

THE HOBART SEWERAGE ACT, 1912.

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THE NATIONAL BUREAU OF INVESTIGATION

WASHINGTON, D. C.

MEMORANDUM FOR THE DIRECTOR

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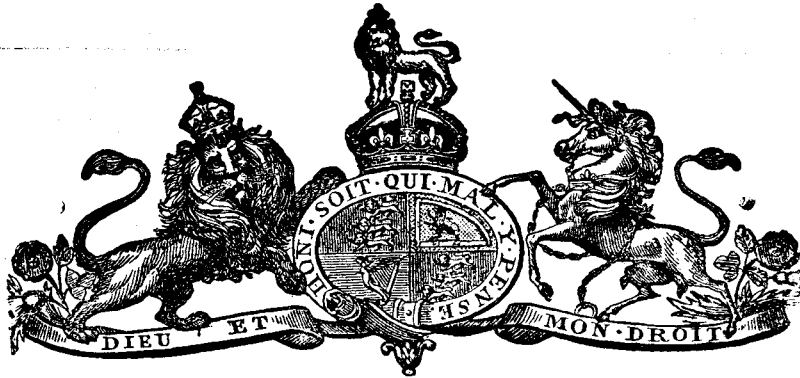
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10-11

TASMANIA



1912.

ANNO TERTIO

GEORGII V. REGIS.

No. 12.

AN ACT to transfer to and vest in the Corporation of Hobart the Property, Rights, Powers, Privileges, Liabilities, and Obligations of the Metropolitan Drainage Board, and for other purposes. [6 December, 1912.]

A.D.
1912.

WHEREAS it is expedient that all the works, property, rights, powers, privileges, and authorities now vested in or conferred upon the Metropolitan Drainage Board, and all the liabilities incurred by and obligations now imposed upon the said Board, should be transferred to, vested in, and imposed upon the Corporation of the City of Hobart: PREAMBLE.

Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited for all purposes as “The Hobart Sewerage Act, 1912,” and “The Metropolitan Drainage Acts, 1898 to 1911,” save as altered, modified, or amended by this Act, and this Act shall be read together as one Act.

Short title.
Acts to be read
together.

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Commencement
of Act.

Interpretation.

62 Vict. No. 47.

See "Gazette" of
18 May, 1909,
page 636.

Division of Act.

2 Parts I. and VI. of this Act shall come into operation on the passing hereof, and Parts II., III., IV., and V. shall commence and take effect on a day to be appointed by proclamation.

3 In this Act, unless the context otherwise determines—

"The Corporation" means the Corporation of the Mayor, aldermen, and citizens of the City of Hobart:

"The Council" means the Municipal Council of the City of Hobart:

"The Board" means the Metropolitan Drainage Board constituted and incorporated by "The Metropolitan Drainage Act, 1898":

"The Metropolitan Drainage Area" means the portion of Tasmania described in the schedule to a proclamation dated the Fourteenth day of May, One thousand nine hundred and nine, under the hand of His Excellency Sir *Gerald Strickland*, the then Governor of Tasmania, and made pursuant to the provisions of Section Five of "The Metropolitan Drainage Act, 1898":

"The said Acts" means "The Metropolitan Drainage Acts, 1898 to 1911."

4 This Act is divided into parts, as follows:—

Part I.—Board's Borrowing Powers.

Part II.—Transfer of Property and Rights.

Part III.—Suburban Drainage Areas.

Part IV.—Accounts and Rates.

Part V.—Corporation's Borrowing Powers.

Part VI.—Miscellaneous.

PART I.**BOARD'S BORROWING POWERS.**

Power for Board
to borrow
£4000.

5 It shall be lawful for the Board to borrow and take up at interest, for the purpose of extending its sewerage system within the Metropolitan Drainage Area and generally for the purpose of effectuating the objects authorised by the said Acts, any sum or sums of money, not exceeding Four thousand Pounds in the whole, further and in addition to the several sums which the Board is authorised to borrow under the provisions of the said Acts or any of them.

Governor may
grant loan to
Board.
54 Vict. No. 30.

6—(1) It shall be lawful for the Governor to grant, in accordance with the provisions of "The Local Public Works Loans Act, 1890," as a loan or loans to the Board for the purpose of extending its sewerage system within the Metropolitan Drainage Area, and generally for the purposes of effectuating the objects authorised by the said Acts,

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any sum or sums of money, not exceeding Four thousand Pounds in the whole, such sums of money to be in addition to the sum or sums which the Governor is authorised to grant as a loan or loans to the Board under the provisions of the said Acts ; and such sum or sums shall be defrayed out of moneys to be provided by Parliament for the purpose.

(2) The proviso to Section Two of "The Local Public Works Loans Act, 1890," shall not apply to any loan authorised to be granted to the Board under the provisions of the lastmentioned Act.

(3) The provisions of Sections Six and Seven of "The Metropolitan Drainage Amendment Act, 1906," shall extend to any moneys which the Board may borrow under the authority of this part of this Act.

A.D. 1912.

6 Edw. VII. No. 43.

PART II.

TRANSFER OF PROPERTY AND RIGHTS.

7 Upon the day of the commencement of this part of this Act—

- i. All lands, easements, and property, real or personal, vested in or possessed by the Board, and all sewers, drains, and works constructed by the Board or hereafter to be constructed by the Corporation shall, without any conveyance, assignment, or transfer, be and become vested in the Corporation ; but the estate and interest of the Board in the piece of land referred to in Section Ten and described in Schedule (3) to "The Metropolitan Drainage Amendment Act, 1908," shall not become vested in the Corporation, but shall, without any conveyance, assignment, or transfer, be surrendered to and become vested in the Crown freed from such estate and interest, which shall thereupon become extinguished :
- ii. All powers, rights, duties, liabilities, and obligations exercisable by, vested in, or imposed upon the Board by the said Acts shall be transferred to and become exercisable by, vested in, or imposed upon the Corporation :
- iii. All moneys due and owing to or by the Board shall be payable and recoverable to, by, or from the Corporation, and the Corporation shall be in law the successors of the Board in respect of such moneys ; and the cost, charges, and expenses incurred by the Board in and about and incidental to the preparation and passing of this Act, and to the transfer from the Board to the Corporation hereby contemplated, shall be paid by the Council :
- iv. All contracts, agreements, mortgages, bonds, covenants, securities, deeds, and other instruments, lawfully made or entered into, and then subsisting with and in favour of or by or for the Board, shall be as binding and of as full force and effect, and may be proceeded on and enforced by,

Lands, &c.,
vested in
Corporation.Powers, &c., of
Board transferred
to Corporation.Moneys owing
to or by Board
to be payable to
or by Corporation.Contracts, &c.,
to be enforceable
by or against the
Corporation.

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Actions, &c., may
be continued.Pending actions
by or against
the Board may
be prosecuted by
or against the
Corporation.Decrees, &c.,
may be enforced.Fines and
penalties may be
recovered.Existing by-laws
continued.New by-laws.
57 Vict. No. 11.Corporation and
its officers
substituted for
Board and its
officers.

against, and with reference to the Corporation as fully and effectually in all respects as they might have been enforced by or against and with reference to the Board if this Act had not been passed :

- v. All actions, suits, prosecutions, or other proceedings whatsoever, commenced by or against the Board may, without change of parties, suggestion, or other alteration of any pleading or record or otherwise, be continued, and shall take effect in favour of or against the Corporation; and all notices given by or to the Board shall be continued, and shall take effect in favour of or against the Corporation, as the case may be :
- vi. If any action or proceeding, or any cause of action or proceeding, is pending or existing by or against the Board in relation to any powers, duties, liabilities, or land or property by this Act transferred to the Corporation, the same shall not be in any wise prejudicially affected by reason of the passing of this Act, but may be continued, prosecuted, and enforced by or against the Corporation as successors to the Board as if this Act had not been passed :
- vii. All decrees, judgments, and orders duly made or obtained in favour of or against the Board may be enforced by or against the Corporation in like manner as such decrees, judgments and orders could have been enforced if this Act had not been passed :
- viii. All fines and penalties lawfully imposed and incurred under and by virtue of the said Acts may be levied and recovered from the persons respectively liable to pay the same in like manner as such fines and penalties could have been levied and recovered if this Act had not been passed :
- ix. All by-laws passed by the Board in accordance with the provisions of the said Acts, and all regulations framed, and all acts, matters, and things, done and performed by the Board under the authority of the said Acts, and which are of any force and effect, shall be deemed to have been passed, framed, done, and performed by the Council; and all such by-laws and regulations, so far as they are not inconsistent with this Act, shall continue, until superseded by a by-law or regulation made by the Council, to be of the same force and effect as if they had been passed and framed by the Council under the authority of the said Acts and of this Act :
- x. The provisions of "The Hobart Corporation Act, 1893," relating to by-laws made under that Act shall be applicable to the by-laws hereafter made by the Council under the said Acts :
- xi. Wherever in the said Acts or in any other Act, or in any bylaw or regulation, the Board is mentioned, the Corporation or the Municipal Council, as the case may require, shall be

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- deemed to be intended, and wherever the Chairman of the Board, the Secretary of the Board, or any officer of the Board is mentioned, the Mayor of Hobart, the Town Clerk of Hobart, and the corresponding municipal officer, as the case may be, shall be deemed to be intended : A.D. 1912.
- xii. All moneys borrowed by the Board from the State of Tasmania, and then unpaid, together with interest thereon, shall become and be deemed to be a liability of the Corporation to the Treasurer of Tasmania, and the benefit of any moneys paid by the Board into any sinking fund shall accrue to the Corporation, and any moneys standing in the books of the Treasury in the names of the Treasurer of the State of Tasmania and the Board shall be transferred to the names of the said Treasurer and the Corporation : Moneys borrowed by Board to become a liability of Corporation.
- xiii. All moneys whatsoever standing to the credit of the Metropolitan General Fund created by the said Acts, and all moneys standing to the credit of the Board, or held by the Board, shall be transferred to the credit of the Corporation : Moneys to be transferred.
- xiv. Any moneys which the Board is authorised to borrow under the provisions of this or any other Act, and which may be unborrowed by the Board at the date of its dissolution, may be borrowed by the Corporation, and all the provisions contained in this or such other Act relating to the borrowing of the moneys so authorised, and the manner in which, and the terms and conditions under which, the same may be borrowed shall be applicable in all respects to the borrowing of the moneys by the Corporation ; and the Government may lend such moneys to the Corporation, or may guarantee the payment of interest upon the same, in the manner provided in this or such other Act in respect of such moneys : Moneys un-borrowed by Board may be borrowed by Corporation.
- xv. The powers and duties of the Board shall be terminated, and the Board shall be dissolved, and all officers and servants then employed by the Board, except such as may, with the consent of the Council, be transferred to the service of the Corporation, shall cease to hold office : Dissolution of the Board.
- xvi. No sum of money shall be payable or paid by the Corporation to any officer or servant of the Board by way of compensation for any loss of office or employment suffered by such officer or servant by reason of the transfer to the Corporation of the powers, rights, and duties of the Board : No compensation for loss of office.
- xvii. The Corporation is hereby empowered through the Council to carry the provisions of the said Acts and of this Act into execution, and to exercise the several rights and powers hereby conferred upon, or transferred to and vested in, the Corporation. Council to execute Acts.

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PART III.

SUBURBAN DRAINAGE AREAS.

Suburban
drainage areas.6 Ed. VII. No.
31.

8—(1) In this section—

“The said city” means the city of Hobart :

“City Council” means the municipal council of the said city :

“Municipality” means any municipality for the time being constituted and declared under the provisions of “The Local Government Act, 1906” :

“Suburban municipality” means any municipality which adjoins the said city or adjoins any other municipality which adjoins the said city :

“Suburban council” means the municipal council of any suburban municipality.

(2) The City Council may contract with a suburban council for the establishment and maintenance of a system of sewerage within the whole or any defined portion of the suburban municipality under the control of such suburban council, upon such terms, including the payment of a special rate, as may be mutually agreed upon between the City Council and such suburban council.

(3) An area affected by any such contract as aforesaid shall be known as a “suburban drainage area.”

(4) No part of the Metropolitan Drainage Area shall be included in any suburban drainage area constituted under this Act.

(5) Every such contract as aforesaid shall be in writing, and shall define the boundaries of the suburban drainage area, and shall specify the amount of the special sewerage rate to be imposed in respect of such area, and shall be signed by the mayor of the city and the warden of the suburban municipality.

(6) Upon public notice being given of such contract, the suburban drainage area defined therein shall, for all the purposes of the said Acts and of this Act, become a portion of the Metropolitan Drainage Area, but subject to the liability to the provisions regarding a special sewerage rate hereinafter contained.

(7) The owners or occupiers of any land or other premises within any suburban drainage area shall be liable to the payment of any rate imposed under the said Acts and this Act as if such land or other premises were within a sewerage area in the Metropolitan Drainage Area, and in addition shall be liable to the payment of any special sewerage rate which may be imposed as hereinafter provided.

(8) It shall be lawful for the City Council or a suburban council to make and levy a rate, herein called a “Special Sewerage Rate.”

The maximum amount of such special sewerage rate shall be fixed in the contract to be entered into as aforesaid between the City Council and the suburban council respecting each suburban drainage area.

(9) All rates imposed upon the owners or occupiers of any lands or other premises within any suburban drainage area, including any special sewerage rates, may be made, levied, and recovered by the City

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Council, or by the suburban council, in the same manner as any rate may be made, levied, and recovered under the said Acts and this Act. A.D. 1912.

(10) The City Council may issue its precept to any suburban council affected, requiring such suburban council to pay, within a time limited by the precept, the amount specified in such precept to the City Council, or to some person appointed by it, in the same manner and to the same extent as is provided by the said Acts and this Act regarding the issue of precepts for the payment of any sums payable by local authorities to the City Council.

(11) Any special sewerage rate imposed in respect of any lands or premises within any suburban drainage area shall continue to be payable in respect of such lands or premises, notwithstanding that such suburban drainage area or any part thereof may at any time hereafter be included within the boundaries of the city of Hobart, until such suburban drainage area or such part thereof as aforesaid is exempted from such special sewerage rate by a resolution of the City Council.

(12) Notwithstanding anything contained in the said Acts or in this Act, it shall be lawful for the City Council, with the consent of the suburban council thereby affected, and by notice under the hand of the mayor of the city, of which public notification shall be given, to include in the Metropolitan Drainage Area a suburban municipality, or any defined portion of a suburban municipality, whether such suburban municipality or such portion has or has not been constituted a suburban drainage area.

PART IV.**ACCOUNTS AND RATES.**

9—(1) The Treasurer of the Corporation shall keep a separate and distinct account, to be called "The Hobart Sewerage Account," of all moneys received and paid under the powers and provisions of the said Acts and of this Act. Sewerage account to be kept.

(2) All rates and moneys received by the Council or the said Treasurer under the provisions of the said Acts or of this Act, and all moneys transferred by the Board to the Corporation, shall be carried to the credit of the said account, and shall be appropriated and applied to the purposes of the said Acts and of this Act. Receipts and appropriation.

(3) The moneys from time to time due as interest on any liability of or moneys owing by the Corporation under the provisions of the said Acts and of this Act, and as interest on any moneys hereafter borrowed by the Corporation for the purpose of effectuating the objects of the said Acts and of this Act, and the contributions to any sinking fund created for the redemption of such liabilities, or of the moneys so owing or to be borrowed as aforesaid, shall be a charge upon the said account. Charges upon the account.

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Expenses to be
paid thereout.

(4) Subject thereto, any moneys standing to the credit of the said account shall be appropriated and applied to all or any of the purposes hereinafter mentioned; that is to say:—

- I. In defraying the cost, charges, and expenses of carrying out the provisions of the said Acts and of this Act:
- II. The payment of such portions of the salaries, wages, and other expenses of the officers and servants employed by the Council for the purposes of the said Acts and this Act as the Council thinks equitable and fair to charge such account:
- III. The cost of carrying out any works under the authority of the said Acts and of this Act:
- IV. The purchase of any land for the purposes of the said Acts and this Act, and the payment of any compensation payable under the provisions of such Acts:
- V. The provision of such reserve, renewals, and depreciation funds and accounts for such purposes and to such extent as the Council may think proper:
- VI. The payment of any principal money due to any person from whom they may have borrowed, his executors, administrators, and assigns.

Estimate to be
made of receipts
and expenditure.

10 The Council is hereby authorised and required Once in each year to cause an estimate to be prepared of the moneys required for the year for the several purposes in respect of which it is authorised to apply the Hobart Sewerage Account, showing the sums available for such purposes, and the several sums required, and the total net annual value of the properties in each sewerage area, being outside the boundaries of the city of Hobart.

Sewerage rate
to be levied.

11—(1) It shall be lawful for the Council Once in every year to make and levy a rate, to be called "The Sewerage Rate," upon and from the occupiers or owners of all properties within any sewerage area that is within the boundaries of the city of Hobart; and such rate shall be payable in advance, in such portions and at such periods as the Council may from time to time appoint.

Amount of rate.

(2) Such rate shall not exceed the amount of One Shilling in the pound upon the assessed annual value of the properties within any such sewerage area.

Minimum rate.

(3) In no case shall the amount payable in respect of any land or other premises for such rate be less than the sum of Twelve Shillings in any year.

Exemption.

(4) No owner or occupier of any land or other premises shall be liable to the payment of any such rate unless such land or other premises is within a sewerage area.

Applies pro-
visions of 57
Vict. No. 11
relating to rates.

(5) Subject to the provisions of this Act, so much of "The Hobart Corporation Act, 1893," as relates to rates, including the making of the same, the notice to be given thereof, the persons by whom the same shall be payable, the mode of and remedies for recovering the same,

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and all other incidents thereof, shall be applicable to all rates to be made and levied under this Act, but no exemption shall be allowed on account of any property being unoccupied. A.D. 1912.

(6) The provisions contained in this section shall be substituted for the provisions contained in Section Thirty-nine of "The Metropolitan Drainage Amendment Act, 1903," so far as such section relates to any sewerage area within the city of Hobart, except that the provisions of Subsections Eight and Nine of the said section shall apply to any rate made under this section. Substitution of provisions contained in 3 Ed. VII. No. 15, Section 39.

(7) With regard to any sewerage area outside the city of Hobart, the Council shall, subject to the provisions of this Act, have all the powers conferred upon the Board by the said Section Thirty-nine of "The Metropolitan Drainage Amendment Act, 1903," and may issue its precept to any local authority concerned, and the local authority shall comply with the requisitions of such precept in the manner and with the powers in the said section provided and given; or in the alternative the Council may make, levy, and recover sewerage rates, including any special sewerage rates, upon and from the owners or occupiers of all properties within any sewerage area that is outside the boundaries of the city of Hobart, in the same manner and with the same remedies as if such properties were within the boundaries of the said city. Power to issue precept.

12—(1) The Council shall from time to time so regulate the amount of the sewerage rate that the proceeds thereof, together with the proceeds of any special sewerage rates, shall be sufficient for carrying out the objects and purposes of the said Acts and of this Act. Sewerage rate to be regulated so as not to exceed annual expenditure.

(2) If in any year the amount received is more than sufficient for all such objects and purposes, the Council is hereby required, wherever practicable, to make a proportionate reduction in the sewerage rate to be made and levied in the following year.

PART V.**CORPORATION'S BORROWING POWERS.**

13 It shall be lawful for the Corporation to borrow, on the security of the revenues of the Corporation, other than the water rates levied under the authority of "The Hobart Water Act, 1893," and any Act amending the same, such sum or sums of money not exceeding Fifty thousand Pounds, as the Council deems necessary for the purpose of effectuating the objects authorised by this Act or by the said Acts or by any of such Acts. Power to borrow £50,000. 57 Vict. No. 25.

14 It shall be lawful for the Corporation to borrow, on the security mentioned in the last preceding section, such sum or sums of money, not exceeding Ten thousand Pounds in the whole, as the Council deems necessary for the purposes mentioned in Section Four of "The Metropolitan Drainage Amendment Act, 1906." Power to borrow for the purpose of house connections. 6 Edw. VII. No. 43.

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Provisions of
6 Edw. VII. No.
43, Sections
6 and 7, applied.
Sums to be ad-
ditional to sums
already borrowed.

15 The provisions of Sections Six and Seven of "The Metropolitan Drainage Amendment Act, 1906," shall extend to any moneys borrowed by the Council under the authority of this Act.

16 The sum or sums which the Corporation may borrow under the authority of this Act shall be in addition to any sum or sums of money previously borrowed or authorised to be borrowed by or on behalf of the Corporation under the authority of any former Act, and by or on behalf of the Board under the authority of the said Acts or this Act.

Provisions of
Part XII. of 57
Vict. No. 11 or
of 43 Vict. No.
22 to be applic-
able.

17 The provisions of Part XII. of "The Hobart Corporation Act, 1893," shall be applicable to any sum or sums of money borrowed under this Act, or, in the alternative, any sums or sum of money borrowed under the authority of this Act shall be subject to the provisions of "The City of Hobart Town Loans Consolidation Act, 1880," and any Act amending the lastmentioned Act.

Corporation
empowered to
pay off and
reborrow.

18 If, after having borrowed any sum or sums of money under the authority of this Act, the Corporation shall repay the same or any part thereof, it shall be lawful for the Corporation again to borrow the sum or sums so paid off, and so from time to time; and all the provisions of this part of this Act shall extend to any sum or sums that may be so reborrowed.

Government
may guarantee
interest.

19 In order to facilitate the borrowing by the Corporation of the said sum or sums of money, it shall be lawful for the Government of Tasmania to guarantee the payment of interest for the same or any part thereof to the lenders: Provided that in every such case, and so far as the Government of Tasmania in consequence of such guarantee advances and pays any sum or sums of money to any lender, all moneys so paid shall be, and the same are hereby declared to be, a first or primary charge upon the entire revenues of the Corporation; and the Treasurer for the time being of Tasmania shall have, and may exercise in that event, all or any of the powers given to the holders of debentures by "The City of Hobart Town Loans Consolidation Act, 1880," and any Act amending the same.

Savings bank
may invest in
such loans.

20 It shall be lawful for the trustees for the time being for any bank for savings in Tasmania now established, or hereafter to be established, to advance and lend to the Corporation, upon the security aforesaid, the whole or any part of the said sum or sums of money which the Corporation is authorised to borrow under this Act, anything in the Act of Council of 12 Vict. No. 1 to the contrary notwithstanding.

Governor may
lend under "The
Local Public
Works Loans
Act, 1890."

21 It shall be lawful for the Corporation to borrow, and the Governor is hereby authorised from time to time, out of the moneys of the Crown in Tasmania, or out of such sums as may be provided for the purpose, to lend to the Corporation, on the security of the entire revenues of the Corporation other than the water rates hereinbefore mentioned, the whole or any part of the said sum or sums of money

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which the Corporation is authorised to borrow under this Act. Such^h loan shall be made under the provisions of "The Local Public Works^s Loans Act, 1890," and any Act amending the same: Provided that it shall not be necessary to lay before either House of Parliament plans and specifications of any proposed works, nor the report of the Engineer-in-Chief thereon, as provided in Section Two of "The Local Public Works Loans Act, 1890." The said sum or sums shall be paid to the Corporation at such times and in such manner as the Governor shall determine.

A.D. 1912.

54 Vict. No. 30.

PART VI.**MISCELLANEOUS.**

22 It shall be lawful for the Board in its discretion, and prior to its dissolution, to pay to any of its officers or servants the equivalent in salary of any leave of absence granted to but not availed of by them; but the terms of such leave shall not in any case exceed Nine weeks

Salary in lieu of
leave of absence.

SECRET

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