

METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE.

No. 83 of 1976.

AN ACT to amend the Metropolitan Water Supply,
Sewerage, and Drainage Act, 1909-1975.

[Assented to 21st October, 1976.]

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 *Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act, 1976.*

Short title
and
citation.

(2) In this Act the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909-1975 is referred to as the principal Act.

Reprinted
as
approved
for
reprint
21st
November,
1969
and
amended by
Acts Nos. 11
and 48 of
1970, 43 and
94 of 1972
and 24 of
1975.

(3) The principal Act as amended by this Act may be cited as the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909-1976.

Commencement.

2. (1) Subject to subsection (2) of this section the provisions of this Act shall come into operation on the date on which this Act receives the Royal Assent.

(2) Sections 6, 7, 8, 9, 10 and 11 of this Act shall come into operation on a date to be fixed by proclamation.

Section 3 amended.

3. Section 3 of the principal Act is amended by adding after the passage "PART VIIA.—METROPOLITAN MAIN DRAINAGE, ss. 71A-71E." the passage "PART VIIB.—CONTRIBUTIONS BY SUBDIVIDERS TOWARDS COSTS INCURRED BY OTHER SUBDIVIDERS OR BY THE BOARD, ss. 71F-71K."

Section 16 repealed and re-enacted.

4. The principal Act is amended by repealing section 16 and re-enacting that section as follows—

Penalty for diverting or taking water.

16. Any person who, without the authority of the Board,—

- (a) diverts, or causes the diversion of, water coming from any stream, watercourse or other source within a water reserve or catchment area;
- (b) takes, or causes the taking of, any water found on or under land comprising a water reserve or catchment area;
- (c) does, or causes the doing of, any act that may diminish the quantity or injure the quality or purity of water coming from any stream, watercourse or other source within a water reserve or catchment area; or
- (d) alters, or causes the alteration of, the course of any stream or watercourse within a water reserve or catchment area,

commits an offence against this Act.

Penalty: Not exceeding one hundred dollars for each day during which that water is so diverted or taken, or the quantity, quality or purity of that water is so reduced, or the course of that stream or watercourse is so altered. .

5. Section 17 of the principal Act is amended by adding after the word "within" in line two of subsection (1), the words "or under".

Section 17
amended.

6. Section 20 of the principal Act is amended by deleting the passage commencing with the word "except" in line two and ending with the word "sections" in line six, and substituting the words "other than works consisting wholly of exempt works".

Section 20
amended.

7. Section 22 of the principal Act is amended by adding after subsection (2) a subsection as follows—

Section 22
amended.

(3) Subject to section twenty-three B of this Act, where such an objection relates to provisions of the plans, sections or specifications relating to exempt works the Board may make such alterations, if any, to those provisions as it considers appropriate to meet the objection. .

8. Section 23 of the principal Act is amended—

Section 23
amended.

(a) by adding after the word "lodged" in line one of paragraph (d) the passage "have been met by alterations made pursuant to subsection (3) of section twenty-two of this Act or"; and

(b) by deleting the words "and estimates" in the first line that follows paragraph (d), and substituting the passage "specifications and estimates, together with any such alterations,".

Section 23A added.

9. The principal Act is amended by adding after section 23 a section as follows—

Minor departures from plans, etc.

23A. Subject to section twenty-three B of this Act, in the course of constructing or providing works pursuant to an Order made under section twenty-three of this Act the Board may, in relation to any portion of those works that consists of exempt works, depart from any provision of the plans, sections and specifications to such extent as it considers necessary or convenient in the circumstances. .

Section 23B added.

10. The principal Act is amended by adding after section 23 a section as follows—

Limitation on alterations to plans, etc.

23B. Nothing in subsection (3) of section twenty-two or in section twenty-three A of this Act authorises the Board to make any alteration to or departure from the plans, sections and specifications relating to a portion of any works if, as a result of that alteration or departure, that portion of the works would cease to be exempt works. .

Section 23C added.

11. The principal Act is amended by adding after section 23 a section as follows—

Governor may exempt certain works.

23C. In sections twenty, twenty-two, twenty-three A and twenty-three B of this Act “exempt works” means such reticulation or other minor works as the Governor declares, and is hereby authorised to declare, by Order to be exempt works for the purposes of those sections and sections twenty-one and twenty-three of this Act. .

Section 29 amended.

12. Subsection (3) of section 29 of the principal Act is amended—

(a) by deleting the word “lower” in line one and substituting the passage “raise, lower or otherwise alter the position or alignment of”; and

- (b) by deleting the words "or lower" in line three and substituting the passage ", lower or otherwise alter the position of".

13. Section 37 of the principal Act is amended by deleting the word "On" in line one, and substituting the passage "Subject to the provisions of Part VIIB of this Act, on".

Section 37 amended.

14. The principal Act is amended by adding after section 57E a section as follows—

Section 57EA added.

57EA. The Board may take any water found under land within a Public Water Supply Area. .

Power to take water.

15. The principal Act is amended by adding after section 71E a heading and section as follows—

Heading and section 71F added.

PART VIIB.—CONTRIBUTIONS BY SUBDIVIDERS TOWARDS COSTS INCURRED BY OTHER SUBDIVIDERS OR BY THE BOARD.

71F. (1) In this Part—

Interpretation and application of this Part.

(a) "plan of subdivision" includes an amended plan of subdivision;

"planning condition" means a condition affixed under the provisions of Part III of the Town Planning and Development Act, 1928 to the granting of approval of a plan of subdivision;

"present cost" in relation to completed works referred to in an agreement entered into under section seventy-one G of this Act or in a notice served under section seventy-one H of this Act, means the cost that would have been incurred in providing those works if a contract for them had been

let at the date of the agreement or at the date of the service of the notice, as the case may be;

“proclaimed date” means the date of the coming into operation of section sixteen of the Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act, 1976;

“Town Planning Board” means the Town Planning Board constituted under the Town Planning and Development Act, 1928;

(b) a reference to the provision of works includes, as the case may require, a reference to the construction, extension, alteration or improvement of works.

(2) Notwithstanding anything to the contrary contained in section thirty-six or thirty-seven of this Act the provisions of this Part apply to and in relation to any land irrespective of whether or not that land is rated under this Act and whether or not that land is within the Area.

(3) The provisions of sections seventy-one G and seventy-one H of this Act are in addition to, and not in derogation of, the provisions of sections thirty-eight, forty-three and sixty-one A of this Act.

Section 71G added.

16. The principal Act is amended by adding after section 71E a section as follows—

Board may require subdividers to enter into agreements regarding costs of works.

71G. (1) Where, on the submission of a plan of subdivision of any land for approval under the provisions of Part III of the Town Planning and Development Act, 1928, a planning condition

(in this section called “the condition”) is imposed requiring any one or more of the following things, that is to say—

- (a) the supply of water to that land by the Board;
- (b) the drainage of that land into the Board’s sewers;
- (c) the drainage of that land into a metropolitan main drain,

and the Board considers that in order for the condition to be complied with it is necessary for the Board to provide works to serve that land, either alone or together with other lands, the Board may serve a notice on the person by whom that plan of subdivision was submitted requiring that the owner of that land, or a person authorised to enter into an agreement on his behalf, enter into an agreement with the Board under this section in relation to the provision of those works.

(2) Any agreement under this section between the Board and the owner of land or a person authorised to enter into an agreement on his behalf may *inter alia* provide that, in the event of the plan of subdivision of the land being approved under the provisions of the Town Planning and Development Act, 1928 and of the subdivision being proceeded with,—

- (a) that owner, or person so authorised, shall pay to the Board the whole of—
 - (i) the cost of providing the works that are the subject of the agreement; and
 - (ii) the estimated cost of operating pumping stations, treatment plants and ancillary works for a period not exceeding five years,

or such part of those costs as the Board considers reasonable to be paid in respect of that land having regard to

the benefit of those works to that land and to any other lands that will, in the opinion of the Board, be capable of being served by those works;

(b) that owner, or person so authorised, shall pay to the Board an amount based on the area of that land and the proposed use to which that land is to be put and assessed by the Board to be a fair and reasonable contribution towards—

(i) where the condition relates to water supply, the cost of the Board's headworks and distribution systems;

(ii) where the condition relates to sewerage, the cost of the Board's outfall sewers and disposal system; and

(iii) where the condition relates to metropolitan main drainage, the cost of the Board's metropolitan main drainage systems;

(c) that owner, or person so authorised, shall pay to the Board an amount or amounts assessed by the Board to be—

(i) a reasonable proportion of the cost of any works being or to be provided by the Board and paid for or to be paid for out of the funds of the Board;

(ii) a reasonable proportion of the present cost of the provision of completed works provided by the Board and paid for out of the funds of the Board,

which works are, or after they are provided will be, capable of being extended, altered or improved so as to

be available and adequate to serve that land or part of that land for the purposes to which the condition relates;

(d) that owner, or person so authorised, shall pay to the Board an amount or amounts assessed by the Board to be—

(i) a reasonable proportion of the cost of any works being or to be provided pursuant to an agreement under this Act between the Board and any other person whether entered into before or after the proclaimed date;

(ii) a reasonable proportion of the present cost of the provision of completed works provided pursuant to an agreement under this Act between the Board and any other person whether entered into before or after the proclaimed date,

which works are, or after they are provided will be, capable of being extended, altered or improved so as to be available and adequate to serve that land or part of that land for the purposes to which the condition relates; and

(e) such amount as is agreed upon shall be advanced to the Board by that owner, or person so authorised, towards any remaining part of the cost of providing the works specified in the agreement.

(3) Any agreement under this section may also make provision for—

(a) the repayment of the whole or such part as may be agreed upon of an advance referred to in paragraph (e) of subsection (2) of this section; and

- (b) security that may be lodged with the Board to secure a payment or advance referred to in paragraph (a), (b), (c), (d) or (e) of subsection (2) of this section.

(4) The provisions of section one hundred and twenty-eight of this Act do not apply to or in relation to any advance referred to in paragraph (e) of subsection (2) of this section.

(5) Where the Board is to provide works pursuant to an agreement under this section it may, notwithstanding the terms of the agreement, provide works involving greater expenditure than those specified in the agreement if the additional cost is borne by the Board.

(6) All works provided, or in the course of being provided, pursuant to an agreement under this section shall vest in and be the property of the Board. .

Section 71H added.

17. The principal Act is amended by adding after section 71E a section as follows—

Board may require subdividers to contribute towards costs of existing or proposed works.

71H. (1) Where, on the submission of a plan of subdivision of any land for approval under the provisions of Part III of the Town Planning and Development Act, 1928, a planning condition (in this section called “the condition”) has been imposed requiring any one or more of the following things, that is to say—

- (a) the supply of water to that land by the Board;
- (b) the drainage of that land into the Board’s sewers;
- (c) the drainage of that land into a metropolitan main drain,

the Board may serve a notice on the person by whom that plan of subdivision was submitted requiring that the owner of that land, or a person authorised to enter into an agreement on his behalf, enter into an agreement with the Board under this section.

(2) Any agreement under this section between the Board and the owner of land or a person authorised to enter into an agreement on his behalf may *inter alia* provide that, in the event of the plan of subdivision being approved under the provisions of the Town Planning and Development Act, 1928 and of the subdivision being proceeded with,—

- (a) that owner, or person so authorised, shall pay to the Board an amount based on the area of that land and the proposed use to which that land is to be put and assessed by the Board to be a fair and reasonable contribution towards—
 - (i) where the condition relates to water supply, the cost of the Board's headworks and distribution systems;
 - (ii) where the condition relates to sewerage, the cost of the Board's outfall sewers and disposal system; and
 - (iii) where the condition relates to metropolitan main drainage, the cost of the Board's metropolitan main drainage systems;
- (b) that owner, or person so authorised, shall pay to the Board an amount or amounts assessed by the Board to be—
 - (i) a reasonable proportion of the cost of any works being or to be provided by the Board and

paid for or to be paid for out of the funds of the Board;

- (ii) a reasonable proportion of the present cost of the provision of completed works provided by the Board and paid for out of the funds of the Board,

which works are, or after they are provided will be, available and adequate to serve that land or part of that land for the purposes to which the condition relates;

- (c) that owner, or person so authorised, shall pay to the Board an amount or amounts assessed by the Board to be—

- (i) a reasonable proportion of the cost of any works being or to be provided pursuant to an agreement under this Act between the Board and any other person whether entered into before or after the proclaimed date;

- (ii) a reasonable proportion of the present cost of the provision of completed works provided pursuant to an agreement under this Act between the Board and any other person whether entered into before or after the proclaimed date,

which works are, or after they are provided will be, available and adequate to serve that land or part of that land for the purposes to which the condition relates.

(3) Any agreement under this section may also make provision for security that may be lodged with the Board to secure a payment referred to in paragraph (a), (b) or (c) of subsection (2) of this section. .

18. The principal Act is amended by adding after section 71E a section as follows— Section 71I added.

71I. (1) Where a notice has been served on a person under section seventy-one G or seventy-one H of this Act the Board— Variation and rescission of notices.

(a) may at its discretion; and

(b) shall if so directed pursuant to subsection (2) of this section,

serve a further notice on that person varying or rescinding the first-mentioned notice.

(2) The Minister may, on the application of a person on whom a notice has been served under section seventy-one G or seventy-one H of this Act, direct the Board to vary or rescind that notice. .

19. The principal Act is amended by adding after section 71E a section as follows— Section 71J added.

71J. Where the Board serves a notice under section seventy-one G, seventy-one H or seventy-one I of this Act it shall forthwith serve a copy of that notice on the Town Planning Board. . Copies of notices to be served on Town Planning Board.

20. The principal Act is amended by adding after section 71E a section as follows— Section 71K added.

71K. (1) Where a person complies with the requirements of a notice served under section seventy-one G or seventy-one H of this Act the Board shall forthwith notify the Town Planning Board that those requirements have been complied with. Subdivision not to be approved until notice complied with.

(2) Notwithstanding any provision of the Town Planning and Development Act, 1928, where a copy of a notice served under section seventy-one G or seventy-one H of this Act has been served on the Town Planning Board under

