

**METROPOLITAN WATER, SEWERAGE, AND
DRAINAGE (AMENDMENT) ACT.**

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 33, 1972.

An Act to reconstitute the Metropolitan Water Sewerage and Drainage Board; to bring the board under the control of the Minister; for these and other purposes to amend the Metropolitan Water, Sewerage, and Drainage Act, 1924; and for purposes connected therewith.
[Assented to, 11th April, 1972.]

BE

No. 33, 1972

BE 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 "Metropolitan Water, Sewerage, and Drainage (Amendment) Act, 1972".

(2) The Metropolitan Water, Sewerage, and Drainage Act, 1924, is in this Act referred to as the Principal Act.

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

Reconsti-
tution of
the Metro-
politan
Water
Sewerage
and
Drainage
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 Metropolitan Water Sewerage and Drainage 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) 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)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(c) to have, on that day, assumed their offices pursuant No. 33, 1972 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-two of the Metropolitan Water, Sewerage, and Drainage Act, 1924, and continued by subsequent Acts 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.

3. The Principal Act is amended—

Amendment
of Act No.
50, 1924.

(a) by omitting paragraph (b) of subsection one of Sec. 2.
section two;
(Com-
mencement
(b) of Act.)

*Metropolitan Water, Sewerage, and Drainage (Amendment).***No. 33, 1972****Sec. 3.**(Division
into Parts.)

(b) (i) by omitting from the matter relating to Part III in section three the figures "25" and by inserting in lieu thereof the figures and letter "25A";

(ii) by omitting from the matter relating to Part IV in the same section the figures "56" and by inserting in lieu thereof the figures and letter "56A";

(iii) 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. 4.
(Defini-
tions.)

(c) (i) by omitting from the definition of "Area of operations" in section four the word "areas" wherever occurring and by inserting in lieu thereof the words "municipalities and shires";

(ii) by omitting from the same section the definition of "Board" and by inserting in lieu thereof the following definition :—

"Board" means The Metropolitan Water Sewerage and Drainage Board.

(iii) by omitting from the same section the definition of "Elected members";

**Subst. secs.
7-19 incl.**

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

7. (1) The authority to carry out the provisions of this Act shall, except where otherwise provided, be the Metropolitan Water Sewerage and Drainage 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.

Board
authorised
to carry out
provisions
of Act
subject to
control and
direction by
Minister.

Metropolitan Water, Sewerage, and Drainage (Amendment).

8. (1) The board shall consist of eight members No. 33, 1972 appointed by the Governor, of whom—

Composi-
tion 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 by the Local Government 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, 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 in writing of each direction given by him under paragraph (c) of subsection one of this section.

No. 33, 1972

Age limit
of
members.Term of
office of
members.Re-appoint-
ment of
members.Default in
nomina-
tion of
panel.

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

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.

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) in the case of a member who, on his re-appointment is not the president or vice-president of the board—four years.

12. If a panel is not nominated as provided 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

Metropolitan Water, Sewerage, and Drainage (Amendment).

appoint such number of persons, each of whom is No. 33, 1972 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.

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.

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

- (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 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)

No. 33, 1972

(g) if, being—

- (i) the president or vice-president, he attains the age of sixty-five years; or
- (ii) a member other than the president or vice-president, he attains the age of seventy years;
- (h) if, being the president or vice-president, during his term of office he engages in any paid employment outside the duties of his office;
- (i) if, being the president or vice-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 or vice-president, he is absent from four consecutive ordinary meetings of the board of which notice has been given in accordance with the by-laws 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 assump-
tion 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 provisions of the Oaths Act, 1900, and shall make and subscribe the following declaration of office :—

I, _____, having been appointed a member of the Metropolitan Water Sewerage and Drainage 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)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(2) The oath of allegiance referred to in No. 33, 1972 subsection one of this section shall be taken before the Executive Council.

(3) 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 four 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.

(4) 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.

(5) 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 and vice-president of the Remuneration of
board shall devote the whole of their time to the president
duties of their respective offices and shall respectively
and vice-
president.
receive such annual salary as the Governor may from time to time determine in respect of each office.

(2) Each member of the board appointed pursuant to paragraph (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) 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.

No. 33, 1972

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

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

Preservation
of certain
rights of
president
and vice-
president.

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.

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.

19. (1) Where the president or vice-president of the board was, immediately before his appointment as president or vice-president, an officer of the Public Service and he ceases to be the president or vice-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 within the meaning of the Local Government (Superannuation) Act, 1927, who is appointed president or vice-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 or vice-president shall be deemed to be service for the purpose of the

Metropolitan Water, Sewerage, and Drainage (Amendment).

the Act under which he continues to contribute or No. 33, 1972 by which that entitlement is conferred.

(3) The president or vice-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 or vice-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 or vice-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 or vice-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) by omitting subsection two of section thirty and Sec. 30. by inserting in lieu thereof the following (Functions generally.)

(2) The board shall exercise the functions specified in subsection one of this section within its area of operations and in such other municipalities and shires or parts of municipalities and shires as the Governor may from time to time by proclamation direct.

(f) by omitting from subsection one of section 34B Sec. 34B. the words "council of the area" and by inserting (Subdividers may obtain certificates that the requirements of this section have been complied with.) in lieu thereof the words "council of the municipality or shire";

(g)

*Metropolitan Water, Sewerage, and Drainage (Amendment).***No. 33, 1972****Sec. 36.**
(Works may be removed from control of the board.)**Sec. 36A.**
(Extension of area of operations.)**Sec. 111.**
(Annual statements.)

(g) by omitting from subsection one of section thirty-six the word "area" and by inserting in lieu thereof the words "municipality or shire";

(h) (i) by omitting from section 36A the words "area or part of an area" and by inserting in lieu thereof the words "municipality or shire or part of a municipality or shire";

(ii) by omitting from the same section the words "Any such proclamation shall specify the constituency in the Second Schedule to this Act within which the area or part of an area so declared to be within the area of operations of the board shall be included and the said" and by inserting in lieu thereof the words "Where a municipality or shire or part of a municipality or shire referred to in such a proclamation becomes part of the area of operations of the board, the Second";

(iii) by omitting from the same section the words "council of the area" and by inserting in lieu thereof the words "council of the municipality or shire";

(iv) by omitting from the same section the words "area or part of the area" and by inserting in lieu thereof the words "municipality or shire or part of the municipality or shire";

(i) by omitting subsection two of section one hundred and eleven 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.

(i)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(j) by omitting subsection two of section one hundred No. 33, 1972
and twenty-four;

Sec. 124.
(Regula-
tions.)

(k) by omitting the Second Schedule and by inserting in Subst.
lieu thereof the following Schedule :— Second
Schedule.

SECOND SCHEDULE

Sec. 8.

Area of Operations

Municipalities

Ashfield	Liverpool (City)
Auburn	Manly
Bankstown	Marrickville
Blacktown	Mosman
Botany	North Sydney
Burwood	Parramatta (City)
Camden	Penrith (City)
Campbelltown (City)	Randwick
Canterbury	Rockdale
Concord	Ryde
Drummoyne	Sheliharbour
Fairfield	South Sydney
Holroyd	Strathfield
Hunter's Hill	Sydney (City)
Hurstville	Waverley
Kiama	Willoughby
Kogarah	Windsor
Ku-ring-gai	Wollongong (City)
Lane Cove	Woollahra
Leichhardt	

Shires

Baulkham Hills	Sutherland
Colo	Warringah
Hornsby	Wollondilly

MINES