

**HUNTER DISTRICT WATER, SEWERAGE AND
DRAINAGE (AMENDMENT) ACT.**

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 27, 1972.

An Act to reconstitute the Hunter District Water Board; to bring the board under the control of the Minister; for these and other purposes to amend the Hunter District Water, Sewerage and Drainage Act, 1938; and for purposes connected therewith. [Assented to, 11th April, 1972.]

BE

Hunter District Water, Sewerage and Drainage (Amendment).

No. 27, 1972 **B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title
and
construction.

1. (1) This Act may be cited as the "Hunter District Water, Sewerage and Drainage (Amendment) Act, 1972".

(2) The Hunter District Water, Sewerage and Drainage Act, 1938, is in this Act referred to as the Principal Act.

(3) This Act shall be read and construed with the Principal Act.

Reconstitu-
tion of the
Hunter
District
Water
Board.

2. (1) Upon a day to be appointed by the Governor and notified by proclamation published in the Gazette (which day is in this section referred to as the "appointed day") the Hunter District Water Board shall be reconstituted and shall consist of eight members, who shall be appointed in accordance with Part III of the Principal Act as amended by this Act.

(2) Notwithstanding the provisions of subsection one of section eight and section ten of the Principal Act, as amended by this Act, on and from the appointed day the persons who, immediately before that day, were the president and vice-president of the board shall be deemed—

(a) to have been duly appointed, pursuant to paragraphs (a) and (b) respectively of subsection one of section eight of the Principal Act, as amended by this Act, as members and as president and vice-president respectively of the board;

(b)

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(b) to have been so appointed on the same terms and conditions as those upon which, and for a term expiring at the same time as that for which, each was appointed to the office he held immediately before that day; and

(c) to have, on that day, assumed their offices pursuant to that appointment.

(3) On and after the appointed day, a person who, immediately before that day, held office as a member of the board otherwise than as president or vice-president is not entitled to receive any salary, fees or other remuneration not due to him before that day by reason of his holding office as a member of the board.

(4) Nothing in this section prejudices or affects in any way the continuity of the body corporate constituted by section twenty-three of the Principal Act and it shall continue notwithstanding the provisions of this Act and be deemed, notwithstanding that there are or have been at any time or times vacancies in the offices of all of the members of the body corporate or any one or more of them, to have always continued.

(5) For the purposes only of the appointment of the members of the board (other than the president or vice-president) as reconstituted under this section and of any matters necessary for or incidental to that appointment or reconstitution, the provisions of section three of this Act shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

(6) The persons appointed by virtue of subsection five of this section as members of the board shall, subject to the provisions of section fifteen of the Principal Act, as amended by this Act, assume their offices as members of the board on the appointed day and on that day the provisions of section three of this Act shall come into force for all purposes.

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Amendment
of Act No.
11, 1938.

Sec. 1.
(Short title,
and com-
mencement
of Act.)

- (a) by omitting from subsection four of section one the words "and election" wherever occurring;

Sec. 2.
(Division
into Parts.)

- (b) (i) by omitting from the matter relating to Part VIII in section two the figures "149" and by inserting in lieu thereof the figures "150";
(ii) by omitting from the matter relating to the Second Schedule in the same section the word "Constituencies" and by inserting in lieu thereof the words "Area of Operations";

Sec. 3.
(Defini-
tions.)

- (c) (i) by omitting from the definition of "Area of operations" in section three the words "the City of Greater Newcastle,";
(ii) by omitting from the same definition the word "areas" where firstly and secondly occurring and by inserting in lieu thereof the words "municipalities and shires";
(iii) by omitting from the same section the definition of "Elected members";
(iv) by omitting from the definition of "Municipality" in the same section the words ", and includes the City of Greater Newcastle";

Subst. secs.
7-19 incl.

- (d) by omitting sections seven to nineteen both inclusive and by inserting in lieu thereof the following sections :—

Board
authorised
to carry
out pro-
visions of
Act subject
to control
and direc-
tion by
Minister.

7. (1) The authority to carry out the provisions of this Act shall, except where otherwise provided, be the Hunter District Water Board.

(2) The board shall, in the exercise and discharge of its powers, authorities, duties and functions, be subject to the direction and control of the Minister.

8.

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8. (1) The board shall consist of eight members No. 27, 1972
appointed by the Governor, of whom—

Composition
of board.

- (a) one shall, in and by the instrument by which he is appointed or in and by another instrument, be appointed as president of the board;
- (b) one shall, in and by the instrument by which he is appointed or in and by another instrument, be appointed as vice-president of the board;
- (c) subject to section twelve of this Act, three shall be persons nominated by the Minister from a panel of not less than six persons nor more than such number of persons as the Minister from time to time directs each of whom—
 - (i) is an officer within the meaning of the Local Government Act, 1919, of the council of a municipality or shire referred to in the Second Schedule to this Act; and
 - (ii) is nominated in writing jointly by the Local Government Association of New South Wales and the Shires Association of New South Wales within such period as the Minister from time to time directs; and
- (d) three shall be persons nominated by the Minister who, in the opinion of the

Minister.

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Minister, have special knowledge and experience in such fields as the Minister deems appropriate.

(2) The Minister shall notify the Local Government Association of New South Wales and the Shires Association of New South Wales in writing of each direction given by him under paragraph (c) of subsection one of this section.

Age limit
of
members.

9. A person shall not be appointed as a member of the board if he is of or above the age of—

- (a) sixty-five years, in the case of the president; or
- (b) seventy years, in the case of any other member.

Term of
office of
members.

10. Subject to this Act, the term of office of—

- (a) the president and vice-president of the board shall be such term not exceeding seven years; and
- (b) a member of the board other than the president and vice-president shall be such term not exceeding four years,

as is specified in the instrument of appointment as president or vice-president or, as the case may be, as a member of the board other than the president or vice-president.

Re-appoint-
ment of
members.

11. Upon the expiration of the term of office of a member he shall, if otherwise qualified, be eligible for re-appointment from time to time and any such re-appointment shall be for a term specified in the instrument of re-appointment not exceeding—

- (a) in the case of a member who, on his re-appointment, is president or vice-president of the board—seven years; or
- (b)

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- (b) in the case of a member who, on his re-appointment is not the president or vice-president of the board—four years. No. 27, 1972

12. If any officers are not nominated to form the panel referred to in paragraph (c) of subsection one of section eight of this Act and the period within which that panel may be nominated has expired the Governor may appoint such number of persons, each of whom is nominated by the Minister and is an officer of the council of a municipality or shire within the board's area of operations, as are required to be appointed to be members of the board pursuant to that paragraph, instead of the members required to be appointed from that panel. Default in nomination of panel.

13. Where a vacancy occurs in the office of a member, the Governor may appoint a person to fill the vacant office so that, subject to section twelve of this Act, the board is constituted in accordance with subsection one of section eight of this Act. Vacancy in office of member.

14. A member shall be deemed to have vacated his office— Casual vacancies.

- (a) if he dies;
- (b) if he declines to accept office or is deemed to have declined to accept office;
- (c) if he commits an act of bankruptcy, presents a debtor's petition for bankruptcy or makes an assignment of any future property for the benefit of his creditors;
- (d) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (e) if he is convicted in New South Wales of a crime or offence which is punishable by

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- by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of a crime or offence which if committed in New South Wales would be a crime or offence so punishable;
- (f) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts his resignation;
 - (g) if, being—
 - (i) the president, he attains the age of sixty-five years; or
 - (ii) a member other than the president, he attains the age of seventy years;
 - (h) if, being the president, during his term of office he engages in any paid employment outside the duties of his office;
 - (i) if, being the president, he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister, unless his absence is occasioned by illness or other unavoidable cause;
 - (j) if, being a member other than the president, he is absent from four consecutive ordinary meetings of the board of which notice has been duly given except on leave granted by the board, unless he is, before the expiration of four weeks after the last of those meetings, excused by the board for his absence from those meetings.

Prerequisites
to
assumption
of office.

15. (1) Each member of the board, before entering upon the duties of his office, shall take an oath of allegiance under and in accordance with the

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the provisions of the Oaths Act, 1900, and shall ^{No. 27, 1972} make and subscribe the following declaration of office :—

I, _____, having been appointed a member of the Hunter District Water Board, do declare that I will truly and faithfully fulfil the duties of that office according to the best of my judgment and ability.

(2) If a person, after having been afforded an opportunity of taking the oath and making and subscribing the declaration referred to in subsection one of this section, neglects to do so for a period of one month or such extended period as the Governor may appoint pursuant to subsection three of this section, after the date on which he is appointed he shall, on the expiration of that period or extended period, as the case may be, be deemed to have declined to accept office.

(3) Where the Governor is satisfied that the delay in taking the oath and subscribing the declaration referred to in subsection one of this section is unavoidable he may extend the time for taking that oath and subscribing that declaration for any period not exceeding six months.

(4) Any person who is deemed to have declined to accept office shall not be eligible to be re-appointed to fill the vacancy created.

16. (1) The president of the board shall devote the whole of his time to the duties of his office and shall receive such annual salary as the Governor may from time to time determine. ^{Remuneration of president.}

(2) Each member of the board appointed pursuant to paragraph (b), (c) or (d) of subsection one of section eight of this Act shall receive such remuneration as the Governor may from time to time determine in respect of that member.

(3)

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(3) Each member of the board shall receive such out-of-pocket expenses for conveyance and subsistence in travelling in connection with the business of the board and such other allowances as the Governor may from time to time determine in respect of that member.

Office of member not to be office or place of profit.

17. The office of any member of the board shall not, for the purpose of any Act, be deemed to be an office or place of profit under the Crown.

Public Service Act, 1902, not to apply to appointment of members.

18. The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment by the Governor of any member of the board and such member shall not, in his capacity as such a member, be subject to the provisions of that Act during his term of office.

Preservation of certain rights of president.

19. (1) Where the president of the board was, immediately before his appointment as president, an officer of the Public Service and he ceases to be the president otherwise than pursuant to section fourteen (paragraph (f) excepted) of this Act he shall, if he has not attained the age of sixty years, be appointed to an office in the Public Service not lower in classification and salary than that which he held immediately before that appointment.

(2) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act, 1916, or any permanent

servant

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servant within the meaning of the Local Government (Superannuation) Act, 1927, who is appointed president of the board shall retain any rights which have accrued or are accruing to him as such an officer, employee or permanent servant and shall continue to contribute to any fund or account in accordance with the requirements of the Act under which he contributes and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he had continued to be such an officer, employee or permanent servant during his service with the board and for the purposes of this subsection his service as president shall be deemed to be service for the purpose of the Act under which he continues to contribute or by which that entitlement is conferred. No. 27, 1972

(3) The president of the board shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

(4) Where the president of the board contributes to a fund or account as referred to in subsection two of this section the board shall pay to the State Superannuation Board or the Local Government Superannuation Board, as the case may be, such amounts as would have been payable to that Board if the president had remained an employee within the meaning of the Superannuation Act, 1916, or a permanent servant within the meaning of the Local Government (Superannuation) Act, 1927, and had continued to be employed by the employer by whom he was employed immediately before his appointment as president and as if he were receiving from that employer the same salary and allowances as is or are being paid to him pursuant to this Act.

(e)

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Sec. 34B.

(Subdividers may obtain certificates that the requirements of this section have been complied with.)

- (e) by omitting from subsection one of section 34B the words "council of the area" and by inserting in lieu thereof the words "council of the municipality or shire";

New sec.
35A.

- (f) by inserting next after section thirty-five the following new section :—

Extension
of area of
operations.

35A. (1) The Governor may by proclamation order that any municipality or shire or part of a municipality or shire shall be within the area of operations of the board.

(2) Any proclamation made pursuant to subsection one of this section shall take effect from the date of publication thereof in the Gazette or from a later date specified in the proclamation.

(3) Where a municipality or shire or part of a municipality or shire referred to in a proclamation made pursuant to subsection one of this section becomes part of the area of operations of the board, the Second Schedule to this Act shall be deemed to be amended accordingly and that Schedule as so amended shall be the Second Schedule to this Act.

Sec. 115.

(Annual
statements.)

- (g) by omitting subsection two of section one hundred and fifteen and by inserting in lieu thereof the following subsection :—

(2) The board shall furnish a copy of the report and statements to the Minister and the council of each municipality and shire referred to in the Second Schedule to this Act.

Sec. 127.
(Regula-
tions.)

- (h) by omitting subsection two of section one hundred and twenty-seven;

(i)

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- (i) by omitting the Second Schedule and by inserting **No. 27, 1972**
in lieu thereof the following Schedule :—

Subst.
Second
Schedule.
Sec. 8.

SECOND SCHEDULE**Area of Operations*****Municipalities*****Greater Cessnock (City)****Newcastle (City)****Maitland (City)*****Shires*****Lake Macquarie****Port Stephens**