

WATER BOARDS.

6° GEO. VI., No. VI.

No. 6 of 1942.

AN ACT to amend section one hundred and eight of the Water Boards Act, 1904-1941, and for other purposes incidental thereto.

[Assented to 31st October, 1942.]

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

1. This Act may be cited as the *Water Boards Act Amendment Act*, 1942, and shall be read as one with the Water Boards Act, 1904-1941 (No. 4 of 1904 as amended by the Acts No. 4 of 1919, No. 16 of 1925, No. 26 of 1928, No. 25 of 1937, and No. 10 of 1941), hereinafter referred to as the principal Act.

Short title.
cl. No. 10 of
1941, s. 7.

2. Section one hundred and eight of the principal Act is repealed and a section is inserted in lieu thereof as follows:—

Amendment
of s. 108.
Repeal and
new section.

108. (1) If money due for rates or water supplied under this Act remains unpaid for the term of three years or longer after the same became due and payable in respect of any land the water board may cause a notice, in the form of the Seventh Schedule to this Act, to

Land may be
sold for
arrears of
rates, etc.,
remaining
unpaid for
three years.

be published in the *Government Gazette* and in a newspaper usually circulating in the water area district, three times, at intervals of not less than one week between any two publications.

- (2) If the money due and expenses are not paid at or before the expiration of the time specified in such notice the water board may present a petition, in the form of the Tenth Schedule to this Act, to the local court held nearest to the office of the board, stating the imposition of the rate on the said land, the supply of water (if any), and the amount due for the same, the non-payment thereof, and the publication of the notices aforesaid.
- (3) The magistrate of the local court, on being satisfied of the proof of such circumstances, shall order the said land, or such part thereof as may be deemed sufficient to satisfy the money due, expenses, and costs to be sold by the bailiff of the local court, or by some other person, to be named in such order, by public auction, and the proceeds of such sale to be paid to the clerk of the local court.
- (4) The magistrate may, at the time of making any such order, give any directions that he may deem proper touching the time and place of such sale and the notices to be given thereof, and such directions, unless subsequently varied by the magistrate, shall be adhered to.
- (5) No neglect of any such directions shall in any wise invalidate any such sale; but the person or persons neglecting the same may be ordered by the magistrate to make compensation, to be assessed as the said court may direct, to any person injured by such neglect.
- (6) A certificate of sale of any land, according to the form in the Eighth Schedule to this Act, made out by the bailiff or other person directed in the order of the magistrate to sell the same, shall be given to the purchaser; and the Registrar of Titles, the Under Secretary for Lands, or the Under Secretary for Mines, as the case may be, on production of the said certificate, and of an office copy of

the said order, and on payment of the proper fees, shall register the certificate of sale in like manner as a transfer of the land, and issue to such purchaser a certificate or other instrument of title, free from all encumbrances, other than a mortgage to the Agricultural Bank of Western Australia.

- (7) The moneys arising from the sale of the land shall be paid into the local court and shall in priority to every mortgage, encumbrance, lien, caveat, judgment, writ, warrant or other charge, agreement, or process registered against or in any way affecting the land, and notwithstanding the disability of any person or any statute of limitations, be applied by the clerk of the court, under the direction of the magistrate—

Firstly—In payment of the costs and expenses of the bailiff or other person of and incidental to the sale of the land:

Provided that, if the moneys arising from the sale of the land are insufficient to pay such costs and expenses, the same or the balance unpaid, shall be a debt due by the water board to the bailiff or other person aforesaid, and may be recovered by him accordingly.

Secondly—In payment of the costs and expenses of the water board of and incidental to the publication of notices and the petition to the local court for the order for the sale of the land.

Thirdly—In payment of all unpaid rates and taxes at the time of the sale due to or imposed in favour of the Crown in right of the State or any department or agency of the Government of the State, and also of all moneys unpaid and due to the water board, and also of all unpaid rates due to or imposed by the municipal council or road board and the local authority under the Health Act, 1911-1937, in respect of the land at the time of the sale:

Provided that, where the moneys remaining after the payments provided for firstly and secondly herein have been made are not suffi-

cient for the payment in full of all the rates, taxes, and other moneys mentioned and provided for in this paragraph, such moneys shall be distributed between the Crown, the department, the agency, the water board, the municipal council or road board and the local health authority *pro rata* with the amounts of their claims respectively.

Fourthly—In payment of any moneys due under any mortgage to the Agricultural Bank of Western Australia.

Fifthly—In payment of all vendor's costs and expenses of and in connection with conferring upon the purchaser a clear title to the land.

Sixthly—In or towards the discharge of all or any other mortgages or mortgage or encumbrances or encumbrance proved to the satisfaction of the magistrate to exist over the land, due regard being had to the respective priorities of any such mortgages or encumbrances.

Seventhly—In payment to the person who would but for the proceedings for sale be entitled to the land, or if there are several persons who would be so entitled, then to such persons in the proportions in which they would be respectively so entitled: Provided that, if any person is entitled to an estate in reversion or remainder in the said land, the money may be paid into the Supreme Court under section forty-six of the Trustees Act, 1900.

Provided that, with the consent of the Governor or of the Minister controlling any department or agency of the Government of the State (as the case may require), the magistrate may order that any unpaid rates and taxes due to or imposed in favour of the Crown or any such department or agency as aforesaid shall be postponed to or shall rank on an equal footing with the moneys unpaid to the water board in respect of the land sold, and such order shall be given effect to.

3. The Seventh Schedule to the principal Act is amended by deleting from the form contained therein the words "Supreme Court" where they appear in line fourteen of the said form and inserting in lieu thereof the words "Local Court held nearest to the office of the water board."

Amendment of Seventh Schedule.

4. The Eighth Schedule to the principal Act is amended by deleting from the form contained therein the words "Supreme Court" where they appear in line four of the said form and inserting in lieu thereof the words "Local Court held at....."

Amendment of Eighth Schedule.

5. A Schedule is added to the principal Act after the Ninth Schedule as follows:—

New Schedule.

TENTH SCHEDULE.

Section 108 (2).

THE WATER BOARDS ACT, 1904-1942.

Petition for an Order for Sale of Land on which Moneys for Rates or Water supplied are in Arrears.

In the Local Court } In the matter of the Water Boards
at } Act, 1904-1942;

and

In the matter of an application by the.....
Water Board for an order for sale of land for unpaid rates (or water supply charges)

THE Petition of the said.....Water Board sheweth to the said Local Court as follows:—

1. Certain rates (or certain water supply charges) duly made on assessments by the petitioner in respect of the land described in the Schedule hereto, which said lands are situate in the..... Water Area, have been unpaid for three years or longer since they became due and payable, and there is now due to the petitioner for and in respect of such rates (or water supply charges) on each piece or parcel of the said land, the sum indicated in respect of such piece or parcel in the said Schedule.

2. The petitioner has duly published the notices required by and in accordance with subsection (1) of section 108 of the Water Boards Act, 1904-1942.

3. The petitioner therefore prays that the said land may be ordered to be sold pursuant to section 108 of the Water Boards Act, 1904-1942.

SCHEDULE.

No.	Description of Land.	Reference to Volume and Folio of Title to land if under the Transfer of Land Act, 1893.		Name and Address of rateable Owner or Occupier of Land.	Rates (or Water supply charges) due to the Water Board and in arrear.
		Vol.	Folio.		
1					
2					
3					
4					
etc.					

The Common Seal of the.....Water Board was hereunto affixed the.....day of.....19...., in the presence of:—

Citation of principal Act as amended.

6. The principal Act as amended by this Act may be cited as the Water Boards Act, 1904-1942.