

**HUNTER DISTRICT WATER, SEWERAGE AND
DRAINAGE (FURTHER AMENDMENT) ACT,
1977**

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 115, 1977.

An Act to amend the Hunter District Water, Sewerage and Drainage Act, 1938, with respect to penalties for certain offences, hot water plumbing, water meters and the power of The Hunter District Water Board to inspect land. [Assented to, 9th December, 1977.]

BE

Hunter District Water, Sewerage and Drainage (Further Amendment).

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:—

1. This Act may be cited as the "Hunter District Water, ~~Short title.~~ Sewerage and Drainage (Further Amendment) Act, 1977".

2. (1) Except as provided in subsections (2) and (3), ~~Commencement.~~ this Act shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedules 1–4, commence on the day on which that provision commences.

(3) The several provisions of Schedules 1–3 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. The Hunter District Water, Sewerage and Drainage ~~Principal~~ ^{Act.} Act, 1938, is referred to in this Act as the Principal Act.

4. This Act contains the following Schedules :— ~~Schedules.~~

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INSPECTION OF PROPERTY.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO OFFENCES AND PENALTIES.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE UNLAWFUL TAKING OF PLUMBING.

SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE UNLAWFUL TAKING OF WATER.

Amendment 5. The Principal Act is amended in the manner set forth of Act No. 11, 1938, in Schedules 1—4.

Sec. 5.

SCHEDULE 1.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INSPECTION OF PROPERTY.

(1) (a) Section 38 (1)—

Omit “may enter upon any land or building at any reasonable hour in the daytime and at any hour during which business is in progress or is usually carried on in the premises”, insert instead :—

may—

- (a) enter land or a building or premises other than a dwelling-house at any time ; and
- (b) enter a dwelling-house at any reasonable time during the day,

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Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

(b) Section 38 (1)—

Omit “ascertain the character and condition of the land or building and of any pipe, sewer, drain, or fitting in connection therewith.”, insert instead :—

ascertain—

- (c) the character and condition of the land or any dwelling-house or other building or premises on the land;
- (d) the condition or location of any pipe, sewer, drain or fitting used in connection with the land or any dwelling-house or other building or premises on the land;
- (e) whether any waste, misuse or undue consumption of water supplied by the board is occurring; or
- (f) whether any offence against this Act, the regulations or the by-laws has been or is being committed.

(2) Section 38 (1A)—(1D)—

After section 38 (1), insert :—

- (1A) Subject to subsection (1B), where the board proposes by its officers or workmen to enter any land or a building or premises it shall cause notice in

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SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—continued.**

writing to that effect to be served on the owner or occupier of the land, building or premises before it attempts to enter the land, building or premises.

(1B) Where in the opinion of an officer of the board prescribed by a regulation for the purposes of this subsection undue delay would occur by reason of the serving of a notice referred to in subsection (1A), that officer may authorise the board's officers or workmen to enter the land, building or premises although that notice has not been served.

(1C) For the purpose of gaining entry to any land or a building or premises, not being a dwelling-house, the board may, by its officers or workmen, use reasonable force.

(1D) It is the duty of the board, where any land or a building or premises—

(a) has or have been entered without the notice referred to in subsection (1A) having been served; or

(b) has or have been forcibly entered under an authority given under subsection (1B),

to cause such persons or authorities as appear to it to be appropriate in the circumstances to be promptly informed of the action so taken.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

(3) Section 38 (2)—

Omit the subsection, insert instead :—

(2) If a pipe, sewer, drain or fitting referred to in subsection (1) is found on inspection to be made to the satisfaction of the board and in proper order and condition, and if no waste, misuse or undue consumption of water supplied by the board is occurring, and if no offence against this Act, the regulations or the by-laws has been or is being committed, the board shall cause the pipe, sewer, drain or fitting and the land, building or premises to be reinstated and made good as soon as practicable and the costs and expenses of the inspection, reinstating and making good shall be defrayed by the board.

(4) Section 38 (4)—

Omit “removal, alteration, or repair”, insert instead “any entry and any inspection made under subsection (1) following which a direction under this subsection is given and of the removal, alteration or repair by the board of any pipe, sewer, drain or fitting”.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

Sec. 5.

SCHEDULE 2.

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES.

(1) Section 39—

Omit “shall be liable, on summary conviction, to a penalty not exceeding twenty dollars”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$5,000, or, in any other case, to a penalty not exceeding \$500”.

(2) Section 46 (4), (4A)—

Omit section 46 (4), insert instead :—

(4) A person who acts in contravention of the provisions of subsection (3) is guilty of an offence under this Act and liable to a penalty not exceeding \$200.

(4A) A person who knowingly employs another to commence or perform work referred to in subsection (3) in contravention of this section is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$2,000, or, in any other case, to a penalty not exceeding \$200.

(3) Section 101 (6), (7)—

Omit “shall be liable to a penalty not exceeding ten dollars” wherever occurring, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$1,000, or, in any other case, to a penalty not exceeding \$100”.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

(4) (a) Section 130 (1) (a)—

Omit “but no such penalty shall exceed one hundred dollars”, insert instead “in the case of a corporation, not exceeding \$10,000, or, in any other case, not exceeding \$1,000”.

(b) Section 130 (1) (b)—

Omit “not exceeding ten dollars per day”, insert instead “, in the case of a corporation, not exceeding \$500, or, in any other case, not exceeding \$50”.

(5) Section 135A—

After section 135, insert :—

135A. (1) Proceedings for offences under this Act, *Proceedings* a regulation or a by-law may be taken before a court *for offences* of petty sessions or before the Supreme Court in its summary jurisdiction.

(2) If proceedings in respect of an offence under this Act, a regulation or a by-law are brought in a court of petty sessions, the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act, the regulation or the by-law, as the case may be, \$2,000 (including any daily penalty) or the maximum penalty provided by this Act, the regulation or the by-law in respect of the offence, whichever is the lesser.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—continued.**

(3) If proceedings in respect of an offence against this Act, a regulation or a by-law are brought in the Supreme Court in its summary jurisdiction, the Supreme Court may impose a penalty not exceeding the maximum penalty provided by this Act, the regulation or the by-law, as the case may be, in respect of the offence.

(4) Proceedings in the Supreme Court in its summary jurisdiction in respect of an offence against this Act, a regulation or a by-law may be commenced only within six months after the offence was committed.

(6) Section 139 (1)—

Omit “shall for such offence be liable to a penalty not exceeding ten dollars”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$1,000, or, in any other case, to a penalty not exceeding \$100”.

(7) Section 140—

Omit “to a penalty not exceeding ten dollars”, insert instead “, in the case of a corporation, to a penalty not exceeding \$5,000, or, in any other case, to a penalty not exceeding \$500”.

(8) (a) Section 141—

Omit “If any person”, insert instead “Any person who”.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

(b) Section 141—

Omit “he shall for such offence be liable to a penalty not exceeding ten dollars and a further penalty not exceeding ten dollars for each day (if more than one) that such offence continues”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$10,000, or, in any other case, to a penalty not exceeding \$1,000 and, where the offence continues, to a further penalty, in the case of a corporation, not exceeding \$5,000 and, in any other case, not exceeding \$500, for each day during which the offence continues”.

(9) (a) Section 142—

Omit “shall be liable to a penalty of forty dollars”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$5,000, or, in any other case, to a penalty not exceeding \$500.”.

(b) Section 142—

Omit “Such penalty may be recovered with full costs in any court of competent jurisdiction.”.

(10) Section 143—

Omit “shall, for every such offence, be liable to a penalty of not more than forty dollars, and a further sum of not more than twenty dollars for each day

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—continued.**

during which the offence continues, after the expiration of twenty-four hours from the service on him of notice of such offence", insert instead "is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$10,000, or, in any other case, to a penalty not exceeding \$1,000 and, where the offence continues after the expiration of 24 hours after the service on him of notice of the offence, to a further penalty, in the case of a corporation, not exceeding \$5,000, or, in any other case, not exceeding \$500, for each day during which the offence continues".

(11) Section 145—

Omit "shall be guilty of an offence and be liable to a penalty not exceeding ten dollars", insert instead "is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$2,000, or, in any other case, to a penalty not exceeding \$200".

(12) Section 146—

Omit "shall be guilty of an offence and be liable to a penalty not exceeding ten dollars", insert instead "is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$10,000, or, in any other case, to a penalty not exceeding \$1,000".

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3.

Sec. 5.

**AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING.**

(1) Section 3, definition of "Hot water apparatus"—

Before the definitions of "Joint" and "jointly", insert :—

"Hot water apparatus" means apparatus for heating water, for storing hot water, or for both heating water and storing hot water, being apparatus connected to a water main of the board by a water service pipe, but does not include any water service pipe connected to the outlet from any such apparatus.

(2) Section 129A—

After section 129, insert :—

129A. (1) For the purposes of section 128, hot water apparatus shall be deemed not to be an outlet from the water service pipes by which the apparatus is connected to a water main of the board, and—

(a) a reference in section 128 (1) (j) to water service pipes includes a reference to water service pipes used or intended to be used for hot water and to any safety discharge pipe or overflow pipe connected to any hot water apparatus; and

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING—*continued.*

(b) a reference in section 128 (1) (j) or (u) to fittings includes a reference to fittings used or intended to be used for hot water and to fittings by which hot water apparatus may be connected to the water service pipes, but does not include a reference to hot water apparatus.

(2) Section 128 does not authorise the making of by-laws—

(a) prescribing specifications for hot water apparatus; or

(b) authorising or requiring the board to be concerned in—

(i) testing any hot water apparatus, other than fittings connected to hot water apparatus; or

(ii) the connection of hot water apparatus to any source of heat energy, unless the source is heated water added to or mixed with water in the apparatus.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3—continued.

**AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING—continued.**

(3) Nothing in this section affects any power, authority, duty or function conferred or imposed on the board (otherwise than by or under the by-laws) with respect to the regulation or control of the pollution, misuse or wastage of water.

SCHEDULE 4.

Sec. 5.

**AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO THE UNLAWFUL TAKING OF WATER.**

(1) Section 147 (1), (1A)—

Omit section 147 (1), insert instead :—

(1) Any person who wrongfully alters the index of any meter or prevents any meter from duly registering the quantity of water supplied, or takes or uses water from any reservoir, aqueduct or pipe belonging to or under the control and management of the board, or from any pipe leading to or from any such reservoir, aqueduct or pipe, or from any cistern or other like place belonging to or under the control and management of the board or supplied by it with water for the use of any consumer, is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$2,000, or, in any other case, to a penalty not exceeding \$200.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 4—*continued.***AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO THE UNLAWFUL TAKING OF WATER—*continued.***

(1A) The existence of artificial means for causing such alteration or prevention or for taking or using water as aforesaid shall when such means exist upon or in connection with the pipes or other apparatus for supplying water of the board to any land be *prima facie* evidence that such alteration, prevention, taking or use was wrongfully caused or effected by the occupier of such land.

(2) Section 147 (2)—

Omit “shall be liable to a penalty not exceeding ten dollars”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$200, or, in any other case, to a penalty not exceeding \$20.”.
