

LAND DRAINAGE.

No. 38 of 1978.

AN ACT to amend the Land Drainage Act,
1925-1977.

[Assented to 29th August, 1978.]

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 *Land Drainage Act Amendment Act, 1978.*

Short title
and
citation.

(2) In this Act the Land Drainage Act, 1925-1977 is referred to as the principal Act.

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as approved
22nd May,
1967 in
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Reprinted
Acts and
amended
by Acts Nos.
73 of 1972
and 14 of
1977.

(3) The principal Act as amended by this Act may be cited as the Land Drainage Act, 1925-1978.

Commence-
ment.

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

(2) Sections 5, 6, 7 and 13 of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation.

Long
title
amended.

3. The long title to the principal Act is amended by adding after the word "Land" in the first line the passage ", the Use of Drains and Drainage Water".

Section 2
amended.

4. Section 2 of the principal Act is amended by inserting above the passage "PART VIII.—FINANCE, Sections 115-136." the passage "*Division 6.—Collection of Drainage Rates by Local Authorities, Sections 114A and 114B.*".

Section 60
amended.

5. Section 60 of the principal Act is amended by repealing subsections (2), (3), (4) and (5) and substituting subsections as follows—

(2) The board shall not undertake the construction of drainage works pursuant to subsection (1) of this section, other than works consisting wholly of exempt works, unless the board has complied with the requirements of subsections (3), (4), (5) and (6) of this section and the Governor has thereupon by Order in Council, a notice of which is published in the *Gazette*, authorised the construction of those works.

(3) The board shall, before submitting proposals to the Governor for the construction of drainage works pursuant to subsection (1) of this section, other than works consisting wholly of exempt works,—

- (a) cause to be prepared plans of the proposed works, and cause the same, or certified copies thereof, to be deposited in the office of the board and of the Minister;
- (b) cause an advertisement to be published in the *Gazette*, and in a newspaper generally circulating in the district, specifying—
 - (i) a description of the proposed works;
 - (ii) the times when and places at which the plans may be inspected;

and

- (c) obtain from the Director of Engineering or an officer deputed by him a certificate that the Director or officer, as the case may be, is satisfied that the proposed works will be of the capacity specified in the certificate.

(4) The plans so deposited shall be open to inspection by any person interested at the advertised times and places, and every such person shall be allowed to make copies of and extracts from the same free of charge.

(5) Subject to subsection (6) of this section, where the board considers that the requirements of subsections (3) and (4) of this section have been complied with the board shall submit the proposals to the Governor and shall furnish such plans, specifications, estimates or other information as the Governor may require relating thereto.

(6) If within a period of one month after the publication of the advertisement referred to in paragraph (b) of subsection (3) of this section a petition against the proposed works is presented to the Minister, signed by persons

who constitute a majority of the owners of rateable land within the district, the board shall not submit the proposals to the Governor.

(7) After considering the proposals submitted to him the Governor may—

- (a) make an Order in Council pursuant to subsection (2) of this section; or
- (b) decline to make such an Order.

(8) Where an Order in Council authorising the construction of drainage works is made pursuant to subsection (2) of this section that Order shall be conclusive evidence of due compliance with the provisions of this section in respect of those works. .

Section 62
amended.

6. Section 62 of the principal Act is amended—

(a) by repealing subsection (2) and substituting a subsection as follows—

(2) The provisions of subsections (2), (3), (4), (5), (6), (7) and (8) of section sixty apply to and in relation to the construction of works by the Minister pursuant to subsection (1) of this section and, for that purpose,—

- (a) the word “Minister” shall be deemed to be substituted for the word “board” wherever it occurs in those provisions; and
- (b) the passage “board (if any)” shall be deemed to be substituted for the word “Minister” in paragraph (a) of subsection (3). ;

(b) by deleting the words “such works” in line two of subsection (3) and substituting the words “works in a district”; and

- (c) by deleting the words "such works" in line one of subsection (4) and substituting the words "works constructed by the Minister".

7. The principal Act is amended by adding after section 62 a section as follows— Section 62A added.

62A. For the purposes of this Part of this Act the Governor may from time to time by Order in Council declare that works of the nature specified in that Order shall be exempt works not subject to the provisions of section sixty or to those provisions as applied by subsection (2) of section sixty-two notwithstanding that such works may form part of or be related to works comprised in proposals to which those provisions apply. Exempt works.

8. Subsection (2) of section 88 of the principal Act is amended by deleting the words "fifty cents per acre" in line one of paragraph (b) and substituting the words "ten dollars per hectare". Section 88 amended.

9. Section 89 of the principal Act is amended— Section 89 amended.

- (a) by adding after the section designation "89." the subsection designation "(1)"; and

(b) by adding a subsection as follows—

(2) Without limiting the generality of subsection (1) of this section, for the purposes of grading land pursuant to that subsection regard may be had to the benefit derived, or that may be derived, by that land from the control of the level of the water table by works constructed or operated by the board.

10. Section 100 of the principal Act is amended by deleting the word "from" in line six and substituting the word "by". Section 100 amended.

Heading
and
sections
114A and
114B added.

11. The principal Act is amended by adding after section 114 a heading and sections as follows—

*Division 6.—Collection of Drainage
Rates by Local Authorities.*

Local
authority
may agree
to collect
rates
levied by
board.

114A. (1) A board and a local authority may enter into an agreement under which the local authority undertakes, subject to such terms and conditions as are specified in the agreement, to collect, and remit to the board, drainage rates levied by the board on rateable land situated within the district of the local authority.

(2) An agreement made under subsection (1) of this section shall have effect in relation to the financial years specified in the agreement but may be extended from time to time if the board and the local authority so agree.

(3) The provisions of section two hundred and seventy-two of the Local Government Act, 1960 apply to an agreement made under subsection (1) of this section.

Collection
of rates by
local
authority.

114B. (1) Where a board and a local authority have entered into an agreement under subsection (1) of section one hundred and fourteen A a notice of the assessment of drainage rates may, in lieu of being served by the board as prescribed by section ninety-three, be included in a notice of rate served by the local authority under any other Act and thereupon—

(a) the drainage rates shall be payable to the local authority in the manner specified in that notice of rate; and

- (b) the local authority may enforce payment of and recover the drainage rates and, for that purpose, shall have the same powers as are vested in the board under Division 5 of this Part.

(2) An agreement made under subsection (1) of section one hundred and fourteen A may provide that the local authority may, before remitting drainage rates paid to or recovered by it to the board, deduct from the rates—

- (a) an amount to cover the costs incurred by the local authority in collecting the rates;
- (b) an amount by way of commission determined in accordance with the agreement.

12. Section 148 of the principal Act is amended— Section 148 amended.

- (a) by adding after the word “board” in the last line of paragraph (4) the passage “, regulating the use of such water and prohibiting the taking of such water except under the authority of a permit issued pursuant to the by-laws”; and
- (b) by adding after paragraph (4) a paragraph as follows—
 - (4a) Providing for the payment of fees for the issue of permits referred to in paragraph (4) of this section and prescribing the method or methods by which the amount of such fees shall be determined;

13. The principal Act is amended as set out in the Schedule to this Act. Miscellaneous amendments.

THE SCHEDULE.

s.13.

Provision Amended	Amendment
Section 23(1)	Delete "Four" in the last line, substitute "Twenty".
Section 47	Delete "one" in the last line, substitute "five".
Section 64(12)	Delete "Ten" in the last line, substitute "Fifty".
Section 71(1)	Delete "One" in the last line, substitute "Five".
Section 71(2)	Delete "One" in the last line, substitute "Five".
Section 77(3)	Delete "twenty" in the last line, substitute "one hundred".
Section 77(4)	Delete "forty" in the last line, substitute "two hundred".
Section 110	Delete "ten" in the penultimate line, substitute "fifty".
Section 139(4)	Delete "ten" in the penultimate line, substitute "fifty".
Section 144(2)	Delete "one" in the penultimate line, substitute "five".
Section 150(1)	Delete "forty" in line 1, substitute "two hundred".
Section 150(1)	Delete "ten" in line 4, substitute "fifty".
Section 152	Delete "forty" in the last line, substitute "two hundred".
Section 153	Delete "forty" in line 6, substitute "two hundred".
Section 154	Delete "forty" in line 6, substitute "two hundred".
Section 155	Delete "two hundred" in the penultimate line, substitute "one thousand".
Section 157	Delete "forty" in the last line, substitute "two hundred".
Section 173(2)	Delete "twenty cents" in the penultimate line, substitute "one dollar".