

**BROKEN HILL WATER AND SEWERAGE
(AMENDMENT) ACT, 1980, No. 166**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 166, 1980.

An Act to amend the Broken Hill Water and Sewerage Act, 1938, so as to make further provision in relation to the power of the Broken Hill Water Board to levy water and sewerage rates, to increase penalties in respect of certain offences, and to subject that Board to the direction and control of the Minister; and for certain other purposes. [Assented to, 15th December, 1980.]

Broken Hill Water and Sewerage (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 "Broken Hill Water and Sewerage (Amendment) Act, 1980".

Commencement.

2. (1) Except as provided in subsections (2)–(6), this Act shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedules 1–5, commence or be deemed to have commenced on the day on which the provision commences or is deemed to have commenced, as the case may require.

(3) Schedule 1 shall commence or be deemed to have commenced, as the case may require, on 1st November, 1980.

(4) Schedule 2 shall commence on such day (being later than 1st November, 1980, or the date of assent to this Act, whichever is the later) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(5) Section 7 and Schedule 3 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.

(6) Section 8 and Schedule 4 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 Broken Hill Water and Sewerage Act, 1938, is referred to in this Act as the Principal Act.

Broken Hill Water and Sewerage (Amendment).

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

**SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO THE LEVY OF RATES.**

SCHEDULE 2.—FURTHER AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE LEVY OF RATES.

**SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO PENALTIES.**

**SCHEDULE 4.—AMENDMENT TO THE PRINCIPAL ACT
RELATING TO CERTAIN EMPLOYMENT CONDITIONS.**

SCHEDULE 5.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

**SCHEDULE 6.—AMENDMENTS TO THE PRINCIPAL ACT
BY WAY OF METRIC CONVERSION.**

5. The Principal Act is amended in the manner set forth in Amendment of Act No. 20, 1938. Schedules 1—5.

6. (1) The Principal Act is further amended by omitting from the provision of that Act specified in Column 1 of Schedule 6 the words specified opposite that provision in Column 2 of that Schedule and by inserting instead the matter specified opposite that provision in Column 3 of that Schedule. Further amendment of Act No. 20, 1938.

(2) The amendments made to the Principal Act by sub-section (1) are for the purpose of metric conversion as referred to in the Metric Conversion (Savings) Act, 1974.

7. The amendments made to the Principal Act by section 5 Savings. and Schedule 3 do not affect any penalty which may be imposed in respect of an offence committed under the Principal Act before the day appointed and notified under section 2 (5).

*Broken Hill Water and Sewerage (Amendment).***Validation
of certain
payments.**

8. Any payment made at any time before the day appointed and notified under section 2 (6), being a payment—

- (a) which was made by the Broken Hill Water Board to any officer employed by it under section 20 (1) of the Principal Act in respect of long service leave; and
- (b) which could have been lawfully made had a provision that could have been adopted at that time under that Act if the amendments made by section 5 and Schedule 4 were in force been so adopted,

is hereby validated.

Sec. 5.**SCHEDULE 1.****AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
LEVY OF RATES.**

(1) (a) Section 76 (1) (k) (ii)—

Omit “business.”, insert instead “business;”.

(b) Section 76 (1) (l)—

After section 76 (1) (k), insert :—

- (l) land which is vested in the University of New South Wales, or in a college thereof, and is used or occupied by the University or college, as the case may be, solely for the purposes thereof.

(2) (a) Section 82 (1), (1A)—

Omit the subsections.

(b) Section 82 (3)—

Omit “Notwithstanding the provisions of subsection (1) the”, insert instead “The”.

Broken Hill Water and Sewerage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
LEVY OF RATES—*continued.*

(3) (a) Section 83 (1), (2)—

Omit the subsections, insert instead :—

- (1) Any rate levied by the board under section 81 shall be levied upon the unimproved value of ratable land.
- (2) In levying any water or sewerage rate it shall be lawful for the board to levy—
 - (a) in respect of any ratable land—a minimum amount;
 - (b) in respect of any ratable land used and occupied as the site of a building comprising (wholly or partly) 2 or more flats—a minimum amount determined on the basis that each flat is a separate ratable parcel;
 - (c) in respect of occupied lands and unoccupied lands, or of any different classes whatever of ratable lands—different minimum amounts; and
 - (d) in respect of any strata lot designed and intended for occupation or use for the purposes of accommodating 1, or more than 1, motor vehicle—water rates and sewerage rates without regard to minimum amounts for those rates.

(b) Section 83 (3)—

Omit “The”, insert instead “Subject to the provisions of this Act, the”.

*Broken Hill Water and Sewerage (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
LEVY OF RATES—*continued.*

(c) Section 83 (3)—

Omit “the Local Government Act, 1919, or any Acts amending such Acts.”.

(d) Section 83 (3)—

Omit “valuation to”, insert instead “valuations to”.

(e) Section 83 (4)—

After section 83 (3), insert :—

(4) In this section—

“flat” means a room or a suite of rooms occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, but does not include a strata lot;

“strata lot” means a lot as defined in section 5 (1) of the Strata Titles Act, 1973.

(4) Sections 83A, 83B—

After section 83, insert :—

**Power to
levy
differential
rates.**

83A. The board may, in respect of the period of 12 months commencing on 1st January, 1981, or any subsequent period of 12 months commencing on 1st January, determine that any water or sewerage rate on ratable land shall differ according to any one or more of the following factors :—

- (a) the amount of the unimproved value of the land;
- (b) the class or description of the land;

Broken Hill Water and Sewerage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
LEVY OF RATES—*continued.*

(c) any other prescribed factor,

and the rates in respect of the land shall be payable accordingly.

83B. (1) This section applies to any water or sewerage rate on ratable land which is levied on the unimproved value of the land for the period of 12 months commencing on 1st January, 1981, or for any subsequent period of 12 months.

Limitation
on certain
increases
in rates
levied on
ratable
land.

(2) Subject to section 83 (2), the board may, by the resolution by which it levies a water or sewerage rate to which this section applies or by a subsequent resolution, determine that the amount of any such rate shall not, in respect of any land, exceed the sum of—

- (a) the amount, calculated in accordance with subsection (3), of that rate, in respect of that land, for the immediately preceding period of 12 months; and
- (b) a specified percentage of that amount.

(3) For the purposes of subsection (2) (a), the amount of a water or sewerage rate payable in respect of any land for the immediately preceding period of 12 months is—

- (a) except as provided in paragraphs (b) and (c)— the amount of the rate levied for the whole of that period;
- (b) where the rate was not levied for the whole of that period—the rate that would have been levied for the whole of that period if the land

*Broken Hill Water and Sewerage (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
LEVY OF RATES—*continued.*

was in, respect of that water or sewerage service, as the case may be, ratable for the whole of that period; or

(c) where a valuation is made or adopted under section 84 (4) in respect of the land during that period—the rate that would have been levied for the whole of that period if that valuation was in force, and the circumstances that caused that valuation to be made or adopted had existed, for the whole of that period.

(4) Notwithstanding subsection (1), the board may, by a resolution referred to in subsection (2), determine that this section shall, in respect of a period of 12 months, apply only to a specified class or description of land.

(5) (a) Section 84 (1)—

Omit the subsection, insert instead :—

(1) For the purposes and subject to the provisions of this Act—

(a) the unimproved value of ratable land shall be—

(i) except as provided in subparagraph (ii)—the unimproved value of the land; and

(ii) in the case of a stratum—the unimproved value of the stratum, as determined in accordance with the Valuation of Land Act, 1916; and

Broken Hill Water and Sewerage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
LEVY OF RATES—*continued.*

(b) the assessed annual value of ratable land shall be the assessed annual value of the land as determined in accordance with the Valuation of Land Act, 1916.

(b) Section 84 (3)—

Omit “any of the said Acts”, insert instead “the Valuation of Land Act, 1916.”.

(c) Section 84 (3A)—

After section 84 (3), insert :—

(3A) A stratum separately valued under the Valuation of Land Act, 1916, may be separately rated.

(d) Section 84 (4)—

Omit “or the Local Government Act, 1919.”.

(e) Section 84 (4)—

Omit “such Act”, insert instead “that Act”.

SCHEDULE 2.

Sec. 5.

FURTHER AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
THE LEVY OF RATES.

(1) Sections 83 (1), 83A (a), 83B (1)—

Omit “unimproved” wherever occurring, insert instead “land”.

Broken Hill Water and Sewerage (Amendment).

SCHEDULE 2—continued.**FURTHER AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
THE LEVY OF RATES—continued.****(2) Section 84 (1)—**

Omit the subsection, insert instead :—

(1) For the purposes and subject to the provisions of this Act, the land value of ratable land shall be—

- (a) except as provided in paragraph (b)—the land value of the land; and
- (b) in the case of a stratum—the unimproved value of the stratum,

as determined in accordance with the Valuation of Land Act, 1916.

Sec. 5.

SCHEDULE 3.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES.****(1) Section 31—**

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) (a) Section 84 (6)—

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 \$1,000, or, in any other case, to a penalty not exceeding \$100”.

Broken Hill Water and Sewerage (Amendment).

SCHEDULE 3—*continued.*

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

(b) Section 84 (7)—

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 \$1,000, or, in any other case, to a penalty not exceeding \$100”.

(3) (a) Section 121 (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 121 (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”.

(4) Section 126A—

After section 126, insert :—

126A. (1) Proceedings for offences under this Act, a regulation or a by-law may be taken before a court 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,

Broken Hill Water and Sewerage (Amendment).

SCHEDULE 3—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—continued.**

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.

(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 6 months after the offence was committed.

(5) Section 130 (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”.

(6) Section 131—

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”.

Broken Hill Water and Sewerage (Amendment).

SCHEDULE 3—*continued.*

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

(7) (a) Section 132—

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

(b) Section 132—

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”.

(8) (a) Section 133—

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 133—

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

(9) Section 134—

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 during which the

Broken Hill Water and Sewerage (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued.*

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”.

(10) Section 136—

Omit “shall be guilty of an offence and 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”.

(11) Section 137—

Omit “shall be guilty of an offence and 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”.

(12) (a) Section 138 (1)—

Omit “shall be guilty of an offence and 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”.

Broken Hill Water and Sewerage (Amendment).

SCHEDULE 3—*continued.*

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

(b) Section 138 (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.”.

SCHEDULE 4.

Sec. 5.

AMENDMENT TO THE PRINCIPAL ACT RELATING TO CERTAIN
EMPLOYMENT CONDITIONS.

Section 120B—

Before section 121, insert :—

120B. (1) A by-law relating to the conditions of employment of officers employed under section 20 (1) may adopt by reference, with such alterations, if any, as are specified in the by-law, any provision of any Act, or of any regulation, determination, order, agreement or award made under any Act, relating to the conditions of employment of persons employed under the Public Service Act, 1979.

(2) Where, pursuant to subsection (1), a by-law adopts a provision referred to in that subsection, the by-law shall, unless it otherwise expressly provides, be deemed to so adopt the provision as in force from time to time.

Broken Hill Water and Sewerage (Amendment).

Sec. 5.

SCHEDULE 5.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 2—

From the matter relating to Division 5 of Part VI, omit “*to certain companies—ss. 97–104.*”, insert instead “*to the Treasurer and certain companies—ss. 97–103.*”.

(2) Section 3, definition of “Hot water apparatus”—

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

“Hot water apparatus” means apparatus for heating water, for storing hot water, or 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.

(3) Section 4A—

After section 4, insert :—

Board
subject to
direction
and
control of
Minister.

4A. 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.

(4) Section 8A—

Omit the section.

(5) (a) Section 30 (1)—

Omit “may enter upon any land or building at any reasonable hour 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

Broken Hill Water and Sewerage (Amendment).

SCHEDULE 5—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(b) enter a dwelling-house at any reasonable time during the day,

(b) Section 30 (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 under this Act, the regulations or the by-laws has been or is being committed.

(c) Section 30 (1A)–(1D)—

After section 30 (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 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.

*Broken Hill Water and Sewerage (Amendment).*SCHEDULE 5—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(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.

(d) Section 30 (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 under this Act, the regulations or the by-laws has been or is being committed, the board

Broken Hill Water and Sewerage (Amendment).

SCHEDULE 5—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

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.

(e) Section 30 (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”.

(6) Section 104—

Omit the section.

(7) Section 120A—

After section 120, insert :—

120A. (1) For the purposes of section 119, hot water ^{Hot} apparatus shall be deemed not to be an outlet from the ^{water} ^{plumbing} water service pipes by which the apparatus is connected to a water main of the board, and—

(a) a reference in section 119 (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

Broken Hill Water and Sewerage (Amendment).

SCHEDULE 5—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(b) a reference in section 119 (1) (j) or (t) 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 119 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.

(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.

Broken Hill Water and Sewerage (Amendment).

SCHEDULE 6.

Sec. 6 (1).

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
METRIC CONVERSION.

Column 1.	Column 2.	Column 3.
Section 26 (2)	six feet	2 metres
Section 26 (2)	thirty feet	10 metres
Section 77 (a)	two hundred and fifty yards	225 metres
Section 77 (a)	three feet	1 metre
Section 78 (a)	two hundred and fifty feet	75 metres
Section 80 (1) (a)	sixty-five gallons	300 litres
Section 80 (1) (a)	thirty gallons	140 litres
Section 100 (2)	fifty cents per thousand gallons	11 cents per kilolitre
Section 100 (2)	twenty-five cents	5.5 cents per kilolitre