

THE KINGSTON AND ST. ANDREW WATER
SUPPLY ACT

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KINGSTON AND ST. ANDREW WATER SUPPLY

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THE KINGSTON AND ST. ANDREW WATER
SUPPLY ACT

Cap. 195.
Act
26 of 1980,
S. 12.

[20th March, 1911.]

1. This Act may be cited as the Kingston and Saint Andrew Water Supply Act. Short title.

2. References in this Act to “the Commissioners” shall, subject to the provisions of the National Water Commission Act, be deemed to be references to the Commission established under the National Water Commission Act and this Act shall be read and construed accordingly. Definition of “the Commissioners.”
26/1980
S. 12.

PART I. *Ferry River Supply*

3. The Commissioners may establish and construct across the Ferry River at such places as they may select dams and such other works as they may deem necessary for the purpose of obtaining additional water supply for the parishes of Kingston and St. Andrew and they may lay out, maintain and establish such dams, reservoirs, pipes, machinery and other works as they may think fit and may take, collect, use, divert and distribute all or so much as they may from time to time require of the waters of the Ferry River and its tributaries and may acquire such lands and easements as the site or sites of the dams, head-works and buildings in connection with the said water supply or otherwise as they may think fit for all or any of the foregoing purposes. Commissioners may establish and construct dams, etc., for certain purpose and may collect, etc., water from the Ferry River and its tributaries.

4.—(1) The Commissioners shall, subject to both the provisos in this subsection, make to the owners and occupiers and other parties interested in any lands compensation for damage sustained by such owners, occupiers Compensation to owners, etc., of land for any damage.

and other parties in respect of such lands by reason of the exercise of the powers vested in the Commissioners by this section: such compensation to be ascertained and determined in the manner provided by the Lands Clauses Act for determining questions of compensation with regard to land purchased or taken under the provisions thereof and for the purposes of this Act diminution in the water of the Ferry River shall subject to the said provisos be deemed to be damage for which compensation may be made or assessed under the said Lands Clauses Act:

Provided that no compensation shall in any case be made to any such owners, occupiers or other parties without proof by them that actual and appreciable pecuniary damage in respect of such lands has been caused to such owners, occupiers and other parties by reason of the exercise of the powers vested in the Commissioners by this Part:

And provided also that no claim for compensation for damage sustained shall in any case be allowed unless the same is sued for within two years from the time when the damage complained of resulted.

Powers of
Resident
Magistrate
for
Kingston.

(2) It shall be lawful for the Resident Magistrate for Kingston to decide, subject to an appeal or a new trial, as in other cases under the Lands Clauses Act, all questions respecting such supply of water, and to give all such directions as may be necessary for that purpose, and to adjourn any proceedings from time to time as he may see fit for the purpose of having such directions carried out.

Part of
Lands
Clauses Act
incorporated
with this
Part.

5. The Lands Clauses Act, with the exception of sections 10, 11, 15, 16, 84, 88, 104 and 105, shall be deemed to be incorporated with this Part.

PART II. *Wag Water River Supply*

6. The Commissioners may for the purposes of their undertakings take or divert, collect, store, use and distribute all the water from the Wag Water River or so much thereof as they may at any time require and for the purposes aforesaid may establish, construct and maintain at such places as they may select dams and such other works and such machinery as they may deem necessary or proper.

Commissioners authorized to use, etc., all water from the Wag Water River.

PART III. *Iron, Plantain and Ginger Rivers*

7. The Commissioners, may establish and construct across one or more of the following rivers, that is to say the Iron River, the Plantain River and the Ginger River at such places the Commissioners may select, dams and such other works as the Commissioners may deem necessary for the purpose of obtaining an additional water supply for the parishes of Kingston and Saint Andrew, and the Commissioners may lay out, maintain and establish such dams, reservoirs, pipes, machinery and other works as the Commissioners may think fit and may take, collect, use, divert and distribute so much as the Commissioners may from time to time require of the waters of the said rivers and their tributaries :

Power to Commissioners to construct dams and other works, etc.

Provided that the Commissioners shall not during the months of January, February, July, August and September in any year take or divert from the said rivers any water in excess of five million gallons per day.

Proviso limiting amount of water to be taken during certain months of the year.

8.—(1) The Commissioners shall have power, either compulsorily or by agreement, to enter upon any lands and hereditaments and to acquire such lands and hereditaments and to acquire any rights and easements in, over, or upon such lands whether situated within or without the parishes of Kingston and Saint Andrew for any of the purposes of this Act.

Power to Commissioners to acquire lands, etc.

Incorporation of Lands Clauses Act.

(2) Any land, hereditaments, right or easement required for any of the purposes of this Part may be acquired under the Lands Clauses Act, or any enactment passed in amendment thereof or in substitution therefor and the said Act is incorporated with this Part save and except sections 10, 11, 84, 88, 90, 91, 92, 93, 101, 103, and 104.

Compensation for future damage in relation to easements.

(3) The Commissioners may in acquiring any easement, covenant and agree with any person from whom such easement may be acquired that the Commissioners will pay all future damage when and as such damage may from time to time be occasioned by the exercise of any of the rights conferred by this Part, and in cases where no agreement shall be come to as to the compensation to be paid for any easement, the Commissioners shall be entitled to have such compensation assessed on the assumption or basis that the Commissioners will enter into the covenant or agreement hereinbefore mentioned.

Lands, etc., acquired by Commissioners to be vested in Commissioner of Lands.

(4) All lands, hereditaments, rights and easements acquired by the Commissioners for the purposes of this Act shall be conveyed to or vested in the Commissioner of Lands of Jamaica.

Power to Commissioner of Lands to convey superfluous lands.

(5) Any superfluous lands not required for the purposes of the undertaking may be sold by the Commissioners and shall be conveyed by the Commissioner of Lands to such persons and in such manner as the Commissioners may direct.

Power to Commissioners to make compensation for damage for lands and water.

9. The Commissioners shall, subject to both the provisos in this section, make to the owners and occupiers and other parties interested in any lands compensation for damage sustained by such owners, occupiers and other parties in respect of such lands by reason of the exercise of the powers vested in the Commissioners by this Part. Such compensation shall be ascertained and determined in the manner pro-

vided by the Lands Clauses Act, for determining the questions of compensation with regard to land purchased or taken under the provisions thereof and for the purposes of this Part diminution in the water of the rivers mentioned in section 7 shall subject to the said provisos be deemed to be damage for which compensation may be made or assessed under the said Lands Clauses Act:

Provided that no compensation shall in any case be made to any such owners, occupiers or other parties without proof by them that actual and appreciable pecuniary damage in respect of such lands has been caused to such owners, occupiers and other parties by reason of the exercise of the powers vested in the Commissioners by this Part and provided also that no claim for compensation for damage sustained shall in any case be allowed unless such compensation is sued for within two years from the time when the damage complained of resulted.

Proviso that no compensation to be paid without proof of damage.

10. None of the powers conferred upon the Commissioners by the preceding sections of this Part shall be exercised unless and until the Minister has by order approved of the exercise of all or any of such powers.

Minister to approve of exercise of powers.