

**COBAR WATER SUPPLY (AMENDMENT) ACT,
1980, No. 128**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 128, 1980.

An Act to amend the Cobar Water Supply Act, 1963, to increase the number of members of the Cobar Water Board, to place that Board under ministerial control, to increase penalties under that Act and for other purposes. [Assented to, 9th December, 1980.]

Cobar Water Supply (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 "Cobar Water Supply (Amendment) Act, 1980".

Commence-
ment.

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

(2) Section 5, in its application to Schedule 1, 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 Cobar Water Supply Act, 1963, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules :—

SCHEDULE 1.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION.

SCHEDULE 3.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amendment
of Act
No. 44,
1963.

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Cobar Water Supply (Amendment).

6. Schedule 3 has effect.

Savings
and
transitional
provisions.

SCHEDULE 1.

Sec. 5.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 3 (1A)—

After section 3 (1), insert :—

(1A) The Board shall, in the exercise and discharge of its powers, authorities, duties and functions, be subject to the control and direction of the Minister.

(b) Section 3 (2)—

Omit “three”, insert instead “five”.

(c) Section 3 (3) (b)—

Omit “Conzinc Riotinto of Australia Limited, Broken Hill South Limited”, insert instead “CRA Limited”.

(d) Section 3 (3) (c), (d)—

Omit section 3 (3) (c), insert instead :—

(c) one shall be selected by the Minister from a panel of two persons nominated jointly by Electrolytic Zinc Company of Australasia Limited and such other mining companies as the Minister determines; and

(d) two shall be nominated by the Council.

(e) Section 3 (4)—

Omit “paragraph (b) or (c) of subsection (3)”, insert instead “subsection (3) (b), (c) or (d)”.

Cobar Water Supply (Amendment).

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

(f) Section 3 (4)—

Omit “the said paragraph (b) or (c)”, insert instead “subsection (3) (b), (c) or (d), as the case may be”.

(2) Section 5 (1), (2)—

Omit the subsections, insert instead :—

(1) Each member is entitled to be paid such remuneration (including travelling and subsistence allowances) for attending meetings and transacting the business of the Board as the Minister may from time to time determine in respect of him.

(3) Section 6—

Omit the section.

(4) Section 7 (1)—

Omit “two”, insert instead “3”.

(5) Section 25—

Omit “shall be liable on conviction”, insert instead “is guilty of an offence and liable, on indictment,”.

(6) (a) Section 31 (4)—

Omit “or inscribed stock”, insert instead “, inscribed stock or other prescribed securities”.

Cobar Water Supply (Amendment).

SCHEDULE 1—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(b) Section 31 (4)—

Omit “The regulations may provide for the exemption from stamp duty of any other prescribed security.”.

(7) Section 44A—

After section 44, insert :—

44A. Where, in respect of an instrument relating to a transaction, the Board, or a broker, dealer or other person acting on behalf of the Board in respect of that transaction, would, but for this section, be liable to pay stamp duty under the Stamp Duties Act, 1920, in respect of the instrument, the Board, broker, dealer or other person, as the case may be, shall not be so liable.

Stamp
duty
exemption.

(8) Section 50 (1)—

Omit “shall for such offence be liable to a penalty not exceeding ten dollars”, insert instead “is guilty of an offence 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”.

(9) Section 51—

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”.

Cobar Water Supply (Amendment).

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

(10) (a) Section 52—

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

(b) Section 52—

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 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”.

(11) Section 53—

Omit “shall be guilty of an offence and liable to a penalty not exceeding ten dollars”, insert instead “is guilty of an offence 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 54—

Omit “shall be guilty of an offence and liable to a penalty not exceeding ten dollars”, insert instead “is guilty of an offence 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”.

Cobar Water Supply (Amendment).

SCHEDULE 1—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(13) (a) Section 55 (1)—

Omit “shall be guilty of an offence and liable to a penalty not exceeding ten dollars”, insert instead “is guilty of an offence 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”.

(b) Section 55 (2)—

Omit “shall be liable to a penalty not exceeding ten dollars”, insert instead “is guilty of an offence 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”.

(14) Section 57—

Omit the section, insert instead :—

57. (1) Except in the case of an offence under section 25, proceedings for offences under this Act or a regulation may be taken before a court of petty sessions or before the Supreme Court in its summary jurisdiction. **Proceedings for offences.**

(2) If proceedings in respect of an offence under this Act or a regulation 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 or the regulation, as the case may be, \$2,000 (including any daily penalty) or the maximum penalty provided by this Act or the regulation in respect of the offence, whichever is the lesser.

Cobar Water Supply (Amendment).

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

(3) If proceedings in respect of an offence against this Act or a regulation 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 or the regulation, 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 or a regulation may be commenced only within 6 months after the offence was committed.

Sec. 5.

SCHEDULE 2.

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION.

- (1) (a) Section 2, definition of “Catchment district”—
Omit “, as amended by subsequent Acts”.
- (b) Section 2, definition of “Mining company”—
Omit “subsection (5) of section 6”, insert instead
“section 6 (5)”.
- (c) Section 2, definition of “Prescribed”—
Omit the definition.
- (d) Section 2, definition of “Statutory body representing the Crown”—
Omit “, as amended by subsequent Acts”.

Cobar Water Supply (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION—*continued.*

(2) (a) Section 3 (6)—

Omit “the Public Service Act, 1902, or of any Act amending that Act”, insert instead “the Public Service Act, 1979”.

(b) Section 3 (6)—

Omit “any of the said Acts”, insert instead “that Act”.

(3) (a) Section 4 (d)—

Omit the paragraph, insert instead :—

(d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;

(b) Section 4 (f)—

Omit the paragraph, insert instead :—

(f) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

(4) Section 5 (3)—

Omit “the Constitution Act, 1902, as amended by subsequent Acts”, insert instead “any Act”.

Cobar Water Supply (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION—*continued.*

(5) (a) Section 16 (1) (a)—

Omit “paragraph (e) of section 12”, insert instead
“section 12 (e)”.

(b) Section 16 (2) (a) (i), (2) (a) (iii), (2) (b)—

Omit “, as amended by subsequent Acts” wherever
occurring.

(c) Section 16 (2) (a) (ii)—

Omit “the said Act, as so amended”, insert instead
“the Public Works Act, 1912”.

(d) Section 16 (2) (b)—

Omit “subparagraph (ii) of paragraph (a)”, insert
instead “paragraph (a) (ii)”.

(6) Section 17 (3)—

Omit “, as amended by subsequent Acts”.

(7) Section 26 (2)—

Omit “, as amended by subsequent Acts”.

(8) Section 31 (4)—

Omit “as amended by subsequent Acts, contained in the
Second Schedule to that Act, as so amended”, insert instead
“contained in the Second Schedule to that Act”.

(9) Section 32 (1)—

Omit “, or any Act amending or replacing the said Act”.

Cobar Water Supply (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION—*continued.*

(10) Section 36 (2)—

Omit “shall incur a penalty for every such offence not exceeding one hundred dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$100”.

(11) Section 47—

Omit the section, insert instead :—

47. Section 41 of the Interpretation Act, 1897, applies ~~Publication,~~
in respect of a regulation as if this Act had been passed ~~etc.~~
after the commencement of the Interpretation (Amend-
ment) Act, 1969.

(12) (a) Section 58 (3)—

Omit “-1934”.

(b) Section 58 (3), (5)—

Omit “, as amended by subsequent Acts” wherever occurring.

SCHEDULE 3.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule—

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

“board” means The Cobar Water Board constituted under the Principal
Act.

Cobar Water Supply (Amendment).

SCHEDULE 3—*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, in its application to Schedule 1, 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 3 (3) (c) of that Act, as so amended, and the additional member of the board appointed on the nomination of the Cobar Shire Council pursuant to section 3 (3) (d) of that Act, as so amended, shall (subject to that Act, as so amended) assume office on the appointed day.

3. Nothing in this Act affects the tenure of office of the members of the board holding office immediately before the appointed day.

4. 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.
