

RIGHTS IN WATER AND IRRIGATION.

11° Elizabeth II., No. LXX.

No. 70 of 1962.

AN ACT to amend the Rights in Water and Irrigation Act, 1914-1954.

[Assented to 30th November, 1962.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Rights in Water and Irrigation Act Amendment Act, 1962.*

(2) In this Act the Rights in Water and Irrigation Act, 1914-1954, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the *Rights in Water and Irrigation Act, 1914-1962.*

Short title
and citation.

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2. This Act shall come into operation on a day to be fixed by proclamation. Commence-
ment.

3. Section two of the principal Act is amended— S. 2
amended.

(a) by substituting for the interpretation, “Artesian Well”, the following interpretation—

“Artesian Well” means an artesian well or bore, including all works, within the meaning of this Act, constructed or erected therewith, from which water flows, or has flowed, naturally to the surface. ;

(b) by inserting, after the interpretation, “Minister”, the following interpretation—

“Non-artesian Well” means a well or bore, including all works, within the meaning of this Act, constructed or erected therewith, from which water does not flow, and has not flowed, naturally to the surface, but has to be raised, or has been raised, by pumping or other artificial means. ;
and

(c) by inserting, immediately after the word, “wells”, in line four of the interpretation, “Works”, the passage, “, non-artesian wells”.

4. Section four of the principal Act is amended by deleting the passage commencing, “; and”, in line five of subsection (3), and ending with the word, “means”, being the last word in the subsection. S. 4
amended.

5. Section ten of the principal Act is amended by substituting for the passage, “or marsh,” in line seven, the passage, “, marsh or subterranean water source”. S. 10
amended.

S. 11
amended.

6. Section eleven of the principal Act is amended by substituting for the words, "or marshes", in line six, the passage, ", marshes or subterranean sources".

S. 18
repealed and
re-enacted.

7. Section eighteen of the principal Act is repealed and re-enacted with amendments, as follows:

Certain
wells to be
subject of
license.

18. (1) The Governor may by proclamation declare any part of the State lying north of the twenty-sixth parallel of south latitude, named or defined in the proclamation, to be a proclaimed area for the purposes of this section; and may, by subsequent proclamation, vary or cancel any such proclamation.

(2) Subject to the provisions of subsection (3) of this section, a person shall not, except on behalf of the Crown or pursuant to a license, issued for that purpose under the provisions of section twenty of this Act, commence, construct, enlarge, deepen, alter or draw water from—

(a) any artesian well, wherever situate;
or

(b) any non-artesian well that is situate in a proclaimed area,

or cause, suffer or permit any of those things to be done.

(3) Where any work required, under the provisions of this section, to be the subject of a license has, on the day of the coming into operation of the Rights in Water and Irrigation Act Amendment Act, 1962, or on the day of a proclamation made under subsection (1) of this section, been commenced and is not completed, the occupier of the land on which the work was commenced shall, within two months after the day of that coming into operation or of the proclamation (as the case may be), apply for a license for that work, under the provisions of section twenty of this Act.

(4) Where, on the day of the coming into operation of the Rights in Water and Irrigation Act Amendment Act, 1962, a then existing artesian well is not the subject of a license issued under section twenty of this Act and where an existing non-artesian well is, by operation of a proclamation made under this section, brought into a proclaimed area, the occupier, in either case, of the land upon which the well is situate shall, within two months after the day of that coming into operation or of the proclamation (as the case may be), apply, under section twenty of this Act, for a license to draw water from that well.

(5) A person who, being an owner or occupier of land, contravenes, or fails to comply with, the provisions of this section, or, being a person engaged for the purpose of carrying out any work in this section mentioned, carries out, or commences, work for which a license has not been issued, commits an offence.

Penalty: One hundred pounds and, where the offence continues after conviction, five pounds for each day that the offence so continues. .

8. Section twenty of the principal Act is repealed and re-enacted with amendments, as follows:

S. 20
repealed and
re-enacted.

20. (1) Every application for a license for the commencement or construction of an artesian well or a non-artesian well or for the enlargement, deepening or altering of, or the drawing of water from, an existing well shall be made to the Minister in the prescribed form and shall be accompanied by the prescribed plans and specifications, together with a statement of the purposes for which it is proposed to use the water.

Applications
for and issue
of licenses.

(2) The Minister may, in his discretion—

- (a) issue a license to the applicant, in the prescribed form, subject to such terms, limitations and conditions, as he thinks fit;

(b) before granting a license, require such alterations to be made in, or in connection with, the work or the plans and specifications, as he thinks fit; or

(c) refuse a license.

(3) A license shall be deemed to be held by, and shall operate for the benefit of, the lawful owner and the occupier, for the time being, of the land whereon the well is sunk or is proposed to be sunk.

(4) An applicant for a license who is aggrieved by any decision of the Minister made under this section may, within thirty days after receiving advice of the decision, give notice to the Minister of his wish to be heard, before the decision is implemented.

(5) Where the Minister receives a notice such as is mentioned in subsection (4) of this section, the Minister shall cause an inquiry to be conducted by such person or persons as he shall appoint and the person aggrieved shall be heard at any such inquiry; and the Minister shall thereafter give such decision as he thinks fit. .

S. 21
substituted.

9. Section twenty-one of the principal Act is repealed and the following section is substituted:

Powers of
Minister in
case of
improper
user of
water.

21. (1) If the Minister is of the opinion that water drawn from any artesian well or from a non-artesian well situate in a proclaimed area, whenever constructed,—

(a) is being improperly used; or

(b) is being wasted, whether by reason of neglect, failure to effect repairs or alterations reasonably necessary for the proper maintenance of the well or any other cause; or

(c) is having harmful effect; or

(d) is not being used to the best advantage, he may, after giving thirty days notice of his intention in that regard, direct the closing or

partial closing of the well or direct such other steps (including any reasonable repairs and alterations) to be taken as he thinks necessary to prevent the continuance of any of the things mentioned in paragraph (a), (b), (c) or (d) of this subsection.

(2) The Minister may, for the purpose of regulating the quantity of water to be drawn from any artesian or non-artesian subterranean water source, from time to time stipulate the amount of water that may be drawn, and the rate of draw, for any artesian well or non-artesian well that draws water from that subterranean source.

(3) A person who fails to comply with a direction given pursuant to this section commits an offence.

Penalty: Twenty pounds and, where the offence is a continuing one, five pounds for each day that the offence continues after the direction is given.

(4) Where a person is convicted of an offence against this section, the Minister may cancel the license given in respect of the well in regard to which the offence was committed; and a person shall not thereafter do, or cause, suffer or permit to be done, any thing that was authorised by the license to be done. .

10. Section twenty-two of the principal Act is amended— S. 22
amended.

(a) by substituting for the words, "such license", in line one of subsection (1), the words, "a license issued under the provisions of section twenty of this Act"; and

(b) by substituting for the passage, "the license may, by notice in the *Gazette*, be cancelled" in lines seven and eight of subsection (2), the passage, "the Minister may cancel the

license given in respect of the well in regard to which the offence was committed; and a person shall not thereafter do, or cause, suffer or permit to be done, any thing that was authorised by the license to be done”.
