1922 to 1959,” within and in relation to that Irrigation Area.

All the provisions of “The Irrigation Acts, 1922 to 1959,” shall extend and apply (and, in the case of a declaration as aforesaid at any time prior to the enactment of this subsection, shall be deemed to have always extended and applied) to any such irrigation undertaking in all respects as if the undertaking were an irrigation undertaking approved by the Legislative Assembly and established by the Governor in Council under the provisions of the said Acts.

(4) The Clare Irrigation Area constituted under the provisions of “The Irrigation Areas (Land Settlement) Acts, 1933 to 1954,” shall be deemed to be and to have always been an Irrigation Area declared as such pursuant to the provisions of subsection one of this section and accordingly all the provisions of this section shall be applicable in relation thereto in all respects as if on the date of the coming into operation of this Act it had been declared under subsection one of this section to be an Irrigation Area.

(5) All works which pursuant to subsection three of this section constitute an irrigation undertaking shall devolve upon the Commissioner of Irrigation and Water Supply and where in any case it becomes necessary so to do, the Governor in Council may by Order in Council declare and

apportion the works of the Authority within an Irrigation Area declared as such under this section between the Authority and the said Commissioner and in such manner as appears to him just.

As amended by Act of 1959, 8 Eliz. 2 No. 40, s. 3.

Acts referred to:

Irrigation Acts, 1922 to 1965, p. 117, *post*.

Irrigation Areas (Land Settlement) Acts, 1933 to 1954; see now Irrigation Areas (Land Settlement) Act of 1962, title LAND, Vol. 9, p. 79.

45. Saving as to use of sub-artesian wells. Notwithstanding anything contained herein, the provisions of this Act shall not be construed so as to limit the enjoyment of any sub-artesian well, as defined in "The Water Acts, 1926 to 1942," in the Burdekin River Area, which is used or is required for the use of the persons interested therein.

Act referred to:

Water Act 1926-1968, p. 305, *post*.

46. Penalty for injuring works. Every person who unlawfully and wilfully destroys or damages, or attempts to destroy or damage, any works or portion of works of the Authority shall be guilty of a crime and liable on conviction on indictment to imprisonment with hard labour for any term not exceeding fourteen years: Provided that where any Act or omission by any person constitutes an offence both under this section and under any regulation made under this Act, he may be prosecuted either under this section or under any such regulation.

47. Authority to have control over portion of Burdekin River. Notwithstanding anything in any Act or law, the Authority shall have complete control over the use and navigation of the waters of the Burdekin River and its Tributaries with the exception of that portion below the first point nearest the sea where they are impounded, and the sea.

48. Offences. All proceedings and penalties for offences against or breaches of any regulations made under this Act not being indictable offences, shall be heard and determined and be recovered in a summary way by complaint under "The Justices Acts, 1886 to 1949."

Act referred to:

Justices Acts, 1886 to 1968, title JUSTICES, Vol. 8, p. 105.

49. Lease of Crown lands. The Governor in Council is hereby empowered to lease any Crown land to the Authority at such rental, and on such terms and conditions as the Governor in Council thinks fit.

50. Regulations. (1) The Governor in Council may make regulations, not inconsistent with this Act, prescribing all matters which, by this Act, are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act and, in particular, for prescribing penalties not exceeding a fine of one hundred dollars or imprisonment for a period not exceeding three months, or both, for offences against the regulations.

(2) Every regulation made under this section shall—

(a) Be published in the Gazette;

- (b) Upon its publication in the Gazette be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
- (c) Take effect from the date of such publication or such later date as is specified therein; and
- (d) Be laid before Parliament within fourteen sitting days after such publication if Parliament is in Session, and, if not, then within fourteen sitting days after the commencement of the next Session.

(3) If Parliament passes a resolution of which notice has been given at any time within fourteen sitting days after any such regulation has been laid before Parliament disallowing any such regulation or part thereof, that regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime.

As amended by Act of 1959, 8 Eliz. 2 No. 40, s. 4.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.
