

METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE.

No. 11 of 1970.

**AN ACT to amend the Metropolitan Water Supply,
Sewerage, and Drainage Act, 1909-1969.**

[Assented to 29th April, 1970.]

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, 1970.*

Short title
and citation.

(2) In this Act the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909-1969, is referred to as the principal Act.

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approved for
reprint on
21st November,
1969.

(3) The principal Act as amended by this Act may be cited as the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909-1970.

Amendment
to s. 3.
(Division.)

2. Section 3 of the principal Act is amended by adding after the passage “(2) The Protection of Works and the Prevention of Waste, Ss. 47-57.” in lines twelve and thirteen the passage “(3) The Protection of Underground Water, Ss. 57A-57D.”.

Amendment
to s. 5.
(Interpreta-
tion.)

3. Section 5 of the principal Act is amended—

(a) by adding before the definition “Area” a definition as follows—

“Aquifer” means a porous geologic formation that bears water; ;

(b) by adding after the definition “Area” a definition as follows—

“Artesian bore” means a bore in which the level of water rises above the top of the aquifer in which the water is encountered; ;

(c) by adding after the definition “Pipe” a definition as follows—

“Pollution Area” means an Underground Water Pollution Control Area constituted under section fifty-seven A of this Act; ; and

(d) by adding after the definition “the Chairman” a definition as follows—

“Underground Water” means all water that is below the surface of the ground whether it is flowing or not and, if it is flowing, whether it is in a defined channel or not; .

4. The principal Act is amended by adding after section 57 a heading and section as follows—

Heading and
s. 57A added.

(3) The Protection of Underground Water.

57A. (1) The Governor may, on the recommendation of the Board, by proclamation constitute and declare any part or parts of the Area to be an Underground Water Pollution Control Area with such name and from such date subsequent to the proclamation as may be specified therein.

Constituting
of
Underground
Water
Pollution
Control
Areas.

(2) The Governor may, on the recommendation of the Board, by subsequent proclamation, extend or reduce any pollution area, change the name of or abolish any pollution area. .

5. The principal Act is amended by adding a section as follows—

S. 57B added.

57B. (1) The Board may make by-laws for all or any of the following purposes—

By-laws.

(a) protecting the purity of underground water within any pollution area for the supply of water under this Act;

(b) controlling, regulating, limiting or prohibiting, on lands anywhere within a pollution area or within any specified part or parts thereof, the placing or discharging on, onto, or into the ground therein of anything that is liable to affect detrimentally the purity of underground water in the pollution area either directly or indirectly.

(2) The by-laws may be so made as to apply within the whole of a pollution area or within such part or parts thereof as may be specified in the by-law.

(3) The by-laws may provide that any act or thing shall be done with the approval or to the satisfaction of a specified person or class of persons and may confer upon a specified person or class of persons a discretionary authority.

(4) The by-laws may impose a penalty not exceeding two hundred dollars for any breach thereof and in the case of a continuing breach a penalty not exceeding ten dollars for each day the breach continues after the Board serves notice of the breach on the offender. .

S. 57C added.

6. The principal Act is amended by adding a section as follows—

Power of Board to grant dispensation from by-laws.

57C. (1) Nothing in any by-law prevents the Board, if it thinks fit, from granting to any person, upon his application to the Board, a dispensation from observance of any by-law.

(2) Any dispensation granted by the Board under this section may be—

- (a) subject to such terms and conditions as the Board thinks fit;
- (b) cancelled by notice in writing given by the Board to the person to whom it is given; or
- (c) altered by a like notice and the terms and conditions to which it is subject may also, in like manner, be cancelled or altered. .

S. 57D added.

7. The principal Act is amended by adding a section as follows—

Appeal against refusal to grant dispensation or alteration thereof.

57D. (1) Any person may appeal to a Local Court established under the Local Courts Act, 1904 held at any place within the Area against—

- (a) a refusal by the Board to grant him a dispensation from observance of any by-law; or

- (b) the terms and conditions to which any dispensation granted by the Board is subject or the cancellation or alteration of such a dispensation or the cancellation or alteration of such terms and conditions.

(2) An appeal under this section shall be commenced by the appellant giving to the Board and to the Clerk of the Local Court to which the appeal is made a written notice of the appeal and setting out therein the grounds of the appeal.

(3) On such an appeal, the Local Court—

- (a) shall, as it thinks just, either confirm or rescind the decision of the Board appealed against or alter it to give effect to the contention of the appellant so far as that contention appears well founded;
- (b) has all the powers vested in it in its ordinary civil jurisdiction; and
- (c) may make such order, as it thinks just, for the payment of the costs of the appeal, and may determine the amount thereof,

and for the purposes of this section the Court fees set out in item 32 of the Table of Court Fees in the appendix to the Local Court Rules, 1961, apply.

(4) The payment of any costs ordered to be paid pursuant to this section may be enforced in the same manner as a judgment of the Local Court.

(5) The decision of the Local Court on any appeal under this section, is final.