

**HUNTER DISTRICT WATER, SEWERAGE AND
DRAINAGE (ELECTIONS) AMENDMENT ACT,
1979, No. 55**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 55, 1979.

An Act to amend the Hunter District Water, Sewerage and Drainage Act, 1938, so as to provide for the election of a member of The Hunter District Water Board by officers and workmen of the board. [Assented to, 9th May, 1979.]

Hunter District Water, Sewerage and Drainage (Elections) 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 :—

Short title.

1. This Act may be cited as the "Hunter District Water, Sewerage and Drainage (Elections) Amendment Act, 1979".

Commencement.

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 5 and Schedule 1 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act.

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

Schedules.

4. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amendment of Act No. 11, 1938.

5. The Principal Act is amended in the manner set forth in Schedule 1.

Savings and transitional provisions.

6. Schedule 2 has effect.

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

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 3, definition of “Elected member”—

After the definition of “Domestic purposes”, insert :—

“Elected member” means the member referred to in section 8 (1) (e).

(2) (a) Section 8 (1) (c) (ii)—

Omit “and” where lastly occurring.

(b) Section 8 (1) (d)—

Omit “three”, insert instead “two”.

(c) Section 8 (1) (d)—

Omit “appropriate.”, insert instead “appropriate; and”.

(d) Section 8 (1) (e)—

After section 8 (1) (d), insert :—

(e) one shall be a person elected as a member in the manner prescribed by the regulations.

(3) Section 12A—

After section 12, insert :—

12A. (1) The regulations may, subject to this Act, make provision for or with respect to the election of a person to hold office as elected member.

as to
elected
members.

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

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) The Electoral Commissioner for New South Wales, or a person employed in the office of the Electoral Commissioner and nominated by him, shall be the returning officer for an election, and shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on the returning officer by the regulations in relation to the election.

(3) Employees of the board are entitled to vote at an election in accordance with the regulations.

(4) A person's nomination as a candidate for election as elected member is invalid if—

(a) the nomination is not made by at least 2 persons who are employees of the board;

(b) he is not, at the time of his nomination, a member of an industrial union registered as such under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Conciliation and Arbitration Act 1904, as subsequently amended, of the Commonwealth; or

(c) the instrument of nomination is not accompanied by a statutory declaration to the effect that he is, at the time of his nomination, such a member,

and the returning officer is entitled to rely on the information contained in the statutory declaration.

(5) Subject to section 26, a person may be, at the same time, both the elected member and an employee of the board.

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

SCHEDULE 1—continued.

AMENDMENTS TO THE PRINCIPAL ACT—continued.

(6) If the elected member is an employee of the board, nothing in any law, rule, direction or other requirement that—

- (a) is applicable to him in his capacity as an employee of the board; and
- (b) would not be so applicable if he were not such an employee,

operates so as to prevent or restrict the exercise or performance by him of any of his powers, authorities, duties or functions as elected member.

(7) If no person is nominated at an election or if for any other reason an election fails, the Governor may appoint a person nominated by the Minister to be a member of the board, and the person so nominated shall, on being appointed, be deemed to be a person elected in the manner prescribed by the regulations.

(8) In this section “employee of the board” means an officer or workman appointed under section 26.

(4) (a) Section 26 (1A)—

After section 26 (1), insert :—

(1A) A member of the board shall not be appointed to any position in the pay of the board unless—

- (a) he is the elected member;
- (b) he was, immediately before he was declared elected, an officer or workman appointed under this section and he has not, after he was declared elected, ceased to be a person who is such an officer or workman; and

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

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) the Governor approves of the appointment.

(b) Section 26 (2)—

After “A”, insert “former”.

(c) Section 26 (3A)—

After section 26 (3), insert :—

(3A) Nothing in subsection (3) applies to the holding of office, by an officer or workman referred to in that subsection, as a member of the board or any other public or local authority, being an office that is to be filled by a person elected pursuant to this or any other Act by officers or workmen appointed under this section or by officers, employees, servants or workmen of the other authority, as the case may be.

(d) Section 26 (4)—

Omit “All”, insert instead “Subject to section 12A (6), all”.

Sec. 6.

SCHEDULE 2.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule—

“appointed day” means the day appointed and notified under section 2 (2);

“board” means The Hunter District Water Board.

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

SCHEDULE 2—continued.

SAVINGS AND TRANSITIONAL PROVISIONS—continued.

2. For the purposes of enabling the board to be constituted as provided by the Principal Act, as amended by this Act, and for any incidental purpose—

- (a) section 5 and Schedule 1 shall be deemed to commence on the date of assent to this Act; and
- (b) the person first appointed pursuant to section 8 (1) (c) of that Act, as so amended, as the elected member shall (subject to that Act, as so amended) assume office on the appointed day.

3. If, immediately before the appointed day, 3 persons hold office as members of the board under section 8 (1) (d) of the Principal Act, those persons shall cease to hold office as such on the appointed day, but nothing in this clause prevents the re-appointment, or the election and appointment, of any of those persons in accordance with the Principal Act, as amended by this Act.

4. Subject to clause 3, nothing in this Act affects the tenure of office of the members of the board holding office immediately before the appointed day.

5. The body corporate in existence under the Principal Act, as amended by this Act, on the appointed day is a continuation of, and the same legal entity as, the body corporate in existence under the Principal Act immediately before the appointed day.
