

**WATER (AMENDMENT) ACT.**

**New South Wales**



ANNO VICESIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 21, 1971.**

An Act with respect to the supply of water for irrigation in certain circumstances; to validate certain matters; to amend the Water Act, 1912, in certain respects; and for purposes connected therewith. [Assented to, 25th May, 1971.]

BE

*Water (Amendment).*

**No. 21, 1971** **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 "Water (Amendment) Act, 1971".

Amendment  
of Act No.  
44, 1912.  
Sec. 131.  
(Proposal  
for con-  
stitution of  
districts.)

2. The Water Act, 1912, is amended—

(a) (i) by inserting at the end of paragraph (d) of subsection two of section one hundred and thirty-one the following new subparagraph :—

(v) the terms of any condition imposed under subsection (2A) of this section;

(ii) by inserting next after the same subsection the following new subsections :—

(2A) The Commission may impose, as a condition of a proposal for a domestic and stock water supply and irrigation district, a prohibition on the supply of water for the irrigation of land or fruit trees, vines, crops or other plantings.

(2B) A condition imposed under subsection (2A) of this section may relate to the irrigation of one or more of the following :—

(a) land that is of an area greater than a specified area;

(b) land within a specified holding or land within a holding that is of a specified class of holdings;

(c) unspecified fruit trees, vines, crops or other plantings; or

(d) one or more specified types of fruit trees, vines, crops or other plantings.

(b)

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- (b) by inserting next after subsection one of section one hundred and thirty-two the following new subsection :—

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Sec. 132.  
(Constitution of provisional districts.)

(1A) Subject to any amendments that take effect under subsection one of this section, a provisional domestic and stock water supply and irrigation district constituted under that subsection shall be deemed to have been so constituted subject to any condition imposed under subsection (2A) of section one hundred and thirty-one of this Act with respect to the proposal for the constitution of the district.

- (c) by inserting next after subsection three of section one hundred and thirty-three the following new subsection :—

Sec. 133.  
(Constitution of districts.)

(3A) Subject to any modification, suspension or revocation in force under section 133D of this Act, a domestic and stock water supply and irrigation district constituted under subsection three of this section shall be deemed to have been so constituted subject to any condition that, by the operation of subsection (1A) of section one hundred and thirty-two of this Act, affected the district at the time of its provisional constitution.

- (d) by inserting next after section 133B the following heading and new sections :—

New secs 133c and 133D.

*Imposition and alteration of certain conditions.*

133c. (1) Subject to subsection two of this section—

Certain conditions deemed to have been imposed.

- (a) a provisional domestic and stock water supply and irrigation district constituted before the commencement of the Water (Amendment) Act, 1971 ; and

(b)

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- (b) a domestic and stock water supply and irrigation district so constituted,

shall be deemed to have been constituted subject to a condition prohibiting the supply of water to the holdings within the district for the irrigation of commercial orchards or vineyards or for the irrigation of rice.

(2) The prohibition referred to in subsection one of this section does not extend to the supply of water for the irrigation of an area of land that, in the opinion of the Commission was, at the commencement of the Water (Amendment) Act, 1971, land used in good faith as a commercial orchard or vineyard.

Imposition  
and modification,  
etc.,  
of certain  
conditions.

133D. (1) The Governor may, by proclamation published in the Gazette in respect of—

- (a) a provisional domestic and stock water supply and irrigation district constituted after the commencement of the Water (Amendment) Act, 1971; or
- (b) a domestic and stock water supply and irrigation district so constituted, being a district that had also been provisionally constituted after that commencement,

impose a condition of the like nature to that which the Commission is authorised to impose under subsection (2A) of section one hundred and thirty-one of this Act.

(2) The Governor may, by proclamation published in the Gazette in respect of—

- (a) a provisional domestic and stock water supply and irrigation district; or
- (b) a domestic and stock water supply and irrigation district,

modify

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modify or revoke, or suspend for such period or periods, and on such conditions, as are notified in the proclamation, a condition (including a condition in force under subsection one of section 133C of this Act) subject to which the district was constituted or a condition imposed under subsection one of this section. No. 21, 1971

(3) A proclamation under subsection one or two of this section may be expressed to relate to—

- (a) all holdings within the district to which the proclamation relates;
- (b) specified holdings within that district or holdings within that district of a specified class or of specified classes; or
- (c) all holdings within that district other than—
  - (i) specified holdings; or
  - (ii) a specified class, or specified classes, of holdings,

and shall have effect accordingly.

- (e) by inserting next after subsection nine of section one hundred and forty-seven the following new subsection : — Sec. 147.  
(Supply of water.)

(9A) Where new holdings referred to in subsection nine of this section are constituted within—

- (a) a provisional domestic and stock water supply and irrigation district; or
- (b) a domestic and stock water supply and irrigation district,

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and the holding from which they were derived was, immediately before the specified date referred to in that subsection, subject to a condition, the new holdings shall, except to the extent that the Governor otherwise declares, be subject to that condition.

In this subsection "condition" in relation to a holding in a district referred to in paragraph (a) or (b) of this subsection means a condition subject to which the district was constituted (including a condition in force under subsection one of section 133c of this Act) or a condition imposed under subsection one of section 133D of this Act as, in either case, modified or suspended under subsection two of section 133D of this Act.

Validation.

3. Where a proclamation made or any other act or thing done (whether of the same or of a different kind) before the commencement of this Act would, but for this section, have been unlawful, the making of the proclamation or, as the case may be, the doing of the act or thing is hereby validated to the extent to which it could have been lawfully made or done had the Water Act, 1912, as amended by this Act, been in force when it was made or done.

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