



## ANALYSIS

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1975, No. 138

**An Act to amend the Public Works Act 1928**

[10 October 1975]

**BE IT ENACTED** by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Public Works Amendment Act 1975, and shall be read together with and deemed part of the Public Works Act 1928 (hereinafter referred to as the principal Act).

(2) Part I of this Act, other than section 4, shall be deemed to have come into force on the 1st day of January 1975.

(3) Subject to sections 30 (2) and 31 (2) of this Act, section 4 of and Part II of this Act shall come into force on the date of the passing of this Act.

## PART I

### IRRIGATION

**2. This Part to be read together with Part XI of principal Act**—This Part of this Act shall be read together with and deemed part of Part XI of the principal Act.

**3. Interpretation**—In this Part of this Act and in Part XI of the principal Act, unless the context otherwise requires,—

“Development period” means the initial 6 seasons of supply:

“Head works” means any works required for the impoundment, storage, taking, tapping, or withdrawal of water for any irrigation scheme, or the supply of water to any of those works, or the conveyance of water from any of those works to the off-farm distribution works in any irrigation district:

“Irrigation district” means an irrigation district constituted by Order in Council under section 12 of this Act:

“Land”, in relation to any occupier or ratepayer in any irrigation district or proposed irrigation district, means all land occupied by that person in the district or proposed district which aggregates not less than 4 hectares or such other area as may be specified by Order in Council under section 12 of this Act:

“National Authority” means the National Water and Soil Conservation Authority constituted under the Water and Soil Conservation Act 1967:

“Occupier”, in relation to any land, means the person in actual possession of the land and if there is no such person then the legal owner in fee simple of the land:

“Season” means the period commencing on the 15th day of September and ending with the 30th day of April

next following or such other period as may be specified by Order in Council under section 12 of this Act in respect of any irrigation district:

“Water supply works” means any water supply works constructed under this Act, including any races for the supply of water to any land in any irrigation district, whether or not such works are wholly in an irrigation district.

**4. Notification of investigation of proposed irrigation scheme**—Where the District Commissioner of Works investigates a proposed irrigation scheme, he shall give public notification of the investigation as soon as practicable after he commences the investigation.

**5. Report of National Authority on proposed irrigation scheme**—The result of any investigation under section 4 of this Act shall be submitted by the District Commissioner of Works to the National Authority which, after due consideration thereof and of other matters (if any) relating thereto, shall forward a written report to the Minister stating whether in its opinion the proposed irrigation scheme is practicable and economic and would result in increased productivity of the land.

**6. Notification of proposed irrigation scheme**—(1) On receipt of a report under section 5 of this Act, the Minister may publicly notify—

(a) In terms of the report and any recommendations contained in the report—

(i) The land to be included in or excluded from the proposed irrigation district;

(ii) The annual basic charge payable in respect of each hectare of irrigable land in the proposed irrigation district;

(iii) The annual water availability charge in respect of each unit quantity or unit rate of supply of water to land in the proposed irrigation district;

(iv) The scale of exemptions and reductions applying to such charges for the development period;

(v) A statement that the charges are based on the estimated costs of the proposed scheme and the demand for water and shall be subject to adjustment from the end of the season in which the charges reach the full amount to conform to actual or re-

estimated costs and demand as provided for in sections 14 and 16 of this Act;

(vi) The objectives of the scheme;

(vii) The estimated capability of the scheme;

(viii) The general conditions of supply including any proposed basis of allocation of water;

(ix) Any factors which may have a bearing on supply generally or in particular cases;

(x) The intended order of construction or availability of supply to any specified part of the scheme;

(xi) The minimum percentage, being not less than 60 percent, of valid votes cast at any poll under this Part of this Act required by the Minister to be in favour of the proposed irrigation scheme as a pre-requisite to its construction;

(xii) The season, if the season is any period other than the period commencing on the 15th day of September and ending with the 30th day of April next following; and

(xiii) The minimum aggregate area of land occupied by any occupier that it is proposed to include in the proposed irrigation scheme, if that area is other than 4 hectares:

(b) Such other matters as the Minister considers relevant.

(2) For the purposes of any notice publicly notified under this section the proposed irrigation district may be defined by survey data or by physical features or by such other means as in the opinion of the Minister may seem best suited in the circumstances.

(3) Any notice under this section may from time to time, on the advice of the National Authority, be amended or revoked by a subsequent notice publicly notified before any public notification of a poll under section 10 of this Act or any inquiry of occupiers under the proviso to section 7 (1) of this Act.

**7. Poll for proposed irrigation scheme—**(1) Subject to section 11 of this Act, at the time of the public notification under section 6 of this Act of charges and of a description of the proposed scheme, or at any time thereafter, the Minister may arrange for a poll to be taken on the question whether the proposed irrigation scheme should be undertaken:

Provided that, if the National Authority is of the opinion that the acceptability of any proposed irrigation scheme could

be fairly ascertained by an inquiry in writing of all the persons who are ratepayers in respect of land in the proposed irrigation district, it may so report to the Minister who may dispense with a poll and arrange to notify by post the said ratepayers of the charges and the description of the proposed scheme as notified under section 6 of this Act.

(2) Each of the ratepayers notified under the proviso to subsection (1) of this section shall be entitled to such time as the Minister may stipulate, being not less than 14 days, to advise the Minister in writing whether or not he agrees to the proposed irrigation scheme and the charges and the other matters relating to the proposed scheme as so notified to him.

**8. Preparation of rolls—**(1) For the purpose of any poll under this Part of this Act the Clerk of each County Council, Borough Council, and District Council whose district or part thereof is included in the proposed irrigation district shall, on the request of the Minister, prepare (subject to the provisions of section 79A of the Local Elections and Polls Act 1966) a special roll of the ratepayers each of whom is a ratepayer in respect of land in the proposed irrigation district.

(2) Where the proposed irrigation district extends over the districts of 2 or more such local authorities the special rolls so prepared for the several districts may be taken together, and the rolls so taken shall be the special roll of electors for the purposes of the poll to be taken under this Part of this Act.

(3) If, under this Part of this Act, a poll is to be taken of all or any of the ratepayers in the districts of 2 or more local authorities jointly, the Minister may select and appoint 1 of those local authorities to be the principal authority for the purposes of the poll.

**9. Voting—**Only those persons appearing on the special roll prepared under section 8 of this Act shall be entitled to vote on any poll under this Part of this Act, and each such person shall be allowed 1 vote only.

**10. Publication of proposal to take a poll—**The Minister or the local authority intending to take any poll under this Part of this Act shall publish in any newspaper circulating in the proposed irrigation district a notice setting forth the day on which, and the place or places where, the poll is to be taken.

**11. When and how poll to be taken—**(1) The day on which any poll under this Part of this Act shall be taken shall be the day specified in that behalf in the notice published under section 10 of this Act, which day shall be—

- (a) Not less than 2 weeks nor more than 4 weeks after the date of the publication of the notice; and
- (b) Not less than 3 months nor more than 12 months after the date of public notification under section 4 of this Act of the investigation of the proposed irrigation scheme.

(2) On the day so specified a poll shall be taken by each County Council, Borough Council, or District Council whose district or part thereof is included in the proposed irrigation district; and, subject to any necessary modifications and to any direction given by the Minister, the poll shall be taken in the manner provided by the Local Elections and Polls Act 1966.

(3) The reasonable cost of every poll under this Part of this Act that is not held simultaneously with the election of members of any local authority, and the reasonable additional costs incurred by a local authority in respect of any poll under this Part of this Act that is held simultaneously with the election of members of the local authority, may be paid by the Crown out of money appropriated by Parliament.

(4) Any dispute arising as to the amount to be paid by the Crown to any local authority under this section shall be determined by the Controller and Auditor-General after such inquiry as he thinks fit to make, and the decision of the Controller and Auditor-General in any such dispute shall be final.

**12. Constitution of district, etc.—**If, of the valid votes cast at any poll taken under section 11 of this Act, not less than the percentage of the valid votes stipulated in the public notification under section 6 (1) of this Act required to be in favour of the proposed irrigation scheme are so in favour, or if all the persons who are ratepayers in respect of land in the proposed irrigation district advise the Minister in writing under section 7 of this Act of their agreement to the proposed irrigation scheme and the charges and other matters relating to the proposed scheme as so notified to them, the Governor-General may by Order in Council constitute as an irrigation district the land the Minister has notified under section 6 of this Act to be a proposed irrigation district and specify the

charges, conditions of supply, and any other relevant matters as notified under the said section 6.

**13. Calculation of basic charge**—The basic charge referred to in section 6 of this Act for each hectare of irrigable land in the proposed irrigation district shall be calculated as an annual charge in accordance with the following formula:

$$\frac{C \times P \times F}{H}$$

where—

**C** is the amount estimated by the Minister of the capital costs of the off-farm water supply works, excluding the costs of the head works; and

**P** is the proportion to be recovered by the Minister of the said capital costs, being  $\frac{1}{2}$  or such smaller proportion as is estimated by the Minister to result from allowance for any capital contribution made by all the occupiers of land in the proposed irrigation district by way of lump sum instead of by annual charge; and

**F** is the factor determined in accordance with usual actuarial and accounting practices to allow for the payment over a period of 40 years of the proportion of the capital costs referred to in this section together with interest on the balance owing, such payment being—

(a) From the end of the season in which the basic charge reaches the full amount, by equal annual amounts:

(b) Before the end of that season, by annual amounts that allow for any exemptions or reductions in the basic charge for the development period as provided for in sections 6 and 22 of this Act; and

**H** is the estimated total number of hectares of irrigable land in the proposed irrigation district.

**14. Adjustment of basic charge**—From the end of the season in which the basic charge reaches the full amount, the basic charge for the following season shall be adjusted by the Minister, on the advice of the National Authority, to compensate for any difference in any element of that charge from the amount estimated under section 13 of this Act in respect of that element to the amount applicable to the end of that season or estimated for the future; and the charge so adjusted shall be subject to adjustment on the same basis at the end of each and every following season.

**15. Calculation of water availability charge—**(1) The water availability charge referred to in section 6 of this Act for each unit quantity or unit rate of supply of water to land in the proposed irrigation district shall be calculated as an annual charge in accordance with the following formula:

$$\frac{(C \times P \times F) + O + R}{W}$$

where—

**C** is the same as defined in section 13 of this Act; and

**P** is the same as defined in that section; and

**F** is the same as defined in that section; and

**O** is the annual amount estimated by the Minister, subject to subsection (2) of this section, to cover the costs of operation and maintenance of the off-farm water supply works for the proposed irrigation district; and

**R** is the annual amount estimated by the Minister, subject to subsection (2) of this section, to cover the costs of the planned renewal of any part of the off-farm water supply works for the proposed irrigation district when, in the opinion of the Minister, such renewal becomes required because the continued operation or maintenance of the part would be uneconomic; and

**W** is the total number of unit quantities or unit rates of supply for the proposed irrigation district estimated by the Minister to be covered, for the irrigation season in which the water availability charge reaches the full amount in accordance with sections 6 and 22 of this Act, by water availability agreements referred to in section 20 of this Act.

(2) In estimating the amount of **O** and **R**, as defined in this section, the Minister shall allow for—

- (a) The annual addition to the credit or debit balance in the operating account and in the renewal account of an amount for interest on each of such balances;
- (b) A nil balance in the operating account at the end of 40 years;
- (c) A balance in the renewal account at the end of a period of 40 years estimated to meet the liability for future renewals if the water supply works continue to be used in the same general manner as during that period;

- (d) Any exemptions or reductions in the water availability charge for the development period as provided for in sections 6 and 22 of this Act; and
- (e) The total number of unit quantities or unit rates of supply estimated to be covered, for each of the seasons of the development period, by the water availability agreements referred to in section 20 of this Act.

**16. Adjustment of water availability charge**—From the end of the season in which the water availability charge reaches the full amount, the water availability charge for the following season shall be adjusted by the Minister, on the advice of the National Authority, to compensate for any difference in any element of that charge from the amount estimated under section 15 of this Act in respect of that element to the amount applicable to the end of that season or estimated for the future; and the charge so adjusted shall be subject to adjustment on the same basis at the end of each and every following season.

**17. Determination of interest**—For the purposes of sections 13 to 16 of this Act, interest shall be calculated at yearly rests and the rate thereof shall be the average of rates generally chargeable at the relevant time by the Rural Banking and Finance Corporation of New Zealand in respect of loans which may be made by the Corporation for development works of a comparable nature on farm land.

**18. Liability of occupier for basic charge**—(1) Except where a water availability agreement referred to in section 20 of this Act is entered into and the annual charge payable under that agreement is not less than the annual basic charge payable in respect of any land, every occupier of land in an irrigation district shall (subject to any exemptions or reductions in charges for the development period as provided for in sections 6 and 22 of this Act) make an annual payment to the Minister calculated by multiplying the basic charge determined under this Part of this Act by the irrigable area of that land as determined in accordance with section 19 of this Act, in respect of each of the 40 consecutive seasons from and including the season in which falls the time of the commencement of availability of supply, as determined by the Minister under section 21 of this Act.

(2) The basic charge referred to in subsection (1) of this section as the liability of an occupier shall become payable to the Minister at the end of the irrigation season to which it relates, and shall be recoverable as a debt due to the Crown.

**19. Determination of irrigable area—**(1) The irrigable area of the land of any occupier in any irrigation district shall be determined by the National Authority and may be so re-determined from time to time.

(2) Such irrigable area shall be expressed as the number, including any part of a whole number to 1 decimal place, of irrigable hectares.

(3) The irrigability of any area of land shall be determined after consideration of the nature of the land, the capability of the water supply works to supply water to the land, and any limitations to the capability of the water supply scheme to supply water to all the land in the irrigation district that is potentially irrigable.

(4) In determining from time to time the irrigable area of land the National Authority shall take into consideration any request made in writing by an occupier as to the irrigable area of any part of his land.

**20. Water availability agreements—**(1) The National Authority may allocate water, to be supplied from the water supply works for any irrigation district, to the occupier of any land in the district, and may determine the conditions under which such water shall be so supplied, and shall inform the Minister of the allocations and conditions so determined. Each allocation shall be expressed as a number of unit quantities or unit rates of supply.

(2) Every such allocation to an occupier shall be compatible with a scheme approved by the National Authority for the development through irrigation of the land of the occupier and, in determining such allocation, the National Authority shall take into consideration any request made in writing by the occupier as to the allocation he desires.

(3) The Minister may enter into a water availability agreement with the occupier of any land in the irrigation district. Every such agreement shall be in accordance with any allocations and conditions of which the Minister has been informed by the National Authority under subsections (1) and (10) of this section.

(4) Every occupier who enters into a water availability agreement with the Minister shall, subject to any exemptions or reductions in charges for the development period as provided for in sections 6 and 22 of this Act, pay to the Minister an annual water availability charge in respect of each of the 40 consecutive seasons from and including the season in which falls the time of the commencement of availability of supply, as determined by the Minister under section 21 of this Act.

(5) The annual water availability charge referred to in subsection (4) of this section as the liability of an occupier shall be an amount calculated in accordance with the following formula:

$$a \times w$$

where—

- a is the water availability charge calculated in accordance with section 15 of this Act and adjusted, if required, in accordance with section 16 of this Act; and
- w is the number of unit quantities or unit rates of supply allocated to that occupier in accordance with subsection (1) of this section.

(6) Every annual water availability charge referred to in subsection (4) of this section as the liability of an occupier shall, unless that occupier is exempt from payment of it under subsection (7) of this section, become payable to the Minister at the end of the irrigation season to which it relates, and shall be recoverable as a debt due to the Crown.

(7) For any irrigation season, of the amounts payable by an occupier under this section and section 18 of this Act, such occupier shall be exempt from the payment of the lesser amount or if the amounts are equal of 1 of those amounts.

(8) The holder of a water availability agreement may at any time apply to the National Authority for a variation in the number of unit quantities or unit rates of supply allocated to him, or for the cancellation of his allocation.

(9) On receiving such an application, the National Authority may grant the application in whole or in part by varying or cancelling the applicant's allocation, as the case may be, if—

- (a) It is satisfied that to do so is likely to result in more beneficial use of the available water; and
- (b) In the case of an application for a reduction or cancellation, it is satisfied that as a result of—

- (i) The increase of 1 or more other allocations with the consent of the recipients; or
- (ii) The granting of 1 or more new allocations with the consent of the recipients; or
- (iii) The availability of surplus water for supply in accordance with section 21 (3) of this Act—  
to do so will not adversely affect the revenue of the irrigation district.

(10) If the National Authority so varies or cancels an allocation, it shall inform the Minister accordingly and inform him of any increased or new allocations; and the Minister shall accordingly vary or cancel the water availability agreement of the applicant, and vary or make new water availability agreements in accordance with the increased or new allocations.

**21. Supply of water—**(1) The Minister, on the advice of the National Authority, shall determine a time as the commencement of availability of supply of water in respect of each irrigation district or each part thereof (being a time when water is made available to a substantial proportion of the district or part thereof, as the case may be), and shall ensure that all occupiers in the district or part thereof are notified in writing of the time of such commencement within 3 months before or after that time.

(2) At any time before the commencement of availability of supply in accordance with subsection (1) of this section, the Minister may supply any person with water from the water supply works on such terms and conditions as he thinks reasonable after considering any recommendations made to him by the National Authority as to terms and conditions appropriate to the circumstances.

(3) If, at any time after the commencement of availability of supply, the National Authority is of the opinion that the supply of water from the water supply works is likely to be in excess of the amount to be supplied in accordance with water availability agreements, it may so advise the Minister and may recommend to him terms and conditions, being not more favourable than those applicable to water availability agreements, on which such surplus water should be supplied and to whom it should be supplied; and the Minister may supply the surplus water to the persons and on the terms and conditions so recommended.

**22. Charges for development period**—Except where the Minister notifies, under section 6 of this Act, a different scale of exemptions and reductions in charges for the development period, the annual basic charge and the annual water availability charge shall each be reduced and be payable as follows:

Season	Percentage of Full Charge Payable		
First	.....	.....	..... No charge
Second	.....	.....	..... No charge
Third	.....	.....	..... 20
Fourth	.....	.....	..... 40
Fifth	.....	.....	..... 60
Sixth	.....	.....	..... 80

**23. Diminished supply**—Notwithstanding anything in this Part of this Act, if, during any irrigation season, water from the water supply works fails or becomes diminished, or the Minister is required by the National Authority under the powers vested in it by the Water and Soil Conservation Act 1967 to cease or reduce the supply of water, so that it is impracticable to supply to any occupier the number of unit quantities or unit rates of supply agreed to be allocated or supplied to him under this Part of this Act, no person shall, by reason of such failure or diminished supply or requirement of the National Authority, have any claim to compensation or any right of action or other remedy against the Crown or the Minister, but the charge payable for that season under a water availability agreement (excluding the portion of that charge which represents the annual basic charge), or for the supply of water under section 21 (3) of this Act, shall be reduced by such amount as the Minister considers reasonable after considering any advice given to him in that regard by the National Authority.

**24. Penalty for late payment**—If demand is made in writing after the end of any irrigation season for payment of any annual basic charge or annual water availability charge or any other charge payable under this Part of this Act in respect of the immediately preceding irrigation season, and payment is not made within 28 days after the date of the demand, the occupier shall pay to the Minister, in addition, an amount equal to 10 percent of the amount not paid:

Provided that the Minister may, if he considers the circumstances so warrant and if so advised by the National Authority, reduce or waive the additional amount to be so paid.

**25. Irrigation notice—**(1) After any irrigation district is constituted under this Part of this Act, the District Commissioner of Works in whose district is situated any land in the irrigation district may without fee deposit with the District Land Registrar or Registrar of Deeds, for registration against the title of the land affected, a notice under his hand of the constitution of the irrigation district.

(2) Every notice deposited under this section shall describe the land affected by the notice, and shall state—

- (a) That the land is subject to an annual charge under this Part of this Act;
- (b) That particulars of the charge so payable, including the current amount and the basis of calculation, are available from the District Commissioner referred to in subsection (1) of this section or such other officer of the Ministry of Works and Development as may be stated therein;
- (c) The place where particulars of the charge may be obtained during office hours; and
- (d) The *Gazette* reference of the Order in Council constituting the irrigation district.

(3) The Registrar shall, on deposit of any notice under this section, without fee register it against the title to the land affected thereby.

(4) The registration of a notice under this section shall be deemed to give notice of the annual basic charge or annual water availability charge, as the case may be, to all persons having any estate or interest in the land comprised in the title against which the certificate is registered, in mortgages and charges of that land, and in rights, easements, and appurtenances belonging to that land, or therewith usually held and enjoyed, and their successors in title.

(5) In the event of the water supply works being abandoned, discontinued, or disposed of by the Minister, the District Commissioner of Works shall, on payment to the Minister of all money payable in respect of any charge referred to in any notice registered under subsection (3) of this section, without fee deposit with the District Land Registrar or Registrar of Deeds a release of the said notice; and the Registrar shall without fee register the release.

**26. Charge on land—**(1) If at any time any money is due to the Crown and unpaid in respect of any basic charge or water availability charge or for water supplied under this

Part of this Act to or for the benefit of any land, whether or not such land is in an irrigation district, the District Commissioner of Works or any other person appointed either generally or specially by the Minister for the purpose, may without fee deposit with the District Land Registrar or Registrar of Deeds a certificate under his hand describing the land and specifying the amount due and unpaid in respect thereof; and the Registrar shall without fee register the certificate in respect of that land.

(2) While a certificate is so registered, no transfer, conveyance, mortgage, lease, or other instrument affecting the land, or any estate or interest therein, or any part thereof, shall be registered or lodged with the District Land Registrar or Registrar of Deeds without the prior written consent of the Minister.

(3) In addition to all other powers and remedies conferred on the Crown by any Act, agreement, or instrument, the Crown shall, for the recovery of the money specified in any certificate registered under subsection (1) of this section in respect of any land, have the same powers and remedies under the Land Transfer Act 1952 or the Property Law Act 1952, as the case may be, as if the certificate were a mortgage of the land.

(4) On the payment of all money for the time being secured by any certificate registered under subsection (1) of this section, the District Commissioner of Works shall without fee deposit with the District Land Registrar or Registrar of Deeds a release of the said certificate; and the Registrar shall without fee register the release.

**27. Application of this Part to existing schemes**—Where after due inquiry the National Authority is of the opinion—

- (a) That a substantial proportion of the irrigators in any irrigation scheme or part thereof constituted under the principal Act, or under Part I of the Public Works Amendment Act 1960, agree to have the provisions of this Part applied to such scheme or part thereof, in substitution for any existing provisions or arrangements applying thereto; and
- (b) That it would be in the national interest for the provisions of this Part of this Act to be so applied to that scheme or part thereof—

the provisions of this Part of this Act may be applied to that scheme or any part thereof as for a new scheme subject to such modifications as appear to the National Authority in

the circumstances to be appropriate and are recommended by it to the Minister, including any provisions for dealing with the assets and liabilities (if any) of the scheme or part thereof and with the transfer of the assets and liabilities to the new scheme, and the phasing in of the new scheme with the termination of the existing scheme or part thereof:

Provided that nothing in this section shall prevent the Minister from making or enforcing any charge, exercising any remedy, or recovering any debt due to the Crown, in respect of any scheme or part thereof so terminated as if the provisions of the principal Act or the said Part I had not ceased to apply to that scheme or part thereof.

## PART II

### AMENDMENTS TO PRINCIPAL ACT

**28. Application of Part II of principal Act—**(1) Section 10 (1) of the principal Act (as amended by section 4 of the Public Works Amendment Act 1970) is hereby further amended by omitting the words “the generation of electricity or for”, and substituting the words “any work or purpose authorised under or by section 11 of the Electricity Act 1968 or for”.

(2) Section 4 of the Public Works Amendment Act 1970 is hereby consequentially repealed.

**29. Advice of right to compensation to be given—**The principal Act is hereby further amended by repealing section 46, and substituting the following section:

“46. Where the owner of any land to be taken under this Act has not agreed to the land being taken and to the amount of compensation payable, the Minister (in the case of a Government work) or the local authority (in the case of a local work) shall give written notice to the owner of his rights relating to compensation and the general purposes for which the land is to be used—

“(a) Before, or as soon as practicable after, the publication in the *Gazette* of the notice of intention to take the land; or

“(b) If a notice of intention is not required, before, or as soon as practicable after, the publication in the *Gazette* of the Proclamation taking the land.”

**30. Additional compensation—**(1) The principal Act is hereby further amended by repealing sections 101A to 101c (as inserted by section 6 of the Public Works Amendment Act 1970), and substituting the following sections:

**“101A. Interpretation—**(1) In sections 101B and 101c of this Act, unless the context otherwise requires,—

“‘Land’ includes a leasehold estate or interest in land:

“‘Owner’, in relation to any land, includes any person who is in occupation of the land under any lease, sublease, or licence, or any renewal thereof, granted by the owner of the fee simple, or the lessee, of the land (other than a weekly or monthly tenancy agreement); and also includes a tenant for life of the land and a beneficial owner of the land.

“(2) In this Part of this Act, unless the context otherwise requires,—

“‘Designated’ means designated for a public work in an operative or proposed district scheme under the Town and Country Planning Act 1953, or made subject to a notice of intention to take, or to the powers conferred by a middle-line Proclamation, issued under this Act, or included in a reclamation area or a comprehensive urban renewal area under Part II or Part IIA of the Urban Renewal and Housing Improvement Act 1945:

“‘Designating authority’ means any person or local authority who or which has the financial responsibility for any public work in respect of which any land has been designated or made the subject of a requirement; and includes any local authority within whose district land has been included in a reclamation area or a comprehensive urban renewal area under Part II or Part IIA of the Urban Renewal and Housing Improvement Act 1945:

“‘Requirement’ means a requirement made under section 21 of the Town and Country Planning Act 1953.

**“101B. Additional compensation for acquisition of designated land—**(1) Subject to the provisions of this section, where any land that—

“(a) Has been designated or made the subject of a requirement; and

“(b) Contains a dwelling used as a private residence—  
is taken or acquired for the public work for which it was designated or made the subject of a requirement—

“(c) There shall, if the land is taken or acquired otherwise than at the request or instigation of the owner, be paid to the owner of that land by the designating authority, in addition to the compensation otherwise payable under this Act, a sum of \$2,000 by way of solatium:

“Provided that, if before the taking or acquisition of any land the designating authority has formally declared by public notification or by notice served on the owner of the land that the land is required for or in connection with a specified public work, or part thereof, about to be constructed, and that additional compensation of \$2,000 will be paid, that amount shall be paid to the owner notwithstanding that the land was taken or acquired at the request or instigation of the owner or pursuant to an order of the Town and Country Planning Appeal Board under section 47A of the Town and Country Planning Act 1953:

“(d) There may, in the discretion of the designating authority, if the land is taken or acquired at the request or instigation of the owner or pursuant to an order of the Town and Country Planning Appeal Board under section 47A of the Town and Country Planning Act 1953, be paid to the owner of the land by the designating authority, in addition to the compensation otherwise payable under this Act, such sum not exceeding \$1,000 as the designating authority considers reasonable in the circumstances.

“(2) No compensation shall be paid under subsection (1) of this section unless—

“(a) Where the land has been acquired by an agreement which specifies a date for the giving of vacant possession, vacant possession of the land and all buildings and structures on the land has been given to the designating authority on or before the specified date or such later date as the authority may in any case allow:

“(b) Where—

“(i) The land has been acquired by an agreement which does not specify a date for the giving of vacant possession; or

“(ii) No agreement for sale has been entered into and the land has been taken by Proclamation—vacant possession of the land and all buildings and structures on the land has been given to the designating authority within 1 month after the date on which the authority has in writing notified the vendor or the person from whom the land was taken, as the case may be, that vacant possession is required, or within such longer period as the authority may in any case allow.

“(3) Compensation shall not be payable under subsection (1) of this section unless the person giving vacant possession—

“(a) Was the owner, or the spouse of the owner, of the land on the date on which it was designated or made the subject of a requirement; and

“(b) Was the owner of the land on the date on which vacant possession of the land and all buildings and structures on the land was given to the designating authority; and

“(c) Was occupying the dwelling on the land as a residence for himself and his family (if any) immediately before giving vacant possession.

“(4) If any payment of compensation under this section is to be made in respect of land that is owned by more than 1 person, the payment shall be made only to those owners who qualify for payment under subsection (3) of this section. If payment is to be made to more than 1 owner the amount of the payment shall be apportioned between the owners in proportion to the shares in which they owned the land.

“(5) If any compensation is payable under this section to a lessee or sub-lessee of land under a lease or sub-lease which, on the date on which vacant possession was given to the designating authority, will expire less than 5 years after that date, the amount of compensation shall be reduced so that the amount to be paid bears the same proportion to the amount of compensation that would otherwise be payable as the period from the date on which vacant possession was given to the date of expiry of the lease or sub-lease bears to a period of 5 years:

“Provided that the amount of compensation shall not be reduced under this subsection to less than the amount that the lessee or sub-lessee would have received under section 101E of this Act had he been a weekly or a monthly tenant.

“(6) For the purposes of subsection (5) of this section, the date on which any lease or sub-lease containing a right of renewal will expire shall be deemed to be the date on which it would have expired if the right of renewal had been exercised.

“101c. **Additional compensation to assist in purchase of dwelling**—(1) Subject to the provisions of this section, where any land that—

“(a) Has been designated or made the subject of a requirement; and

“(b) Contains a dwelling used as a private residence—  
is taken or acquired, otherwise than at the request or instigation of the owner, for the public work for which it was designated or made the subject of a requirement, and the owner of the land is unable to acquire another private residence of a standard comparable to that of the residence on the land so taken or acquired on account of age or infirmity and lack of means, or solely on account of lack of means, there may, in the discretion of the designating authority, be paid to that owner by the authority, in addition to the compensation otherwise payable under this Act, compensation of such an amount as the authority considers reasonable to assist the owner to acquire another private residence of a comparable standard:

“Provided that, if any additional compensation is paid under this subsection solely on account of lack of means, such compensation shall not exceed 15 percent of the value as at the specified date of the land taken or acquired by the designating authority unless the value of that land is less than \$20,000 in which case the additional compensation shall not exceed \$3,000, or the difference between the value of that land and \$20,000, whichever is the greater.

“(2) No compensation shall be paid to an owner of land under subsection (1) of this section unless the owner—

“(a) Has given vacant possession of the land taken or acquired and all buildings and structures on the land to the designating authority; and

“(b) Was the owner, or the spouse of the owner, of the land on the date on which it was designated or made the subject of a requirement; and

“(c) Was the owner of the land on the date on which such vacant possession was given; and

- “(d) Was occupying the dwelling on the land as a residence for himself and his family (if any) immediately before giving such vacant possession.
- “(3) If additional compensation is paid under this section—
- “(a) The amount paid, if it was paid solely on account of lack of means; or
- “(b) The amount paid in excess of \$1,000, if it was paid on account of age or infirmity and lack of means— shall constitute a debt due by the person to whom it is paid to the designating authority who or which paid it, and shall be a charge on the estate or interest of that person in the land acquired by him, or in the land on which a dwelling is constructed by him, with the assistance of the compensation, and may be registered against that land under the provisions of the Statutory Land Charges Registration Act 1928.
- “(4) Except with the consent of the District Commissioner of Works (where the designating authority is the Minister) or the designating authority (in any other case) no dealing in connection with any such estate or interest (other than a dealing which is not required to be executed by the registered proprietor) shall be registered while a charge under subsection (3) of this section is registered against the land.
- “(5) For the purposes of the Statutory Land Charges Registration Act 1928, notice of any charge under subsection (3) of this section and any certificate releasing any such charge, and any consent under subsection (4) of this section, may be signed by a District Commissioner of Works, where the designating authority is the Minister.
- “(6) Where any money is owed to a designating authority under subsection (3) of this section, being money that has been paid on account of age or infirmity and lack of means, it shall be repaid to the authority—
- “(a) On the sale of the land purchased or the dwelling constructed with the assistance of the compensation paid under this section; or
- “(b) On the vacation of the dwelling on such land or such dwelling by the person to whom such compensation was paid or (if that person was married when such land was acquired or such dwelling was constructed) by the surviving partner of the marriage; or
- “(c) On the death of the person to whom compensation was paid, or (if that person was married when such

land was acquired or such dwelling was constructed) on the death of the surviving partner of the marriage—

whichever first occurs.

“(7) If any money has been paid under this section solely on account of lack of means, such money shall be repaid to the designating authority at such reasonable times and on such reasonable terms and conditions (including interest) as may be specified by the designating authority when making payment of the additional compensation.

“(8) In this section, the term ‘specified date’ has the same meaning as in section 29 of the Finance Act (No. 3) 1944.”

(2) Sections 101A to 101c of the principal Act (as substituted by subsection (1) of this section) shall—

- (a) Be deemed to have come into force on the 25th day of November 1974, in respect of Government works:
- (b) Come into force on the passing of this Act, in respect of local works.

(3) Notwithstanding the provisions of subsection (2) (b) of this section—

- (a) Every payment made before the passing of this Act but on or after the 25th day of November 1974 in accordance with the said sections 101A to 101c (as so substituted) in respect of a local work is hereby validated and declared to have been lawfully made:
- (b) If a local authority has agreed to make any payment in accordance with the said sections 101A to 101c (as so substituted) in respect of land taken or acquired for a local work on or after the 25th day of November 1974, the local authority is hereby authorised to make that payment.

(4) Sections 10 to 12 of the Public Works Amendment Act 1973 are hereby consequentially repealed.

**31. Additional compensation to assist in purchase of farm, commercial, or industrial property—**(1) The principal Act is hereby further amended by inserting in Part IIIA, after section 101E, the following section:

- “101F. (1) Subject to the provisions of this section, where—
- “(a) Any land that is used for a farm or for a commercial or industrial undertaking has been designated or made the subject of a requirement and is taken or acquired otherwise than at the request or instigation of the person so using the land for the public

work for which it was designated or made the subject of a requirement; and

“(b) The person so using the land is unable on account of lack of means to acquire other land of a standard comparable to that so taken or acquired on which to continue to carry on farming or the commercial or industrial undertaking, as the case may be—

there may, in the discretion of the designating authority, be paid to that person, in addition to the compensation otherwise payable under this Act, compensation of such amount as the authority considers reasonable (not exceeding 15 percent of the value as at the specified date of the estate or interest of such person in the land taken or acquired by the designating authority) to assist him to acquire other land of a comparable standard on which to continue to carry on farming or the commercial or industrial undertaking.

“(2) Any additional compensation paid under this section shall constitute a debt due by the person to whom it is paid to the designating authority who or which paid it, and shall be a charge on the estate or interest of that person in the land acquired by him with the assistance of the compensation, and may be registered against that land under the provisions of the Statutory Land Charges Registration Act 1928.

“(3) The provisions of subsections (4), (5), (7), and (8) of section 101c of this Act shall apply in respect of any additional compensation paid under this section as if it had been paid under the said section 101c.”

(2) This section shall—

- (a) Be deemed to have come into force on the 25th day of November 1974, in respect of Government works:
- (b) Come into force on the passing of this Act, in respect of local works.

(3) Notwithstanding the provisions of subsection (2) (b) of this section—

- (a) Every payment made before the passing of this Act but on or after the 25th day of November 1974 in accordance with this section in respect of a local work is hereby validated and declared to have been lawfully made:
- (b) If a local authority has agreed to make any payment in accordance with this section in respect of land taken or acquired for a local work on or after the 25th day of November 1974, the local authority is hereby authorised to make that payment.

**32. Land may be taken for generation of electricity, etc.—**

(1) The principal Act is hereby further amended by repealing section 276, and substituting the following section:

“276. Land required for any work or purpose authorised under or by section 11 of the Electricity Act 1968, or for irrigation works or purposes, may be taken for a public work in the manner prescribed by section 254 of this Act.”

(2) Section 8 of the Public Works Amendment Act 1970 is hereby consequentially repealed.

(3) Every Proclamation purporting to have been issued in accordance with section 276 of the principal Act taking land or any estate or interest in land for water power or for the development of water power or for the generation of electricity which would have been valid if subsection (1) of this section had been in force on the date of the issue of the Proclamation shall for all purposes and in all respects be deemed to have been lawfully issued.

**33. Compensation certificates—**Section 17 (1) of the Public Works Amendment Act 1948 is hereby amended by inserting, after the words “occupation of any land,”, the words “or for the imposition of any conditions or restrictions in respect of any land,”.

**34. Assessment of compensation—**Section 26 (2) of the Public Works Amendment Act 1973 is hereby amended—

- (a) By omitting the word “adding”, and substituting the words “inserting, after subsection (3),”:
- (b) By omitting the expression “(4)” in both places where it occurs, and substituting in each case the expression “(3A)”:
- (c) By omitting the expression “(5)”, and substituting the expression “(3B)”.

**35. Certain rights protected—**Nothing in sections 28 and 32 of this Act shall affect the rights of any party under any judgment of any Court given on or after the 1st day of August 1975 if the proceedings were commenced on or before that date.

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This Act is administered in the Ministry of Works and Development.

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